

The Honorable Robert J. Bryan

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK
NWAUZOR, FERNANDO AGUIRRE-
URBINA, individually and on behalf of all
those similarly situated,

Plaintiffs,

v.

THE GEO GROUP, INC., a Florida
corporation,

Defendant.

No. 17-cv-05769-RJB

DECLARATION OF JAMAL N.
WHITEHEAD IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION TO
EXCLUDE EXPERT TESTIMONY
OF DR. JEFFREY MUNSON

I, JAMAL N. WHITEHEAD, declare as follows:

1. I am over the age of eighteen, competent to testify in this matter, and do so based on personal knowledge.

2. Plaintiff's expert, Dr. Jeffrey Munson, has performed damages calculations in wage and hour class actions based upon voluminous payroll, timekeeping, and similar data produced by defendant employers; and performed damages calculations in approximately forty different wage cases; and has testified at trial in wage cases at least five times in the last five years.

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3. After the expert report deadline, GEO produced banking data showing the amounts paid to individual detainee workers for their work in the VWP. Dr. Munson has analyzed this data and anticipates supplementing his report to refine his aggregate damages calculations and to determine individual damages owed to the Class Members.

4. I attach as Exhibit 1 true and correct copies of excerpts from the deposition of Dr. Jeffrey Munson, taken December 12, 2019.

5. I attach as Exhibit 2 true and correct copies of excerpts from the deposition of Michael Heye, taken December 4, 2019.

6. I attach as Exhibit 3 true and correct copies of excerpts from the deposition of Defendant’s FRCP 30(b)(6) representative, Bruce Scott, taken December 10, 2019.

7. I attach as Exhibit 4 a true and correct copy of excerpts from Defendant’s rebuttal expert report of Serena Morones, dated October 31, 2019. Defendant designated the report as “Highly Confidential – Outside Attorneys’ Eyes Only,” but the parties met and conferred today, and GEO agreed to a redacted filing of excerpted pages 8, 12, and 13, excluding “all numbers/figures on each page.”

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED at Seattle, Washington this 13th day of January, 2020.

s/ Jamal N. Whitehead
JAMAL N. WHITEHEAD, WSBA #39818

CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2020, I electronically filed the foregoing, together with its supporting pleadings and attachments thereto, with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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Attorneys for Interested Party

DATED at Seattle, Washington this 13th day of January, 2020.

s/ Virginia Mendoza

VIRGINIA MENDOZA, Legal Assistant
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Tel: (206) 622-8000
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EXHIBIT 1

NWAUZOR et. al vs GEO GROUP
Munson, Jeffrey - December 12, 2019

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

NWAUZOR et. al,)
)
 Plaintiff,)
)
 vs.) No.
) 3:17-cv-05769-RJB
 THE GEO GROUP,)
)
 Defendant.)

DEPOSITION OF JEFFREY MUNSON, PH.D.

December 12, 2019

Seattle, Washington

1 Q So then your main job is dealing with data you've been
2 provided. Or assessing data you've been --

3 A Yeah.

4 Q -- provided.

5 A That's my main role in the -- the research I'm involved
6 in currently.

7 Q Okay. So in terms of data analysis, do you have any
8 specific qualifications? Certificates?

9 A No certificates other than graduate-level courses in
10 a variety of statistical techniques. The -- the core
11 sort of statistical coursework in my degree program, but
12 I've taken additional courses as well, and we have
13 different multivariant statistical techniques.

14 Q You mentioned numerous "statistical techniques."
15 What are those techniques?

16 A They could be the -- the names of different statistical
17 techniques can be clumped at different levels of
18 generality.

19 So aiming for the level at which I think of, one
20 is sort of linear mixed models, which is one statistical
21 technique that allows you to analyze data that's
22 collected across multiple levels. Repeated observations
23 with an individual and then those observations across
24 multiple individuals would create two different levels
25 of data. So intermixed models, simple things of looking

1 told how it was generated and what it purports, but
2 I pretty much take it on -- as face valid.

3 Q Uh-huh. What do you do when you're presented with
4 conflicting datasets or datasets that indicate that one
5 of them cannot be correct?

6 A If one cannot be correct but both are theoretically
7 potentially valid, I would speak to the -- the attorneys
8 I'm involved with and, you know, seek guidance from their
9 part on what to assume is correct.

10 Q And did you do that here?

11 A I don't believe so. I think the information I've
12 analyzed that are in the report was -- just took what
13 was -- what was there and carried out the steps
14 I described.

15 Q Okay. Do you have any experience calculating back wages?

16 A Yes.

17 Q What is that experience?

18 A I've been involved in I think 40 or so different cases
19 where I've been asked to calculate -- well, I've been
20 asked to calculate damages, so maybe this changes my
21 answer. You said wages. Back wages. Again, I'm asked
22 usually to address, you know, one or more different
23 claims in a suit, like missed breaks or unpaid work,
24 unpaid overtime, things like that. So I've been asked to
25 calculate each of those types of things. Some of those

1 STATE OF WASHINGTON) I, April Cook, CCR #3245,
) ss a certified court reporter
 2 County of Pierce) in the State of Washington, do
 hereby certify:

3
 4
 5 That the foregoing deposition of JEFFREY MUNSON, PH.D.
 was taken before me and completed on December 12, 2019, and
 thereafter was transcribed under my direction; that the
 6 deposition is a full, true and complete transcript of the
 testimony of said witness, including all questions, answers,
 7 objections, motions and exceptions;

8 That the witness, before examination, was by me duly
 sworn to testify the truth, the whole truth, and nothing but
 9 the truth, and that the witness reserved the right of
 signature;

10
 11 That I am not a relative, employee, attorney or counsel
 of any party to this action or relative or employee of any
 such attorney or counsel and that I am not financially
 12 interested in the said action or the outcome thereof;

13 That I am herewith securely sealing the said deposition
 and promptly delivering the same to Adrienne Scheffey.

14
 15 IN WITNESS WHEREOF, I have hereunto set my signature on
 the 15th day of December, 2019.

16
 17
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20 _____
 April Cook, CCR
 Certified Court Reporter No. 3245
 (Certification expires 10/11/20.)

EXHIBIT 2

Michael Heye

December 4, 2019

Page 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK NWAUZOR,)	
FERNANDO AGUIRRE-URBINA,)	
individually and on behalf of all)	
those similarly situated,)	
Plaintiffs,)	
vs.)	No. 17-cv-05769-RJB
THE GEO GROUP, INC., a Florida)	
corporation,)	
Defendant.)	

** Transcript Contains Portions Designated Confidential **
** See Index on Page 4 **

Videotaped Deposition Upon Oral Examination of
MICHAEL T. HEYE

10:04 a.m.

Wednesday, December 4, 2019

810 Third Avenue, Suite 500

Seattle, Washington

REPORTED BY: Keri A. Aspelund, RPR, CCR No. 2661

1 MS. CHIEN: And this is Marsha Chien, and I
2 represent the State of Washington in a consolidated case.

3 THE VIDEOGRAPHER: Will the court reporter
4 please administer the oath.

5 -----
6 MICHAEL T. HEYE: Witness herein, having been
7 duly sworn, testified as follows:

8 E-X-A-M-I-N-A-T-I-O-N

9 BY MR. WHITEHEAD:

10 Q. Good morning, Mr. Heye.

11 A. Hello.

12 Q. We met a moment ago off the record, but I would
13 like to introduce myself for benefit of the record. My
14 name's Jamal Whitehead. I represent Mr. Nwauzor and the
15 class of civil immigration detainees that he represents in
16 a private lawsuit against the GEO corporation.

17 Could you please state and spell your name for
18 the record.

19 A. It's Michael Heye, M-I-C-H-A-E-L, and last name
20 is Heye, H-E-Y-E.

21 Q. And your middle name, Mr. Heye?

22 A. Thomas --

23 Q. What's --

24 A. -- T-H-O-M-A-S.

25 Q. And your date of birth, please.

1 second page is the slip sheet that bears the Bates number,
2 so you see there in the bottom right corner?

3 MS. MELL: Yeah.

4 MR. WHITEHEAD: This one says GEO-State 019281,
5 and then the printout from the Excel file is the third
6 page.

7 MS. MELL: Okay. Okay.

8 Q. All right. So, Mr. Heye, my -- my question to
9 you is, what are we looking at here on this third page of
10 Exhibit-325?

11 A. Pods, workers, hours, total.
12 Spreadsheet?

13 Q. Now, according to the metadata produced with the
14 Excel spreadsheet, mhey, H-E-Y-E, is listed as the author.
15 Did you create this spreadsheet?

16 A. Yeah.

17 Q. So what does this spreadsheet reflect?

18 A. It shows the pods and outside details.

19 Q. When did you create this document?

20 A. A couple years ago.

21 Q. So 2017?

22 A. I believe it was.

23 Q. Why did you create this document?

24 A. It was my -- it was either -- I think it was the
25 A-dub -- or was it Ryan? One of the admin people asked me

1 if they would -- if I would put a spreadsheet together on
2 how many pods we have, how many workers, or how many
3 assignments total there could be in each section, and then
4 they wanted to know how long certain things took and
5 average it out.

6 Q. The information that's reflected here on the
7 spreadsheet, where is it derived from?

8 A. The pods is how many pods we got, the workers is
9 the total number of assignments per unit, and then the --
10 where it says "Hours," I just called the pod and asked the
11 pod officer what is -- how long it typically takes for an
12 assignment to get completed.

13 Q. Are you aware of any other purpose for this
14 document?

15 A. Nope, they just asked me to put something
16 together.

17 Q. So someone in your chain of command asked you to
18 put this document, which is Exhibit-325, together?

19 A. Correct.

20 Q. And the information that's reflected here, you
21 consulted with the detention officers to fill in the Hours
22 column; is that right?

23 A. Correct, on some of it, and some of the other
24 stuff, kitchen and ...

25 Q. For the kitchen, who did you consult with on

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C-E-R-T-I-F-I-C-A-T-E

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I, the undersigned Registered Professional Reporter and Certified Court Reporter, hereby certify that the foregoing deposition upon oral examination was taken stenographically before me and transcribed under my direction;

That the witness was duly sworn by me, pursuant to RCW 5.28.010, to testify truthfully; that the transcript of the deposition is a full, true, and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of, any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

I further certify that in accordance with CR 30(e), the witness was given the opportunity to examine, read, and sign the deposition, within 30 days, upon its completion and submission, unless waiver of signature was indicated in the record.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of December, 2019.



Keri A. Aspelund

NCRA Registered Professional Reporter
Washington Certified Court Reporter No. 2661

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UGOCHUKWU GOODLUCK NWAUZOR,)
FERNANDO AGUIRRE-URBINA,)
individually and on behalf of)
all those similarly situated,)
)
Plaintiffs,)

vs.)

THE GEO GROUP, INC., a Florida)
corporation,)
)
Defendant.)

No. 17-cv-05769-RJB

VIDEO DEPOSITION UPON ORAL EXAMINATION OF
BRUCE A. SCOTT, JR.
AS A RULE 30(b)(6) DESIGNEE OF
THE GEO GROUP, INC.

810 Third Avenue, Suite 500
Seattle, Washington

DATE: Tuesday, December 10, 2019

REPORTED BY: Donald W. McKay, RMR, CRR, CCR 3237

1 MS. MELL: Joan Mell. GEO.

2 Bruce Scott, witness, 30(b)(6).

3 MR. POLOZOLA: My name is Lane Polozola. I am
4 counsel for the State of Washington in a separate
5 consolidated lawsuit, Washington versus GEO.

6 THE VIDEOGRAPHER: Will the court reporter
7 please administer the oath.

8

9 BRUCE A. SCOTT, JR. called as a witness in the
10 above-entitled cause, being
11 first duly sworn, testified
12 as follows:

13

14 E X A M I N A T I O N

15 BY MR. WHITEHEAD:

16 Q. Good morning, Mr. Scott. We met yesterday when
17 I deposed you in your individual capacity. I will
18 introduce myself again, though, for the benefit of the
19 record. I'm Jamal Whitehead. I represent Mr. Nwauzor,
20 as well as Mr. Aguirre-Urbina in their lawsuit against
21 The GEO Group.

22 Mr. Scott, could you please state and spell your
23 name for the record.

24 A. Bruce Arnold Scott, Jr. B-R-U-C-E, A-R-N-O-L-D,
25 S-C-O-T-T, J-R.

1 A. After.

2 Q. And \$27.12, were there ever any other offset
3 amounts reached or discussed by GEO?

4 A. No.

5 Q. Walk me through how GEO arrived at the amount of
6 \$27.12 per hour as the offset amount.

7 A. We looked at total 2016 data, and took the total
8 participants in the Voluntary Work Program for 2016, and
9 we multiplied that by an estimated hours worked and
10 average hours worked per detainee during that time
11 period, to determine a total number of hours worked in
12 that year; and divided that by the total expenditures of
13 equipment, services, building costs, taxes, a number of
14 other factors, divided -- that equated out to the \$27.12
15 an hour.

16 Q. In 2016, what was the total number of
17 participants in the program?

18 A. I can't recall off the top of my head. I know
19 it's listed on some documentation somewhere.

20 Q. Do you have those documents with you today?

21 A. I do not.

22 Q. All right. And the estimated hours worked by
23 detainee, I believe you said was part of the formula.

24 Did I get that right?

25 A. Yes.

1 Q. What was the estimated hour or hours worked by
2 detainees used in your formula?

3 A. The estimated average hours worked by detainees,
4 I believe, was 1.72 hours.

5 Q. How was that estimate reached?

6 A. That is purely an estimate. Most Voluntary Work
7 Program assignments only last 30 minutes, sometimes not
8 even 30 minutes. We don't have time records of each
9 individual work period. It was not a requirement and is
10 not a requirement of the ICE PBNDS standards for
11 voluntary work. It's our best estimate of the number of
12 hours that each individual spent on average, working any
13 day for the Voluntary Work Program.

14 Q. What sources of information did GEO consult to
15 reach that 1.72 hours estimate?

16 A. Really just knowledge of the program, of what
17 detainees actually do in the Voluntary Work Program.

18 Q. And in estimating 1.72 hours, was it GEO's
19 intent to be accurate in its estimate?

20 MS. MELL: Object to the form.

21 THE WITNESS: As accurate as available since the
22 ICE standard, nor contract require any such
23 documentation of time spent within the Voluntary Work
24 Program.

25 BY MR. WHITEHEAD:

1 Q. Well, I guess what I'm driving at is that this
2 wasn't an arbitrary number. 1.72 hours represents GEO's
3 best estimate. Is that correct?

4 MS. MELL: Object to the form.

5 THE WITNESS: Based on available knowledge and
6 without any detailed information from the Voluntary Work
7 Program that's not required, it's our best estimate.

8 BY MR. WHITEHEAD:

9 Q. And is 1.72 hours still GEO's best estimate of
10 the average detainee shift?

11 MS. MELL: Object to the form of the question.

12 THE WITNESS: It's hard to answer. The
13 Voluntary Work Program from day-to-day is very fluid.
14 It's hard to come up with a specific set of hours. It
15 probably would not be the same from day-to-day if we
16 actually counted hours in the Voluntary Work Program.

17 BY MR. WHITEHEAD:

18 Q. Well, for purposes of deriving GEO's offset
19 amount, is GEO sticking with or changing the 1.72 hours
20 detainee shift estimate?

21 MS. MELL: Object to the form of the question.

22 THE WITNESS: Based on -- when more available
23 information is known about the -- how many detainee
24 workers or what the overall end process wants to be --
25 it's hard to know. It's a number right now. The 1.72

1 hours is our best estimate within the Voluntary Work
2 Program.

3 BY MR. WHITEHEAD:

4 Q. So that's yes, that is still GEO's estimated
5 hours for the average detainee shift?

6 MS. MELL: Object to the form of the question.

7 THE WITNESS: Based on the documentation in
8 front of me, yes.

9 BY MR. WHITEHEAD:

10 Q. Well, it's not based on the documentation in
11 front of you. Like I said at the outset, it's a
12 30(b)(6) deposition, so it's a little bit different.
13 You're speaking on behalf of the company. So my
14 question is a yes or no one. On behalf of the company,
15 is 1.72 hours still the company's estimate for the
16 average detainee shift? Yes or no.

17 MS. MELL: Object to the form of the question.
18 Move to strike.

19 And don't tell my client what to do.

20 THE WITNESS: I've answered the question. As of
21 right now, based on the documentation and the
22 information that we have, 1.72 hours is the number.

23 BY MR. WHITEHEAD:

24 Q. And then you said that the total number of
25 participants multiplied by the estimated hours worked is

1 then divided by GEO's expenditures. Did I get that
2 right?

3 A. The costs related to the detainees in that
4 program. Hygiene, products used, bedding used,
5 uniforms, the cost of housing, food, a number of
6 different topics, taxes. All those things that relate
7 to the detainee and their housing determines that
8 number.

9 Q. That's what I would like for you to unpack for
10 me. I want to discuss in detail the expenditures that
11 are included in GEO's offset analysis. Could you give
12 me a list of the expenditures or costs that GEO has
13 considered in formulating its offset amount?

14 MS. MELL: Object to the form of the question.

15 THE WITNESS: There is a number of related
16 items. I mean, we could sit down if you have some
17 documentation to review, but I won't be able to rattle
18 off everything from memory. We have provided some
19 information that was related to determining these
20 numbers. I'd like to refer to that documentation.

21 BY MR. WHITEHEAD:

22 Q. Did you bring it with you?

23 A. I do not have it.

24 Q. Do you know the title of the document that
25 you're thinking of?

C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, the undersigned Washington Certified Court Reporter, hereby certify:

That the foregoing deposition upon oral examination of the witness named herein was taken stenographically before me and transcribed under my direction;

That the witness was duly sworn by me pursuant to RCW 5.28.010 to testify truthfully;

That the transcript of the deposition is a full, true and correct transcript to the best of my ability;

That I am neither an attorney for, nor a relative or employee of any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

I further certify that in accordance with CR 30(e), the witness was given the opportunity to examine, read, and sign the deposition, within 30 days upon its completion and submission, unless waiver of signature was indicated in the record.



Donald W. McKay, RMR, CRR
Washington Certified Court Reporter No. 3237
License effective until: 07/02/2020

EXHIBIT 4



Morones Analytics

Valuation • Forensic Accounting • Damage Analysis

Ugochukwu Goodluck Nwauzor, Fernando Aguirre-Urbina, individually and on behalf of all those similarly situated, v. The Geo Group, Inc., US District Court, Western District of Washington at Tacoma
Case No. 17-cv-05769-RJB

Rebuttal Expert Report of Serena Morones, CPA, ASA, ABV, CFE

October 31, 2019

CONTAINS INFORMATION MARKED CONFIDENTIAL AND ATTORNEYS'
EYES ONLY: SUBJECT TO PROTECTIVE ORDER

Expert Report of Serena Morones, CPA, ASA, ABV, CFE dated October 31, 2019

Nwauzor et al v. Geo Group Inc.

Highly Confidential – Outside Attorneys’ Eyes Only

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Expert Report of Serena Morones, CPA, ASA, ABV, CFE dated October 31, 2019
 Nwauzor et al v. The Geo Group, Inc.
 Highly Confidential – Outside Attorneys’ Eyes Only

21. Using the revised assumption of [REDACTED] hours per detail and excluding any other potential adjustments yields a damage calculation approximately [REDACTED] lower than Dr. Munson’s calculation of damages, as shown in the table below.

Dr. Munson's Calculation of Damages - Revised Kitchen Detail Assumptions

	A	B	C	AxBxC = D	D-A
Year	Worker Pay Adj	Minimum Wage	Average Hours	Damages 1.72hrs per Shift	Damages 1.72hrs per Shift minus Worker Pay Adj
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Dr. Munson's Calculation Overstatement [REDACTED]

22. Based on the results of our analysis, Deposition Exhibit 20 is not a reliable source for estimating the quantity and duration of kitchen details worked, or for estimating total average hours per detail during the damage period.

2.Barbers

23. Dr. Munson’s assumptions regarding the average number of daily barber details is also unreliable. Based on his reliance on Deposition Exhibit 20, Dr. Munson assumed that a total of 15 detainees worked as barbers each day, approximating [REDACTED] of the [REDACTED] total workers reported therein.¹³

¹³ Exhibit 20 to the 30(b)(6) Deposition of Ryan Kimble, July 9, 2018.

Expert Report of Serena Morones, CPA, ASA, ABV, CFE dated October 31, 2019

Nwauzor et al v. The Geo Group, Inc.

Highly Confidential – Outside Attorneys’ Eyes Only

Dr. Munson's Calculation of Damages - Revised Barber Detail Assumptions

	A	B	C	AxBxC = D	D-A
Year	Worker Pay Adj	Minimum Wage	Average Hours	Damages 1.72hrs per Shift	Damages 1.72hrs per Shift minus Worker Pay Adj
REDACTED					

Dr. Munson's Calculation Overstatement REDACTED

29. Based on the results of our analysis, Deposition Exhibit 20 is not a reliable source for estimating the quantity of barber details worked or for estimating total average hours per detail during the damage period.

Expert Report of Serena Morones, CPA, ASA, ABV, CFE dated October 31, 2019

Nwauzor et al v. The Geo Group, Inc.

Highly Confidential – Outside Attorneys’ Eyes Only

V. Conclusion

30. The above examples demonstrate that Deposition Exhibit 20 is not a reliable source for quantifying average hours per detainee work detail for purposes of projecting damages over the damage period. Since Dr. Munson failed to evaluate case evidence that contradicted the assumptions he derived from Deposition Exhibit 20, his resulting damage calculation is not reliable, we have demonstrated that minor changes to his assumptions can have a significant impact on his damage conclusion.
31. My opinions may be supplemented or amended upon receipt of additional information. I may use any of the tables or attached schedules as demonstratives at trial. I may also utilize any of the documents cited herein as a demonstrative exhibit at trial. I also reserve the right to amend and/or supplement my demonstratives to respond to points or opinions put forth by plaintiff’s expert(s).

Yours Sincerely,

A handwritten signature in cursive script that reads "Serena Morones". The signature is written in black ink on a white background.

Serena Morones, CPA, ASA, ABV, CFE
Morones Analytics, LLC