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13 Attorneys for Plaintiffs, the Collective  
 14 and the Settlement Classes

15 **UNITED STATES DISTRICT COURT**  
 16 **NORTHERN DISTRICT OF CALIFORNIA**  
 17 **SAN FRANCISCO**

18 DESIDERO SOTO, STEVEN STRICKLEN,  
 19 STEEVE FONDROSE, LORENZO  
 ORTEGA, and JOSE ANTONIO FARIAS,  
 20 JR., on behalf of themselves and all other  
 similarly situated,

21 Plaintiffs,

22 vs.

23 O.C. COMMUNICATIONS, INC.,  
 24 COMCAST CORPORATION, and  
 25 COMCAST CABLE COMMUNICATIONS  
 MANAGEMENT, LLC,

26 Defendants

Case No.: 3:17-cv-00251-VC

**DECLARATION OF CAROLYN HUNT  
 COTTRELL IN SUPPORT OF  
 PLAINTIFFS' MOTION FOR AN AWARD  
 OF ATTORNEYS' FEES AND COSTS**

Date: October 17, 2019

Time: 10:00 a.m.

Courtroom: 4 (17th Floor)

Judge: Honorable Vince Chhabria

Complaint Filed: January 18, 2017

1                   **DECLARATION OF CAROLYN HUNT COTTRELL IN SUPPORT OF PLAINTIFFS’**  
2                   **MOTION FOR AN AWARD OF ATTORNEYS’ FEES AND COSTS**

3                   I, Carolyn Hunt Cottrell, declare as follows:

4                   1.        I am an attorney duly licensed to practice law in the State of California. I am a  
5 member in good standing of the State Bar of California, I am admitted to the United States District  
6 Courts for the Northern, Eastern, Central, and Southern Districts of California. I am admitted to  
7 the Ninth Circuit Court of Appeals, and I am a member of the Bar of the United States Supreme  
8 Court.

9                   2.        I am a partner at Schneider Wallace Cottrell Konecky Wotkyms LLP (“SWCKW”).  
10 SWCKW specializes in class action litigation in state and federal court. SWCKW has prosecuted  
11 the instant Action together with our Co-Counsel, Berger Montague PC (“Berger Montague”).

12                  3.        I respectfully submit this declaration in support of the Unopposed Motion for an  
13 Award of Attorneys’ Fees and Costs filed by Plaintiffs Desidero Soto, Steven Stricklen, Steeve  
14 Fondrose, Lorenzo Ortega, and Jose Antonio Farias, Jr., on behalf of themselves and all other  
15 similarly situated (“Plaintiffs”), in the above-captioned case. I am familiar with the file, the  
16 documents, and the history related to this case. The following statements are based on my personal  
17 knowledge and review of the files. If called to do so, I could and would testify competently thereto

18                  4.        The Class Action Settlement Agreement and related Addendum (together, the  
19 “Settlement”) reached with Defendants O.C. Communications, Inc. (“OCC”) and Comcast Cable  
20 Communications Management, LLC (“Comcast”) is a reflection of Class Counsel’s experience and  
21 skill. It resolves over two years of intensive litigation, which included conditional certification,  
22 protracted discovery disputes, production of over 1.5 million pages of documents, motions to  
23 compel arbitration by OCC and Comcast, two separate mediations, and extensive arm’s-length  
24 negotiations between counsel. The Settlement involves complex provisions of the Fair Labor  
25 Standards Act, the California Labor Code, Washington wage and consumer protection law, as well  
26 as the wage and hour laws of numerous other states where OCC Technicians worked. Class Counsel  
27 secured this Settlement through extensive, diligent discovery practice, litigation of numerous  
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1 motions, preparation of hundreds of individual demands for arbitration, and resolute, patient,  
2 settlement negotiations.

3 **QUALIFICATIONS, EXPERIENCE, AND EXPERTISE**

4 5. SWCKW is regarded as one of the leading private plaintiff’s firms in wage and hour  
5 class actions and employment class actions. In November 2012, the Recorder listed the firm as one  
6 of the “top 10 go-to plaintiffs’ employment firms in Northern California.” The partners and  
7 attorneys have litigated major wage and hour class actions, have won several prestigious awards,  
8 and sit on important boards and committees in the legal community. SWCKW was founded by  
9 Todd Schneider in 1993, and I have been a member of the firm since 1995.

10 6. SWCKW has acted or is acting as class counsel in numerous cases. A partial list of  
11 cases which have been certified and/or settled as class actions includes: *Manni v. Eugene N.*  
12 *Gordon, Inc. d/b/a La-Z-Boy Furniture Galleries* (Case No. 34-2017-00223592) (Sacramento  
13 Superior Court) (final approval of a class action settlement for failure to pay for all hours worked,  
14 failure to pay minimum and overtime wages, failure to provide meal and rest breaks, waiting time  
15 penalties, and failure to provide itemized wage statements, under California law); *Van Liew v. North*  
16 *Star Emergency Services, Inc., et al.* (Case No. RG17876878) (Alameda County Superior Court)  
17 (final approval of a class action settlement for failure to pay for all hours worked, failure to pay  
18 minimum and overtime wages, failure to provide meal and rest breaks, failure to reimburse for  
19 necessary business expenditures, waiting time penalties, and failure to provide itemized wage  
20 statements, under California law); *Asalati v. Intel Corp.* (Case No. 16cv302615) (Santa Clara  
21 Superior Court) (final approval of a class and collective action settlement for failure to pay for all  
22 hours worked, failure to pay overtime, failure to provide meal and rest breaks, failure to reimburse  
23 for necessary business expenditures, failure to adhere to California record keeping requirements,  
24 waiting time penalties, and failure to provide itemized wage statements, under federal and  
25 California law); *Harmon, et al. v. Diamond Wireless, LLC*, (Case No. 34-2012-00118898)  
26 (Sacramento Superior Court) (final approval of a class action settlement for failure to pay wages  
27 free and clear, failure to pay overtime and minimum wages, failure to provide meal and rest breaks,  
28

1 failure to pay full wages when due, failure to adhere to California record keeping requirements, and  
2 failure to provide adequate seating, under California law); *Aguilar v. Hall AG Enterprises, Inc., et*  
3 *al.*, (Case No. BCV-16-10994-DRL) (Kern County Superior Court) (final approval of a class action  
4 settlement for failure to provide meal and rest periods, failure to compensate for all hours worked,  
5 failure to pay minimum and overtime wages, waiting time penalties, failure to provide itemized  
6 wage statements, and failure to pay undiscounted wages, under California law); *Viceral and*  
7 *Krueger v. Mistras Group, Inc.*, (Case No. 3:15-cv-02198-EMC) (Northern District of California)  
8 (final approval of a class and collective action settlement for failure to compensate for all hours  
9 worked, including overtime, under federal and California law); *Jeter-Polk, et al. v. Casual Male*  
10 *Store, LLC, et al.*, (Case No. 5:14-CV-00891) (Central District of California) (final approval of a  
11 class action settlement for failure to provide meal and rest periods, failure to compensate for all  
12 hours worked, failure to pay overtime wages, unpaid wages and waiting time penalties, and failure  
13 to provide itemized wage statements); *Meza, et al. v. S.S. Skikos, Inc., et al.*, (Case No. 15-cv-  
14 01889-TEH) (Northern District of California) (final approval of class and collective action  
15 settlement for failure to compensate for all hours worked, including overtime, under federal and  
16 California law, failure to provide meal and rest breaks, failure to reimburse for necessary business  
17 uniforms, failure to pay full wages upon termination to, and failure to provide accurate itemized  
18 wage statements); *Holmes, et al v. Xpress Global Systems, Inc.*, (Case No. 34-2015-00180822)  
19 (Sacramento Superior Court) (final approval of a class action settlement for failure to provide meal  
20 and rest breaks and failure to provide accurate itemized wage statements); *Guilbaud, et al. v. Sprint*  
21 *Nextel Corp. et al.*, (Case No. 3:13-cv-04357-VC) (Northern District of California) (final approval  
22 of a class and collective action settlement for failure to compensate for all hours worked, including  
23 overtime, failure to provide meal and rest breaks, failure to reimburse for necessary business  
24 uniforms, failure to pay full wages upon termination to, and failure to provide accurate itemized  
25 wage statements); *Molina, et al. v. Railworks Track Systems, Inc.*, (Case No. BCV-15-10135) (Kern  
26 County Superior Court) (final approval of a class action settlement for failure to provide meal and  
27 rest breaks, unpaid wages, unpaid overtime, off-the-clocker work, failure to pay full wages upon  
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1 termination to, and failure to provide accurate itemized wage statements); *Allen, et al. v. County of*  
2 *Monterey, et al.*, (Case No. 5:13-cv-01659) (Northern District of California) (settlement between  
3 FLSA Plaintiffs and Defendant to provide relief to affected employees); *Barrera v. Radix Cable*  
4 *Holdings, Inc., et al.*, (Case No. CIV 1100505) (Marin County Superior Court) (final approval of  
5 class action settlement for failure to provide meal and rest breaks to, off-the-clock work by, failure  
6 to provide overtime compensation to, failure to reimburse business expenditures to, failure to pay  
7 full wages upon termination to, and failure to provide accurate itemized wage statements to  
8 retention specialists working for cable companies); *Glass Dimensions, Inc., et al. v. State Street*  
9 *Corp. et al.*, (Case No. 1:10-cv-10588) (District of Massachusetts) (final approval of class action  
10 settlement for claims of breach of fiduciary duty and self-dealing in violation of ERISA); *Friend,*  
11 *et al. v. The Hertz Corporation*, (Case No. 3:07-052222) (Northern District of California)  
12 (settlement of claims that rental car company misclassified non-exempt employees, failed to pay  
13 wages, failed to pay premium pay, and failed to provide meal periods and rest periods); *Hollands*  
14 *v. Lincare, Inc., et al.*, (Case No. CGC-07-465052) (San Francisco County Superior Court) (final  
15 approval of class action settlement for overtime pay, off-the-clock work, unreimbursed expenses,  
16 and other wage and hour claims on behalf of a class of center managers); *Jantz, et al. v. Colvin,*  
17 (Case No. 531-2006-00276X) (In the Equal Employment Opportunity Commission Baltimore Field  
18 Office) (final approval of class action settlement for the denial of promotions based on targeted  
19 disabilities); *Shemaria v. County of Marin*, (Case No. CV 082718) (Marin County Superior Court)  
20 (final approval of class action settlement on behalf of a class of individuals with mobility disabilities  
21 denied access to various facilities owned, operated, and/or maintained by the County of Marin);  
22 *Perez, et al. v. First American Title Ins. Co.*, (Case No. 2:08-cv-01184) (District of Arizona) (final  
23 approval of class action settlement in action challenging unfair discrimination by title insurance  
24 company); *Perez v. Rue21, Inc., et al.*, (Case No. CISCV167815) (Santa Cruz County Superior  
25 Court) (final approval of class action settlement for failure to provide meal and rest breaks to, and  
26 for off-the-clock work performed by, a class of retail employees); *Sosa, et al. v. Dreyer's Grand*  
27 *Ice Cream, Inc., et al.*, (Case No. RG 08424366) (Alameda County Superior Court) (final approval  
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1 of class action settlement for failure to provide meal and rest breaks to, and for off-the-clock work  
2 performed by, a class of ice cream manufacturing employees); *Villalpando v. Exel Direct Inc., et*  
3 *al.* (Case Nos. 3:12-cv-04137 and 4:13-cv-03091) (Northern District of California) (certified class  
4 action on behalf of delivery drivers allegedly misclassified as independent contractors); *Choul, et*  
5 *al. v. Nebraska Beef, Ltd.* (Case Nos. 8:08-cv-90, 8:08-cv-99) (District of Nebraska) (final approval  
6 of class action settlement for off-the-clock work by, and failure to provide overtime compensation  
7 to, production-line employees of meat-packing plant); *Morales v. Farmland Foods, Inc.* (Case No.  
8 8:08-cv-504) (District of Nebraska) (FLSA certification for off-the-clock work by, and failure to  
9 provide overtime compensation to, production-line employees of meat-packing plant); *Barlow, et*  
10 *al. v. PRN Ambulance Inc.* (Case No. BC396728) (Los Angeles County Superior Court) (final  
11 approval of class action settlement for failure to provide meal and rest breaks to and for off-the-  
12 clock work by certified emergency medical technicians); *Espinosa, et al. v. National Beef, et al.*  
13 (Case No. ECU0467) (Imperial Superior Court) (final approval of class action settlement for off-  
14 the-clock work by, and failure to provide overtime compensation to, production-line employees of  
15 meat-packing plant); *Wolfe, et al. v. California Check Cashing Stores, LLC, et al.* (Case Nos. CGC-  
16 08-479518 and CGC-09-489635) (San Francisco Superior Court) (final approval of class action  
17 settlement for failure to provide meal and rest breaks to, and for off-the-clock work by, employees  
18 at check cashing stores); *Carlson v. eHarmony* (Case No. BC371958) (Los Angeles County  
19 Superior Court) (final approval of class action settlement on behalf of gays and lesbians who were  
20 denied use of eHarmony); *Salcido v. Cargill* (Case Nos. 1:07-CV-01347-LJO-GSA, 1:08-CV-  
21 00605-LJO-GSA) (Eastern District of California) (final approval of class action settlement for off-  
22 the-clock work by production-line employees of meat-packing plant); *Elkin v. Six Flags* (Case No.  
23 BC342633) (Los Angeles County Superior Court) (final approval of class action settlement for  
24 missed meal and rest periods on behalf of hourly workers at Six Flags amusement parks); *Jimenez*  
25 *v. Perot Systems Corp.* (Case No. RG07335321) (Alameda County Superior Court) (final approval  
26 of class action settlement for misclassification of hospital clerical workers); *Chau v. CVS RX*  
27 *Services, Inc.* (Case No. BC349224) (Los Angeles County Superior Court) (final approval of class  
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1 action settlement for failure to pay overtime to CVS pharmacists); *Reed v. CALSTAR* (Case No.  
2 RG04155105) (Alameda County Superior Court) (certified class action on behalf of flight nurses);  
3 *National Federation of the Blind v. Target* (Case No. C 06-01802 MHP) (N.D. Cal.) (certified class  
4 action on behalf of all legally blind individuals in the United States who have tried to access  
5 Target.com); *Bates v. United Parcel Service, Inc.* (2004 WL 2370633) (N.D. Cal.) (certified  
6 national class action on behalf of deaf employees of UPS); *Satchell v. FedEx Express, Inc.* (Case  
7 No. 03-02659 SI) (N.D. Cal.) (certified regional class action alleging widespread discrimination  
8 within FedEx); *Siddiqi v. Regents of the University of California* (Case No. C-99-0790 SI) (N.D.  
9 Cal.) (certified class action in favor of deaf plaintiffs alleging disability access violations at the  
10 University of California); *Lopez v. San Francisco Unified School District* (Case No. C-99-03260  
11 SI) (N.D. Cal.) (certified class action in favor of plaintiffs in class action against school district for  
12 widespread disability access violations); *Campos v. San Francisco State University* (Case No. C-  
13 97-02326 MCC) (N.D. Cal.) (certified class action in favor of disabled plaintiffs for widespread  
14 disability access violations); *Singleton v. Regents of the University of California* (Case No. 807233-  
15 1) (Alameda County Superior Court) (class settlement for women alleging gender discrimination at  
16 Lawrence Livermore National Laboratory); *McMaster v. BCI Coca-Cola Bottling Co.* (Case No.  
17 RG04173735) (Alameda County Superior Court) (final approval of class action settlement for  
18 drive-time required of Coca-Cola account managers); *Portugal v. Macy's West, Inc.* (Case No.  
19 BC324247) (Los Angeles County Superior Court) (California statewide wage and hour  
20 "misclassification" class action resulting in a class-wide \$3.25 million settlement); *Taormina v.*  
21 *Siebel Systems, Inc.* (Case No. RG05219031) (Alameda County Superior Court) (final approval of  
22 class action settlement for misclassification of Siebel's inside sales employees); *Joseph v. The*  
23 *Limited, Inc.* (Case No. CGC-04-437118) (San Francisco County Superior Court) (final approval  
24 of class action settlement for failure to provide meal and rest periods to employees of The Limited  
25 stores); *Rios v. Siemens Corp.* (Case No. C05-04697 PJH) (N.D. Cal.) (final approval of class action  
26 settlement for failure to pay accrued vacation pay upon end of employment); *DeSoto v. Sears,*  
27 *Roebuck & Co.* (Case No. RG0309669) (Alameda County Superior Court) and *Lenahan v. Sears,*

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1 *Roebuck & Co.* (Case No. 3-02-CV-000045 (SRC) (TJB)) (final approval of class action settlement  
2 for failure to pay Sears drivers for all hours worked); among many others.

3 7. Nearly my entire legal career has been devoted to advocating for the rights of  
4 individuals who have been subjected to illegal pay policies, discrimination, harassment and  
5 retaliation and representing employees in wage and hour and discrimination class actions. I have  
6 litigated hundreds of wage and hour, employment discrimination and civil-rights actions, and I  
7 manage many of the firm's current cases in these areas. I am a member of the State Bar of California,  
8 and have had memberships with Public Justice, the National Employment Lawyers Association, the  
9 California Employment Lawyers Association, and the Consumer Attorneys of California. I served  
10 on the Board of Directors for the San Francisco Trial Lawyers Association and co-chaired its  
11 Women's Caucus. I was named one of the "Top Women Litigators for 2010" by the Daily Journal.  
12 In 2012, I was nominated for Woman Trial Lawyer of the Year by the Consumer Attorneys of  
13 California. I have been selected as a Super Lawyer every year since 2014. I earned my Bachelor's  
14 degree from the University of California, and I am a graduate of the University of the Pacific,  
15 McGeorge School of Law.

16 **RELEVANT SETTLEMENT BACKGROUND**

17 8. In over two-and-half years, SWCKW and Berger Montague have devoted more than  
18 6,752 hours to the prosecution of this Action, with a combined lodestar amount of \$3,783,103.  
19 SWCKW's lodestar amount alone is \$2,268,371, and is comprised of some 3,572 hours of  
20 litigation work.<sup>1</sup> Class Counsel vigorously litigated this case, engaging in intensive discovery and  
21 motion practice to effectively prosecute the Class and Collective claims, while also demonstrating  
22 willingness to participate in good-faith attempts to settle the Action. Class Counsel's efforts  
23 culminated in the Settlement, which provides significant monetary benefits for Settlement Class  
24 Members. Class Counsel's lodestar amount is well in excess of the \$2,500,000 fee award that  
25 Plaintiffs request with the instant motion.

26  
27 <sup>1</sup> I am informed that Berger Montague's lodestar is \$1,514,732, comprised of 3,180.2 hours of  
28 litigation work.



1           9.       The extensive procedural history of this Action was well documented in Plaintiffs’  
2 Motion for Preliminary Approval of Class and Collective Action Settlement (“Preliminary  
3 Approval Motion”) and supporting papers. *See* ECF 284.

4           10.       To summarize briefly, Plaintiffs Desidero Soto and Steven Stricklen filed their initial  
5 Collective and Class Action Complaint on January 18, 2017, which asserted FLSA and California  
6 law claims. Thereafter, Class Counsel amended the Complaint three times (and engaged in related  
7 motion practice) to add additional plaintiffs, claims, and a putative Washington-law class, and to  
8 add Comcast as a joint-employer defendant. Class Counsel obtained conditional certification of  
9 and facilitated notice to a FLSA Collective of OCC Technicians.

10          11.       Class Counsel also engaged in extensive discovery and related motion practice to  
11 secure OCC’s production of over 1.5 million documents, which occurred only after the filing of  
12 four joint letter briefs with the Court. *See* ECF 150, 192, 208, 234.

13          12.       Class Counsel performed extensive analyses to review the 1.5 million documents  
14 produced, most of which were ESI documents that could only be reviewed in an e-discovery  
15 platform. To locate, identify, and analyze key documents, Class Counsel implemented a document  
16 review program that used technology-assisted review to prioritize certain documents for attorney  
17 review and allowed attorneys to mark and code documents along various issues and ratings. Class  
18 Counsel utilized Relativity, a cloud-based e-discovery platform, for the document review program.  
19 The review was resource intensive, requiring the dedication of hundreds of hours of attorney time  
20 in addition to Relativity fees and electronic storage costs. Class Counsel’s document review efforts  
21 were ultimately fruitful, and allowed Class Counsel to identify scores of documents that (1)  
22 showed common policies and practices that applied to Class Members, (2) supported Plaintiffs’  
23 joint employer allegations against Comcast, and/or (3) established Defendants’ liability and the  
24 amount of damages owed.

25          13.       Class Counsel also engaged in significant outreach efforts to investigate the Class  
26 and Collective claims and procure declarations in support of certification proceedings. SWCKW  
27 attorneys completed over 50 intakes with Class and Collective Members.

1           14.     Class Counsel opposed two motions to compel arbitration, one each by OCC and  
2 Comcast. After the Court ruled on the motions, Class Counsel prepared 678 individual arbitration  
3 demands.

4           15.     Additionally, Class Counsel participated in two separate mediations before respected  
5 mediators, and engaged in further arms' length negotiations, which ultimately resulted in the  
6 Settlement. Class Counsel filed Plaintiffs' Preliminary Approval Motion on March 1, 2019. *See*  
7 ECF 284.

8           16.     Since that time, Class Counsel has expended further intensive efforts to amend the  
9 Settlement and obtain preliminary approval. Specifically, the Court issued an order on April 1,  
10 2019 that declined to preliminarily approve the initial Settlement, and asked Counsel to address  
11 the allocation of Settlement proceeds in accordance with differing state laws and Defendants'  
12 conduct going forward. To address the Court's concerns, Class Counsel conducted extensive  
13 factual and legal reviews of state wage and hour laws for every state where the OCC Technicians  
14 worked, and analyzed potential recoveries under each of those state's laws in order to formulate a  
15 revised allocation plan. As a result of these analyses and after extensive meet and confer sessions,  
16 the Parties reached agreement on the Addendum to the Settlement.

17           17.     Among other modifications to the Settlement, the Addendum addresses certain  
18 language in the Notice of Settlement and modifies the allocation formula so that the allocation of  
19 shares will more closely reflect the wage laws and remedies released in the various states where  
20 Collective Members worked. The Addendum also includes an accompanying increase of  
21 \$10,555.21 to the Gross Settlement Amount to account for the addition of settlement shares  
22 attributable to the approximately 18 Collective Members who performed work in Oregon, Utah  
23 and Arizona; the total non-reversionary settlement amount is \$7,510,555.21. The increase to the  
24 Gross Settlement Amount ensures that the increased allocation does not reduce the awards to other  
25 Settlement Class Members below the amounts proposed under the original Settlement Agreement.  
26 Class Counsel has agreed not to seek additional fees on the increase to the Gross Settlement  
27 Amount.

1           18.     Class Counsel prepared and filed Plaintiffs’ Renewed Motion for Preliminary  
2 Approval of Class and Collective Action Settlement (the “Renewed Motion”) on May 10, 2019,  
3 which sought preliminary approval of the Settlement, as modified by the Addendum. *See* ECF 289.  
4 After holding a telephonic hearing on June 13, 2019, the Court granted the Renewed Motion on  
5 June 17, 2019. *See* ECF 296.

6           19.     Notice of the Settlement was sent via regular mail and electronic mail to 4,502  
7 Settlement Class Members on July 25, 2019. As of September 9, 2019, roughly three quarters of  
8 the way into the notice period, there have been no objections or opt-out requests by Class Members.  
9 The deadline for objections and opt-out requests is September 23, 2019.

10          20.     I believe that the Settlement is fair, reasonable, and in the best interests of the  
11 Settlement Class Members. Indeed, I believe that the Settlement provides an exceptional result for  
12 the Settlement Class Members, particularly when taking into consideration that the claims of almost  
13 all of the Collective Members have been compelled to individual arbitration. The Settlement  
14 provides for a strong recovery in the face of considerable risk that the Action, if not settled, might  
15 not result in any recovery or might result in a less favorable recovery.

16          21.     The Settlement, and the amounts to be paid thereunder, are based on an extensive  
17 review of the facts and law. The Parties engaged in voluminous, costly formal discovery, informal  
18 discovery, considerable motion practice, and two separate mediations facilitated by experienced  
19 mediators. These efforts enabled Class Counsel (as well as Defendants) to accurately assess the  
20 legal and factual issues – and related risks – that would arise if the case proceeded to trial.

21          22.     In addition to the risks inherent in obtaining class certification for two Rule 23  
22 classes, contesting FLSA decertification motions, and proving liability and damages at trial,  
23 Plaintiffs and Class Counsel faced defenses and risks unique to this case. For example, Plaintiffs  
24 would encounter difficulties in moving for certification and proving their claims on the merits in  
25 part due to the fact that key Class Member compensation documents were kept in paper format, and  
26 Class Member timecards and the work orders that controlled the services performed were largely  
27  
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1 hand-written and heavily edited. Thus, Plaintiffs would face fundamental logistical difficulties in  
2 reviewing and analyzing the massive amount of hard copy records.

3 23. Additionally, the Court's order granting Defendants' motions compelling individual  
4 arbitration for the underlying FLSA and state law claims for thousands of Class Members impacts  
5 the prospects for recovery for the Classes and the Collective. Although Plaintiffs' counsel were  
6 prepared to litigate hundreds of individual arbitrations, and the PAGA claims continue on a  
7 representative basis, the arbitration order undeniably affects the prospects for recovery for the  
8 Settlement Class Members.

9 24. Moreover, Plaintiffs faced the possibility that the Court might deny Plaintiffs' OCC-  
10 Comcast joint employer theory of liability. Coupled with the risk that OCC would be unable to pay  
11 *any* judgment, this could render any potential recovery uncertain or unlikely. The risk of Comcast  
12 avoiding joint employer liability – and Plaintiffs receiving *no* recovery – was substantial given that  
13 some district courts have determined that cable providers such as Comcast and Time Warner are  
14 not joint employers of a third party vendor's cable installation technicians.

15 25. The Settlement offers significant advantages over the continued prosecution of this  
16 Action: Plaintiffs and the Settlement Class will receive significant financial compensation and will  
17 avoid all of the risks inherent in the continued prosecution of this case.

18 26. The Settlement provides Settlement Class Members with immediate and certain  
19 payment of meaningful amounts, reflecting approximately 86 percent of the calculated unpaid  
20 wages allegedly owed if each Settlement Class Member had been able to prove that he or she  
21 worked 2.5 hours off the clock in every workweek during the relevant time period. These are  
22 significant sums that Settlement Class Members will receive for the claims at issue, particularly in  
23 light of the Technicians' relatively short tenures in qualifying employment during the Class Period.  
24 Settlement Class Members will receive their awards without the need to file claims forms.

25 27. Class Counsel agreed to represent Plaintiffs on a contingency fee basis. In this case,  
26 Class Counsel would not have recovered any of their fees and out-of-pocket costs had they not  
27 obtained a settlement or prevailed at trial. The risks the Class Counsel undertook were real, and the  
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1 resources that Class Counsel dedicated to this Action meant that such resources were not available  
2 to other cases. Class Counsel's contingency risk, together with the excellent result that has been  
3 achieved on behalf of the Settlement Class Members, supports the requested fees and costs.

4 28. As reported in this Declaration and the Declaration of Sarah Schalman-Bergen, Class  
5 Counsel have spent a total of approximately 6,752 hours prosecuting this litigation since our  
6 investigation first began. Class Counsel's current lodestar is approximately \$3,783,103.00.

7 29. The amount of fees requested by Class Counsel represents 66 percent of their current  
8 lodestar. Thus, Class Counsel request significantly less than their total lodestar amount. Class  
9 Counsel anticipates follow-up work to communicate with Settlement Class Members, oversee the  
10 settlement process, and attend the Final Approval Hearing, which will increase the lodestar amount  
11 listed here – and which will cause the multiplier to decrease even further.

12 30. Additionally, the Settlement Agreement provides that Named Plaintiffs will receive  
13 service awards in the aggregate amount of \$55,000 – \$15,000 to Class Representative Desidero  
14 Soto and \$10,000 each to Class Representatives Steven Stricklen, Steeve Fondrose, Lorenzo  
15 Ortega, and Jose Antonio Farias, Jr. – to be paid out of the Gross Settlement Amount for the effort  
16 and risk involved in bringing and prosecuting this matter, and in addition, for their general release  
17 of all waivable claims against Defendants arising out of their employment. In agreeing to serve as  
18 Class and Collective representatives, Plaintiffs formally agreed to accept the responsibilities of  
19 representing the interests of all Class and Collective Members. Each of these Plaintiffs worked with  
20 Class Counsel, providing background information about their employment, about Defendants'  
21 policies and practices, and about the allegations in this lawsuit. Each Plaintiff was subject to written  
22 discovery and depositions, and indeed, Mr. Soto and Mr. Stricklen were deposed by Defendants  
23 and responded to written discovery requests. Each Plaintiff risked their reputation in the community  
24 and their field of employment in order to prosecute this case on behalf of the Settlement Class; as  
25 Named Plaintiffs, their involvement is plainly visible in the public record. The service awards to  
26 these Plaintiffs are to be paid in addition to their recovery as Settlement Class Members. They are  
27 justified by the considerable efforts expended by Plaintiffs, by the significant risks they took in  
28

1 standing up to represent the interests of their fellow employees, and by the general release to which  
2 they have agreed.

3 **SWCKW'S LODESTAR**

4 31. As discussed above, Class Counsel spent significant time and resources reaching this  
5 Settlement. I have reviewed my firm's billing records in this case, and a true and correct summary  
6 SWCKW's billing is attached hereto as **Exhibit A**. The hourly rates are the usual and customary  
7 2019 rates for each individual in all of our cases.

8 32. Due to the amount of privileged information contained in SWCKW's actual hourly  
9 billing records, those detailed records are not attached here, but can easily be provided for this  
10 Court's *in camera* review should the Court wish to review them.

11 33. SWCKW's hourly rates for the partners, attorneys, and professional staff are the same  
12 as would be charged in non-contingent matters and/or which have been accepted and approved in  
13 other recent class and collective action wage and hour litigation by this Court and other federal and  
14 state courts around the country. In particular, the Sacramento Superior Court just granted final  
15 approval of a class action settlement and SWCKW's fee request pursuant to a lodestar crosscheck  
16 that incorporated the exact rates set forth here. *Manni v. Eugene N. Gordon, Inc. d/b/a La-Z-Boy*  
17 *Furniture Galleries*, No. 34-2017-00223592, Sacramento Superior Court, order dated September 5,  
18 2019. In *Shaw, et al. v. AMN Services, LLC, et al.*, No. 3:16-cv-02816, ECF 167 (N.D. Cal. May  
19 31, 2019), the Court conducted a lodestar cross check and held that "the hourly rates charged by  
20 [SWCKW] are within the prevailing range of hourly rates charged by attorneys providing similar  
21 services in class action, wage-and-hour cases in California." The Court further held that the "hourly  
22 rates of Class Counsel [SWCKW] also have consistently and recently been approved as reasonable  
23 by the courts." Other approvals of SWCKW's hourly rates include: *Knapp v. Art.com, Inc.*, No.  
24 3:16-cv-00768-WHO, ECF 89 (N.D. Cal. October 24, 2018); *Villalpando v. Exel Direct Inc.*, 2016  
25 WL 7740854, at \*1 (N.D. Cal. Dec. 12, 2016); *Winans v. Emeritus Corp.*, 2016 WL 107574, at \*8  
26 (N.D. Cal. Jan. 11, 2016); *Carnes v. Atria Senior Living Inc.*, Case No. 14-cv-02727-VC, ECF 115,  
27  
28

1 at 4-5 (N.D. Cal. July 12, 2016); *Meza v. S.S. Skikos, Inc.*, Case No. 3:15-cv-01889-TEH, ECF 58,  
2 at 4 (N.D. Cal. May 25, 2016).

3 **SUMMARY OF WORK PERFORMED BY SWCKW**

4 34. I am the lead partner at SWCKW with respect to this Action, and I actively litigated  
5 this case. In particular, I developed and implemented case strategy and tactics; drafted, reviewed  
6 and edited complaints, briefing, and other court filings; appeared at hearings and argued law and  
7 motion matters; developed and implemented discovery strategy, and handled extensive meet and  
8 confer with opposing counsel; reviewed voluminous documents, particularly with respect to joint  
9 employer issues; oversaw class outreach efforts; took depositions of four witnesses, and defended  
10 the deposition of Plaintiff Soto; appeared at mediations, drafted and edited mediation statements;  
11 negotiated the terms of the settlement agreement; and drafted, reviewed, and edited the settlement  
12 approval motions. Moreover, I directed the work of the other attorneys at my firm, worked with  
13 Co-Counsel to coordinate the efforts of both firms, and conducted legal analysis at each stage of  
14 the litigation.

15 35. Below, I provide a summary description of the work performed by SWCKW's other  
16 lead attorneys on this case.

17 36. David C. Leimbach is the primary senior associate on this matter. Mr. Leimbach has  
18 worked on this case in all capacities, with particular focus on development of case strategy, drafting  
19 and editing motions and supporting briefing, handling discovery meet and confer communications,  
20 taking and defending depositions, and drafting and editing mediation briefing.

21 37. Mira P. Karageorge was an associate at SWCKW. Ms. Karageorge drafted  
22 complaints, motions to amend and related briefing, the first mediation brief, the motion for  
23 conditional certification and related briefing, and other Court filings. Ms. Karageorge also oversaw  
24 the notice and opt-in process for FLSA Collective Members. Ms. Karageorge was extensively  
25 involved in drafting Plaintiffs' discovery requests, analyzing OCC's responses, meet and confer  
26 with OCC's counsel, drafting motions to compel production of documents, and implementation of  
27 Plaintiffs' document review program in Relativity (the cloud-based discovery platform) and related  
28

1 technology-assisted review. Additionally, Ms. Karageorge assisted in preparation for depositions  
2 of OCC's witnesses.

3 38. Scott L. Gordon is an associate at SWCKW. Mr. Gordon drafted and edited briefs  
4 and other case filings, conducted document review to identify potential Comcast witnesses, assisted  
5 in preparation for the deposition of a Comcast witness, drafted the second mediation brief, reviewed  
6 and edited the Settlement, drafted the initial preliminary approval motion, and conducted analysis  
7 to develop the amended allocation in the Addendum to the Settlement. Mr. Gordon also solicited  
8 bids from settlement administrators, oversaw the selected administrator's handling of the class  
9 notice process to date, and answered questions from Settlement Class Members following the  
10 dissemination of the class notice.

11 39. Abigail Laudick Avilucea is an associate at SWCKW. Ms. Avilucea had primary  
12 responsibility for implementing Plaintiffs' document review program in Relativity and related  
13 technology-assisted review. Her efforts were considerable, given that OCC produced over 1.5  
14 million documents in this matter. Ms. Avilucea secured and reviewed OCC's document  
15 productions, arranged for the transfer of the produced documents into the Relativity system,  
16 developed document coding protocols, developed and implemented technology-assisted review  
17 programming, trained attorneys on the document review program, and personally conducted  
18 document review.

19 40. Lina Seikh was an associate at SWCKW, and had primary responsibility for analysis  
20 of the voluminous documents produced by OCC. Ms. Seikh reviewed thousands of documents,  
21 identified crucial "hot" documents that supported Plaintiffs' claims and theories, drafted numerous  
22 memorandums that presented her analysis of key documents and issues, and conferred with other  
23 attorneys to apprise them of the document review process and major evidence that was garnered.

24 41. The other attorneys on this case were primarily involved in class outreach efforts,  
25 document review, and various research assignments. SWCKW attorneys completed over 50 intakes  
26 with Class and Collective Members, drafted dozens of declarations from Class and Collective  
27 Members, and performed extensive document review.

28



1 42. All of the work described above was reasonable and necessary to the prosecution and  
2 settlement of this case. Class Counsel conducted an extensive factual investigation and engaged in  
3 significant motion practice during the prosecution of this action. Through this comprehensive  
4 evaluation of the facts and law, Class Counsel was able to settle this case for a substantial sum.  
5 Class Counsel achieved this result in a very timely fashion, providing members of the Settlement  
6 Class with substantial and certain relief much sooner than if litigation continued in this matter.

7 43. The Settlement reached with Defendants, as a result of two separate mediations to  
8 reach the initial agreement and the analyses and conferences to reach the Addendum, involves  
9 complex provisions that are specific to wage and hour litigation. The Settlement and the result  
10 achieved are a reflection of Class Counsel's skill and experience. The Settlement provides members  
11 of the Settlement Class with substantial benefits without having to wait for years of drawn-out  
12 litigation. Based upon the foregoing reasons, Class Counsel respectfully requests that this motion  
13 be granted.

14 44. As part of the negotiations that led to the Settlement, Defendants agreed not to object  
15 to an award of one-third (1/3) of the Gross Settlement Amount of \$7,500,000 set forth in the  
16 Settlement Agreement (*i.e.*, \$2,500,000) for attorneys' fees, plus reasonable costs.

17 45. The Settlement Administrator will deposit a ten percent holdback of the Fee Award  
18 into a separate interest-bearing account, which will be released following completion of the  
19 distribution process and filing of the Post-Distribution Accounting with the Court. Settlement  
20 Agreement, ¶ 29(b)(iv).

21 46. To date, no Settlement Class Member has objected to the request for attorneys' fees.

22 **SWCKW'S EXPENSES**

23 47. This litigation required my firm to advance costs. Because the risk of advancing costs  
24 in this type of litigation is significant, doing so is often prohibitive to many attorneys.

25 48. As of September 9, 2019, my firm expended \$157,688.27 in costs to prosecute this  
26 action. A true and correct breakdown of the costs is attached hereto as **Exhibit B**.

