

1 Carolyn Hunt Cottrell (SBN 166977)  
David C. Leimbach (SBN 265409)  
2 Scott L. Gordon (SBN 319872)  
3 SCHNEIDER WALLACE COTTRELL  
KONECKY WOTKYNS LLP  
2000 Powell Street, Suite 1400  
4 Emeryville, CA 94608  
Tel: (415) 421-7100  
5 Fax: (415) 421-7105  
[ccottrell@schneiderwallace.com](mailto:ccottrell@schneiderwallace.com)  
6 [dleimbach@schneiderwallace.com](mailto:dleimbach@schneiderwallace.com)  
[sgordon@schneiderwallace.com](mailto:sgordon@schneiderwallace.com)  
7

8 Shanon J. Carson (*pro hac vice*)  
Sarah R. Schalman-Bergen (*pro hac vice*)  
9 BERGER MONTAGUE PC  
1818 Market Street, Suite 3600  
Philadelphia, PA 19103  
10 Tel: (215) 875-3000  
Fax: (215) 875-4604  
11 [scarson@bm.net](mailto:scarson@bm.net)  
[sschalman-bergen@bm.net](mailto:sschalman-bergen@bm.net)  
12

13 Attorneys for Plaintiffs, the Collective  
and Potential Classes

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

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

20 Plaintiffs,

21 vs.

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

25 Defendants  
26  
27  
28

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

**DECLARATION OF SARAH R.  
SCHALMAN-BERGEN IN SUPPORT OF  
PLAINTIFFS' MOTION FOR AN AWARD  
OF ATTORNEYS' FEES AND COSTS  
AND OF SERVICE AWARDS TO CLASS  
REPRESENTATIVES**

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 SARAH R. SCHALMAN-BERGEN IN SUPPORT OF**  
2                   **PLAINTIFFS’ MOTION FOR AN AWARD OF ATTORNEYS’ FEES AND COSTS AND**  
3                   **OF SERVICE AWARDS TO CLASS REPRESENTATIVES**

4                   I, Sarah R. Schalman-Bergen, hereby declare pursuant to 28 U.S.C. § 1746 that the following  
5 is true and correct:

6                   1.        I am a member in good standing of the bar of the Commonwealth of Pennsylvania,  
7 and I am admitted *pro hac vice* to this Court for this action. I respectfully submit this declaration in  
8 support of Plaintiffs’ Unopposed Motion for an Award of Attorneys’ Fees and Costs and of Service  
9 Awards to Class Representatives. The following is based on my personal knowledge, and if called  
10 upon to do so, I could and would competently testify thereto.

11                  2.        I am a shareholder at Berger Montague PC (“Berger Montague”) and Co-Counsel  
12 along with Schneider Wallace Cottrell Konecky Wotkyns LLP for Plaintiffs and the Settlement  
13 Classes in the above-captioned litigation. I am familiar with the file, the documents, and the history  
14 related to this case. The following statements are based on my personal knowledge and review of  
15 the files and, if called on to do so, I could and would testify competently thereto.

16                  3.        Berger Montague specializes in class action litigation in federal and state courts and  
17 is one of the preeminent class action law firms in the United States. I have attached a copy of our  
18 firm’s resume hereto as Exhibit 1. Berger Montague currently employs approximately 66 attorneys,  
19 plus staff who represent plaintiffs in complex and class action litigation. Our firm’s Employment  
20 Department has considerable experience representing employees in class action and collective  
21 action litigation. Berger Montague has played lead roles in major class action cases for over 48  
22 years, resulting in recoveries totaling many billions of dollars for our firm’s clients and the classes  
23 they represent.

24                  4.        I am co-Chair of the firm’s Employment Rights Department and I have an extensive  
25 background in litigation on behalf of employees. I am currently serving as lead or co-lead counsel  
26 in dozens of wage and hour class and collective actions in federal courts across the country,  
27 including unpaid wage cases similar to this case. This level of experience enabled Berger Montague  
28 to undertake this matter and to successfully prosecuting these claims on behalf of Plaintiffs and the  
Settlement Class.

1 5. Practice in the narrow area of wage and hour class and collective action litigation  
2 requires skill, knowledge and experience in two distinct subsets of the law. Expertise in one does  
3 not necessarily translate into expertise in the other. Plaintiffs’ counsel must have expertise in both.  
4 The issues presented in this case required more than just a general appreciation of wage and hour  
5 law and class and collective action procedure, as this area of practice is still developing.

6 6. My firm served as co-lead counsel in the case with Schneider Wallace Cottrell  
7 Konecky Wotkyns LLP. Our firms worked together on the case and divided work tasks so as to  
8 avoid duplication of effort in representing Plaintiffs and Settlement Class Members.

9 7. The Settlement reached with Defendant, including the Amendments to the allocation  
10 formula in the Addendum involves complex provisions of the Fair Labor Standards Act, the  
11 California Labor Code, California PAGA, Washington wage and consumer protections law as well  
12 as the wage and hour laws of numerous other states where OCC and Comcast Technicians worked,  
13 is a reflection of Class Counsel’s experience and skill. Class Counsel secured this Settlement  
14 through extensive, diligent discovery and motion practice.

15 **RELEVANT SETTLEMENT BACKGROUND**

16 8. For two-and-half years since the first Complaint was filed in this Action, Class  
17 Counsel has vigorously litigated this case, engaging in intensive discovery and motion practice to  
18 effectively prosecute their claims, while also demonstrating willingness to participate in good-faith  
19 attempts to settle the action, ultimately reaching an Amended Settlement agreement which  
20 addressed the Court’s concerns and produced significant monetary benefits for Class Members.

21 9. The extensive procedural history of this action has been well documented in  
22 Plaintiffs’ March 1, 2019 Notice of Motion and Motion for Preliminary Approval of Class and  
23 Collective Action Settlement (“Preliminary Approval Motion”). *See* ECF 284. The Preliminary  
24 Approval Motion and attached Declarations by Class Counsel detail the events that transpired in  
25 this Action from the time Plaintiffs Desidero Soto and Steven Stricklen filed their initial Collective  
26 and Class Action Complaint in this action on January 18, 2017, which asserted FLSA and  
27 California law claims (ECF 1). In the two and half years since the original complaint was filed,  
28 Class Counsel has amended the complaint three times to add additional plaintiffs and claims, and

1 adding Comcast as a joint defendant, obtained conditional certification of and facilitation of notice  
2 to a Collective of Defendants' Technicians asserting FLSA claims, engaged in extensive discovery  
3 and motion practice in which Class Counsel reviewed over 1.5 million documents produced by  
4 OCC, opposed Defendants' motions to compel arbitration, and prepared 678 individual arbitration  
5 demands. Also, in those two-and-a-half years, Class Counsel participated in two separate  
6 mediations before respected mediators, and engaged in arms' length negotiations, resulting in the  
7 Parties' agreement to enter into a Class and Collective Settlement Agreement on March 1, 2019  
8 which the Plaintiffs submitted to the Court. *See* Procedural History, ECF 284 at 3-6.

9 10. Since that time, Class Counsel has expended further intensive efforts to reach this  
10 Amended Settlement. Specifically, on April 1, 2019, after a hearing on March 21, 2019, the Court  
11 declined to preliminarily approve the original settlement, and asked counsel to address several  
12 issues relating to the allocation of the settlement and the going forward conduct of Defendants. To  
13 address the Court's concerns, over the subsequent weeks, Class Counsel conducted intensive  
14 factual and legal reviews of different states' wage and hour laws in every state where the OCC  
15 Technicians worked, and analyzed potential recoveries under each of those state's laws in order to  
16 formulate a revised allocation plan for Class Members. As a result of these analyses and after  
17 extensive meet and confer sessions, the Parties reached agreement on an Addendum to the Class  
18 Settlement Agreement.

19 11. On May 10, 2019, Plaintiffs filed a Renewed Motion for Preliminary Approval of  
20 Class and Collective Action Settlement, modified by the Addendum and modifications to the Notice  
21 requested by the Court (the "Renewed Motion"). Among other modifications to the Settlement  
22 Agreement, the Addendum addresses certain language in the Notice, and modifies the allocation  
23 formula, such that the allocation of shares will more closely reflect the wage laws and remedies  
24 released in the various states where collective members worked. The Addendum also includes an  
25 accompanying increase of \$10,555.21 to the Gross Settlement Amount to account for the addition  
26 of settlement shares attributable to the approximately 18 collective members who performed work  
27 in Oregon, Utah and Arizona, to ensure that the increased allocation does not reduce the awards to  
28 class and collective members who worked in other states below that proposed in the original

1 Settlement Agreement. Class Counsel has agreed not to seek additional fees on this amount. After  
2 holding a telephonic hearing on the Renewed Motion on June 13, 2019, the Court granted that  
3 Renewed Motion on June 17, 2019. The Amended Settlement Agreement preliminarily approved  
4 by the Court resolves the claims of the Settlement Class Members for a total non-reversionary  
5 settlement of \$7,510,555.21. Notice of the settlement was sent via regular mail and electronic mail  
6 to all Settlement Class Members on July 25, 2019, and as of September 9, 2019, roughly three  
7 quarters of the way into the notice period, not one Class Member has objected to the settlement,  
8 and not one Class Member has requested exclusion.

9 12. I believe that the settlement is not only fair and reasonable and in the best interests of  
10 the Settlement Class; it is excellent. The Settlement Agreement provides a strong settlement for the  
11 Class Members with respect to their claims for unpaid overtime wages and related penalties arising  
12 from Defendants' alleged improper wage and hour practices at issue in this case, especially when  
13 taking into consideration the possibility that the Lawsuit, if not settled now, might not result in any  
14 recovery or might result in a recovery less favorable.

15 13. The Settlement Agreement offers significant advantages over the continued  
16 prosecution of this Lawsuit: Plaintiffs and the Settlement Class will receive significant financial  
17 compensation and will avoid the risks inherent in the continued prosecution of this case, in which  
18 Defendants would assert various defenses to liability.

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

26 15. The Settlement Agreement provides that Named Plaintiffs will receive service  
27 awards in the aggregate amount of \$55,000 – \$15,000 to Class Representative Desidero Soto and  
28 \$10,000 each to Class Representatives Steven Stricklen, Steeve Fondrose, Lorenzo Ortega, and  
Jose Antonio Farias, Jr. – to be paid out of the Gross Settlement Amount for their efforts in bringing

1 and prosecuting this matter, and in addition, for their general release of all waivable claims against  
2 Defendants arising out of their employment. In agreeing to serve as Class and Collective  
3 representatives, Plaintiffs formally agreed to accept the responsibilities of representing the  
4 interests of all Class Members. These service award payments are justified as Plaintiffs took  
5 significant risks coming forward to represent the interests of their fellow employees. Each of these  
6 Plaintiffs worked with Class Counsel, providing background information about their employment,  
7 about Defendants' policies and practices, and about the allegations in this lawsuit. They risked  
8 their reputation in the community and their field of employment in order to participate in this case  
9 on behalf of the Settlement Class. In addition, Mr. Soto and Mr. Stricklen were deposed by  
10 Defendants. These service awards to these Plaintiffs are to be paid in addition to their recovery of  
11 unpaid overtime. In addition, the payments to Plaintiffs are justified because they have agreed to  
12 a broader release of their claims against Defendants.

13 16. The meaningful financial compensation provided by the Settlement is an excellent  
14 result particularly in view of the unique risks that Plaintiffs faced in continuing this litigation, and  
15 the possibility that the Court might deny Plaintiffs' joint OCC-Comcast liability theory, coupled  
16 with the risk that OCC would be unable to pay *any* judgment, thus rendering any potential recovery  
17 uncertain or unlikely.

18 17. The risk of Comcast avoiding joint employer liability – and Plaintiffs receiving *no*  
19 recovery – was substantial given that district courts around the country have determined that cable  
20 providers such as Comcast and Time Warner were not joint employers of a third party's vendor's  
21 cable installation technicians.

22 18. Class Counsel has spent considerable time to extensively investigate the applicable  
23 law, the relevant facts discovered in this action, and the potential defenses thereto. The settlement  
24 amount is based on an intensive review of the facts and law.

25 19. More specifically, in this litigation, the Parties engaged in voluminous and costly  
26 extensive formal and informal discovery, motion practice, and two separate negotiations and  
27 mediations facilitated by experienced mediators, which enabled Class Counsel (as well as  
28 Defendants) to accurately assess the legal and factual issues that would arise if the case proceeded  
to trial. In addition to the risks in proving liability and damages and in obtaining final certification

1 of a class inherent in typical wage and hour class and collective actions, Plaintiffs and Class Counsel  
2 faced defenses and risks unique to this case. For example, Plaintiffs would encounter difficulties in  
3 moving for certification and proving their claims on the merits in part due to the fact that key Class  
4 Member compensation documents were kept in paper format, and Class Member timecards and the  
5 work orders that controlled the services performed were largely hand-written and heavily edited.  
6 Thus, Plaintiffs would face fundamental logistical difficulties in reviewing and analyzing the  
7 massive amount of hard copy records. Additionally, the Court's order granting Defendants' motion  
8 compelling individual arbitration for the underlying FLSA and state law claims for thousands of  
9 Class Members impacts the prospects for recovery for the Classes and the Collective. Although  
10 Plaintiffs' counsel were prepared to litigate hundreds of individual arbitrations, and the PAGA  
11 claims continue on a representative basis, the arbitration order undeniably affects the prospects for  
12 recovery for the Classes and Collective.

12 20. Class Counsel agreed to represent Plaintiffs on a contingency fee basis. In this case,  
13 Class Counsel would not have recovered any of their fees and out-of-pocket costs had they not  
14 obtained a settlement or prevailed at trial. Further, as detailed below, Class Counsel seek attorneys'  
15 fees of \$2,500,000 (1/3 of the \$7,500,000 Gross Settlement Amount set forth in the Settlement  
16 Agreement) which is less than the lodestar that Class Counsel has expended to date.

17 21. The risks Plaintiffs' Counsel undertook were real, and the resources that Class  
18 Counsel dedicated to this Lawsuit meant that such resources were not available to other cases. Class  
19 Counsel's contingency risk, together with the excellent result that has been achieved on behalf of  
20 the Settlement Class Members, supports the requested fees and costs.

21 22. Further, Class Counsel anticipates follow-up work due to the need to communicate  
22 with Settlement Class Members, oversee the settlement process, and attend the Final Approval  
23 Hearing, which will increase the lodestar amount listed here – and which will cause the multiplier  
24 to decrease even further.

25 **BERGER MONTAGUE'S LODESTAR**

26 23. As discussed above, Class Counsel spent significant time and resources reaching this  
27 settlement. In my exercise of billing judgment, I have reviewed the billing records maintained in  
28 this case, and have removed hours spent by attorneys and staff at my Firm if I deemed such time to



1 be redundant or duplicative, or if it reflected less than ten (10) total hours of work by the biller. The  
 2 hourly rates shown below are the usual and customary rates charged for each individual in all of  
 3 our cases based on Berger Montague's rates in 2018.

4 24. A breakdown of my Firm's total lodestar as of September 9, 2019 is reflected below:  
 5  
 6

<b>BERGER MONTAGUE PC</b>				
<b>Name</b>	<b>Position</b>	<b>Hours</b>	<b>Rate</b>	<b>Lodestar</b>
Shanon J. Carson	Managing Shareholder	51.8	\$820	\$42,476.00
Sarah R. Schalman-Bergen	Shareholder	433.2	\$620	\$268,584.00
Phyllis M. Parker	Shareholder	101.0	\$635	\$64,135.00
Stacy Savett	Staff Attorney	1,294.7	\$500	\$647,350.00
Camille Fundora Rodriguez	Associate	58.6	\$475	\$27,835.00
Alexandra K. Piazza	Associate	25.0	\$450	\$11,250.00
Krysten L. Connon	Associate	142.6	\$450	\$64,170.00
Neil Makhija	Associate	704.1	\$400	\$281,640.00
Kathrin D. Kemler, PhD.	Data Analyst & Paralegal	304.2	\$300	\$91,260.00
Robert Klein	Former Paralegal	14.0	\$255	\$3,570.00
Alex Grayson	Paralegal	17.1	\$250	\$4,275.00
Michelle R. Principato	Former Paralegal	28.8	\$240	\$6,912.00
Stefana Klipa	Paralegal	5.1	\$250	\$1,275.00
<b>Total</b>		<b>3180.2</b>		<b>\$1,514,732.00</b>

18  
 19 25. Due to the amount of privileged information contained in Berger Montague's actual  
 20 hourly billing records, those detailed records are not attached here, but can easily be provided for  
 21 this Court's *in camera* review should the Court wish to review them.

22 26. The hourly rates for the partners, attorneys, and professional staff are the same as  
 23 would be charged in non-contingent matters and/or which have been accepted and approved in other  
 24 recent class and collective action wage and hour litigation by this Court and other federal courts  
 25 around the country. *See, e.g., Shaw, et al. v. AMN Services, LLC et al.*, No. 3:16-cv-02816, Dkt.  
 26 No. 167 (N.D. Cal. May 31, 2019) (conducting lodestar cross check and holding "[t]he Court further  
 27 finds that the hourly rates of Class Counsel's co-counsel, Berger Montague PC, also are within the  
 28 prevailing range of hourly rates charged by attorneys providing similar services in class action,



1 wage-and-hour cases”); *Scolaro v. RightSourcing, Inc.*, No. 8:16-cv-01083, ECF No. 44 (C.D. Cal.  
 2 June 26, 2017) (approving Berger Montague’s hourly rates); *Devlin v. Ferrandino & Sons, Inc.*,  
 3 No. 2:15-cv-4976, ECF No. 46 (E.D. Pa. Dec. 9, 2016) (conducting lodestar cross check, approving  
 4 billing rates, and holding that Berger Montague attorneys “have substantial experience in FLSA  
 5 cases, and their hourly rates are also within the range charged by attorneys with comparable  
 6 experience levels for litigation of a similar nature”); *see also Lopez v. T/J Inspection Inc.*, No. 5:16-  
 7 cv-148 (W.D. Okla. Apr. 12, 2017); *Ciamillo v. Baker Hughes Inc.*, No. 3:14-cv-00081-RRB (D.  
 8 Alaska June 22, 2015); *Crawford v. Zenta Mortg. Servs. LLC*, No. 3:11-cv-129 (W.D.N.C. Jan. 16,  
 9 2013); *Justison v. McDonald’s Corp.*, No. 08-448-LPS (D. Del. Nov. 9, 2010); *Choul v. Neb. Beef,*  
 10 *Ltd.*, No. 8:10-cv-308 (D. Neb. May 17, 2012); *Banuelos, et al. v. XL Four Star Beef Holdings*, No.  
 11 07-cv-00422-EJL (D. Idaho Feb. 2, 2010); *Espinosa, et al. v. Nat’l Beef Cal., L.P., et al.*, No.  
 12 ECU04657 (Cal. Super. Ct., Imperial County, Jun. 17, 2010); and *Salcido, et al. v. Cargill Meat*  
 13 *Sols. Corp., et al.*, Nos. 1:07-cv-01347-LJO-GSA and 1:08-cv-00605-LJO-GSA (E.D. Cal. May  
 14 29, 2009).<sup>1</sup>

#### **SUMMARY OF WORK PERFORMED BY BERGER MONTAGUE**

15 27. I am the lead Shareholder at Berger Montague with respect to this case. I directed the  
 16 work of the other attorneys at my firm, conducted a legal analysis of the facts presented by this  
 17 case, and worked with co-counsel to vet the claims of potential class representatives and witnesses.  
 18 I oversaw, managed, assigned, and coordinated duties of the attorneys and staff in my firm. In this  
 19 capacity, I: 1) worked with co-counsel in conducting the initial case investigation; 2) oversaw,  
 20 managed, assigned and coordinated duties of a team of attorneys throughout this litigation; 3)  
 21 devised and implemented strategy and participated in meetings and numerous telephone  
 22 conferences with Defendants’ counsel related to the litigation and settlement; 4) assisted Carolyn  
 23 Cottrell in managing discovery, including coordinating the review of Defendants’ documents; 5)  
 24 oversaw briefing in the case, including the opposition to motions to compel arbitration, and the  
 25 process of retaining and drafting more than 600 arbitration demands; 6) prepared and oversaw the

26 <sup>1</sup> Berger Montague PC has conservatively used its customary rates in the Philadelphia market,  
 27 which are somewhat lower than prevailing rates for similar work in the San Francisco Bay Area  
 28 market where this case is pending and which are routinely approved by federal courts around the  
 country.

1 damages analyses in preparation for mediations; 7) negotiated the details and terms of the original  
2 Settlement Agreement and Addendum to the Settlement Agreement; 8) edited the Settlement  
3 Agreements; 9) attended and participated in the mediation with mediator Michael Dickstein on  
4 November 6, 2017, and with mediator Jeff Ross on October 18, 2018; 10) oversaw the analyses of  
5 wage and hour laws and employees' data and related conferences with Defendants and co-counsel  
6 in connection with executing an Amended Settlement Agreement pursuant to the Court's  
7 instructions; 11) drafted and edited a number of the briefs in this case, including Plaintiffs'  
8 Unopposed Motion for Preliminary Approval of the Settlement Agreement and Renewed Motion  
9 for Preliminary Approval of the Amended Settlement; and 11) traveled to and attended Court  
10 hearings on the Preliminary Approval Motion and participated in telephonic hearings on the  
11 Motions.

12 28. Shanon J. Carson, the Co-Chair of the Employment Rights Department, also helped  
13 manage the duties of a team of attorneys throughout this litigation; devised and implemented strategy  
14 related to the litigation and mediation; and prepared for and attended the mediation with mediator  
15 Michael Dickstein on November 6, 2017.

16 29. Below, I provide a summary description of the work performed by other Berger  
17 Montague attorneys on this case who billed at least ten hours on this matter.

18 30. An associate on this case, Neil K. Makhija, researched relevant issues for litigation;  
19 edit complaints; reviewed documents produced by Defendant; maintained contact with many class  
20 members throughout the litigation; assisted with discovery, including with the drafting of formal  
21 discovery responses of the named Plaintiffs on the First Amended Complaint; assisted in  
22 preparation for mediation, including preparation of mediation statement; attended the mediation in  
23 November 2017; assisted in briefing Plaintiffs' opposition to Defendants' Motions to Compel  
24 Arbitration and in Plaintiffs' service of 678 individual demands for arbitration in December 2018;  
and provided support in finalization of initial settlement.

25 31. Alexandra K. Piazza, an associate of our firm, assisted with the case investigation,  
26 researched relevant issues for litigation, edited various motions and supporting documents, assisted  
27  
28

1 with preparation for depositions and with other discovery, and provided support during the  
2 litigation, mediation, and the finalization of the settlement.

3 32. Camille Fundora Rodriguez, an associate of our firm, assisted with the case  
4 investigation, researched relevant issues for litigation, edited complaints, and various motions and  
5 supporting documents, provided support during litigation, and assisted with discovery.

6 33. Krysten L. Connon, an associate of our firm, researched relevant issues for this  
7 litigation, including research and review of state wage and hour laws, and drafted Plaintiffs'  
8 Renewed Motion for Preliminary Approval of the Amended Settlement and supporting documents,  
9 assisted in drafting and editing Plaintiffs' Unopposed Motion for an Award of Attorneys' Fees and  
10 Costs and of Service Awards to Class Representatives and supporting documents, and provided  
11 support during the finalization and implementation of the settlement.

12 34. Phyllis M. Parker, a shareholder of our firm, researched relevant issues for litigation  
13 and drafted Plaintiffs' Unopposed Motion for an Award of Attorneys' Fees and Costs and of Service  
14 Awards to Class Representatives and supporting documents.

15 35. Stacy Savett, a staff attorney of our firm, conducted an extensive factual investigation  
16 into class members' claims and interviewed Class Representatives and numerous Opt-In Plaintiffs  
17 around the nation to facilitate the prosecution of this action. In addition, she communicated with  
18 Opt-In Plaintiffs regarding the status of the case, in retaining them to file individual arbitration  
19 demands on their behalf, researched relevant issues for litigation, edited discovery responses and  
20 supporting documents, maintained contact with Class Members, drafted class member declarations,  
21 and provided support during the finalization of the settlement.

22 36. Kathrin D. Kemler, Ph.D., Data Analyst and Paralegal at our firm, conducted data  
23 analyses and prepared damage analyses for mediations and settlement purposes, and worked in the  
24 preparation of more than 600 individual demands for arbitration.

25 37. Other Paralegals at our firm, including, Robert Klein, Michelle R. Principato, Alex  
26 Grayson, and Stefana Klipa assisted in interviewing the Firm's clients; reviewing documents  
27 produced by clients and Defendants in litigation; and preparing for mediation.

28 38. All of the work described above was reasonable and necessary to the prosecution and  
settlement of this case. Plaintiffs' Counsel conducted an extensive factual investigation and engaged

1 in significant motion practice during the prosecution of this action. Through this comprehensive  
2 evaluation of the facts and law, Plaintiffs' Counsel was able to settle this case for a substantial sum.  
3 Plaintiffs' Counsel achieved this result in a very timely fashion, providing members of the  
4 Settlement Class with substantial and certain relief much sooner than if this matter had been  
5 extensively litigated.

6 39. The settlement reached with Defendants as a result of two separate mediations to  
7 reach the initial settlement, and as a result of the analyses and conferences engaged in to reach the  
8 Amended settlement, all involve complex provisions that are specific to wage and hour litigation,  
9 is a reflection of Plaintiffs' Counsel's experience. The Settlement Agreement provides members of  
10 the Settlement Class with substantial benefits without having to wait for years of drawn-out  
11 litigation. Based upon the foregoing reasons, Plaintiffs' Counsel respectfully requests that this  
12 motion be granted.

13 40. Plaintiffs' Counsel assumed a very real risk in taking on this contingent fee case.  
14 Plaintiffs' Counsel took the case on a contingency basis, and was prepared to invest time, effort,  
15 and money over a period of years with absolutely no guarantee of any recovery. Plaintiffs' Counsel  
16 would not have recovered any fees or out-of-pocket costs had they not obtained a settlement or  
17 prevailed at trial.

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

21  
22  
23  
24  
25  
26 <sup>2</sup> The Settlement Administrator will deposit a ten (10) percent holdback of the Fee Award into a  
27 separate interest-bearing account, which will be released following completion of the distribution  
28 process and filing of the Post-Distribution Accounting with the Court. Settlement Agreement, ¶  
29b(iv).

**BERGER MONTAGUE'S EXPENSES**

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

43. As of September 9, 2019, my firm expended costs to prosecute this action, as follows:

<b>Expense</b>	<b>Amount</b>
Court Fees	\$1,490.00
Mediation Fees	\$5,000.00
Computer Research	\$4,717.70
Copying	\$6,084.25
Telephone	\$44.90
Travel	\$20,994.13
Production, Hosting, & Database	\$597.17
Postage, Delivery & Freight	\$2,442.01
Electronic Signature Service Costs	\$3,256.24
Notice Administration Costs	\$5,046.79
<b>Total</b>	<b>\$ 49,673.19</b>

44. The expenses incurred pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred. All of these expenses were reasonable and necessary for the successful prosecution of this case, and pursuant to the terms of the Settlement Agreement, Defendants do not object to the request for costs. Further, no Class Member has objected to the request for costs (listed on the Notice as “presently \$180,000”).

1           45.     Based on my experience litigating this lawsuit and many similar cases, I believe the  
2 class settlement negotiated in this action is in the best interests of Plaintiffs and the Settlement  
3 Class.

4     Dated: Sept 9, 2019

  
\_\_\_\_\_  
Sarah R. Schalman-Bergen

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28