

The Honorable Robert J. Bryan

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHAO CHEN, individually and on behalf of
all those similarly situated,

Plaintiff,

v.

THE GEO GROUP, INC., a Florida
corporation,

Defendant.

No. 3:17-cv-05769-RJB

DECLARATION OF JAMAL
WHITEHEAD IN SUPPORT OF
PLAINTIFF’S MOTION FOR
CLASS CERTIFICATION

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. I am a shareholder in the law firm of Schroeter Goldmark & Bender (“SGB”). I am a graduate of the University of Washington and a 2007 graduate of Seattle University School of Law. Prior to joining SGB, I worked as an associate for the Seattle-based law firm of Garvey Schubert Barer, and as a federal trial attorney, first for the U.S. Equal Employment Opportunity Commission where I was a senior trial attorney, and later as an Assistant United States Attorney for the Western District of Washington. I am a member of the Washington

1 State Association for Justice and the Washington Employment Lawyers Association. I am
2 currently on the executive board of the Washington State Bar Association's Labor &
3 Employment Section and a Trustee for the Federal Bar Association of Western Washington.

4 3. I have co-counseled or assisted on the following class actions:

5 a. *Salvador v. Filo Food, LLC, et al.*, No. 16-2-23736-3 KNT (a certified
6 class action on behalf of hospitality workers denied SeaTac's
7 minimum wage);

8 b. *Afinwala v. La Trelles Express, Inc., d/b/a Wendy's*, No. 16-2-23737-1
9 KNT (a certified class action on behalf of hospitality workers denied
SeaTac's minimum wage).

10 4. My law partners Adam J. Berger and Lindsay L. Halm join me in this matter.
11 Mr. Berger and Ms. Halm both have considerable experience representing plaintiff classes
12 across various subjects of law.

13 5. Mr. Berger is a shareholder in SGB. He is a graduate of Harvard College and
14 Yale Law School and served as law clerk for the Honorable Mark L. Wolf of the United
15 States District Court for Massachusetts from 1989-90. He is a member of the Washington
16 State Association for Justice, the American Association for Justice, and the Washington
17 Employment Lawyers Association. He is currently on the Board of Directors of the
18 Northwest Consumer Law Center and previously was on the Executive Committee of the
19 William L. Dwyer American Inn of Court. In 2013, Mr. Berger and three of our other law
20 partners at SGB received the Award of Merit from the Washington State Bar Association.
21 Prior to joining SGB in 1999, he spent nine years working for the Sierra Club Legal Defense
22 Fund/Earthjustice litigating environmental and public lands cases in state and federal court.

23 6. Mr. Berger has had considerable experience representing plaintiff classes in
24 wage and hour, consumer, and environmental litigation. Over the past 14 years, he has been
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1 appointed as lead counsel or co-lead counsel for certified classes in over 35 cases in state and
2 federal courts in Washington, including at least 20 certified wage and hour class actions. He
3 has tried four wage and hour class actions, an environmental class action, and a consumer
4 class action to verdict, five of which resulted in judgments for the plaintiff class. The cases in
5 which he has been appointed as lead or co-lead counsel for certified classes include, among
6 others:
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- 8 a. *Bruner v. Davis Wire Co.*, 12-2-15676-0 SEA, (King Co. Superior
9 Ct.), a case alleging missed meal breaks for a class of factory workers.
10 The case settled following a judgment for the plaintiff class after a
11 three week bench trial.
- 12 b. *Humphrey v. Swedish Health Services, et al.*, No. 12-2-25691-8 SEA
13 (King Co. Superior Ct.), a case alleging overcharging of uninsured
14 patients in the emergency department. The case settled following
15 certification of the case as a class action on June 21, 2013;
- 16 c. *Owens v. Bethlehem Construction, Inc., et al.*, No. 08-2-31509-6 KNT
17 (King Co. Superior Ct.), a case alleging failure to pay the proper
18 prevailing wage for work on elevated railway segments for the Sound
19 Transit Light Rail project. The case settled for \$5.5 million after the
20 court certified a litigation class and granted summary judgment for
21 plaintiffs on liability.
- 22 d. *Troy v. Kehe Food Distributors, Inc.*, No. C09-0785JLR (W.D.
23 Wash.), challenging defendant's misclassification of sales
24 representatives and merchandisers as exempt from overtime. The case
25 settled prior to trial after certification of a litigation class.
- 26 e. *Pellino v. Brink's Incorporated*, No. 07-2-13469-7-SEA (King Co.
Superior Ct.), a wage and hour class action on behalf of armored car
drivers and messengers alleging failure to provide lawful rest and meal
breaks that resulted in a judgment in favor of the class following a four
week bench trial, which was affirmed on appeal.
- f. *Hill v. Garda CL Northwest, Inc.*, No. 09-2-07360-1 SEA (King Co.
Superior Ct.), a wage and hour class action on behalf of armored
vehicle crews alleging failure to provide lawful rest and meal breaks.
The case is currently on appeal following a judgment in excess of \$8
million for the plaintiff class.
- g. *Lewis v. Loomis Armored US, LLC*, No. 10-2-38176-7 SEA (King Co.
Superior Ct.), a wage and hour class action on behalf of armored
vehicle crews alleging failure to provide lawful rest and meal breaks.
The case settled before trial on a class basis.

- 1 h. *Hill v. McDonald's of Yakima Paymaster, LLC*, No. 09-2-03627-5
2 (Yakima Co. Superior Ct.), a class action on behalf of hourly
3 employees at 11 McDonald's franchise restaurants alleging failure to
4 provide lawful rest break periods. The case settled before trial on a
5 class-wide basis.
- 6 i. *Lewis v. Chase Home Finance, LLC*, No. 11-0088 JLR (W.D. Wash.),
7 challenging defendant's practice of charging borrowers fees for
8 recording a Substitution of Trustee or similar form at the time of loan
9 payoff. A settlement class was certified and final settlement approval
10 was granted on December 26, 2012.
- 11 j. *Kazman v. PNC Bank, N.A.*, No. 11-2-20321-2 SEA (King Co.
12 Superior Ct.), challenging defendant's practice of charging borrowers
13 fees for recording a Substitution of Trustee or similar form at the time
14 of loan payoff. A litigation class was certified under CR 23(b)(2) on
15 May 24, 2012, and trial of the case is pending.
- 16 k. *Gardner v. GMAC Mortgage, LLC*, No. 10-2-36902-3 SEA (King Co.
17 Superior Ct.), & *Smith v. Homecoming Financial, LLC*, No. 11-2-
18 10126-6 SEA (King Co. Superior Ct.), challenging defendants'
19 practice of charging borrowers fees for recording a Substitution of
20 Trustee or similar form at the time of loan payoff. The cases were
21 consolidated for settlement purposes and an order granting settlement
22 class certification and preliminary approval of a proposed class
23 settlement was entered on March 14, 2012.
- 24 l. *Stevens v. Brink's Home Security*, 162 Wn.2d 42 (2007), a wage and
25 hour class action which resulted in a Supreme Court decision affirming
26 a verdict in favor the plaintiff class, 162 Wn.2d 42, 169 P.3d 473
(2007).
- m. *Ampe v. City of Puyallup*, No. 07-5500RBL (W.D. Wash.), a collective
action under the Fair Labor Standards Act seeking unpaid overtime on
behalf of municipal firefighters. The case settled before trial.
- n. *Winter v. Sears Roebuck & Co.*, No. 07-2-33634-6 SEA (King Co.
Superior Ct.), a class action under the Washington Minimum Wage
Act ("MWA") to recover unpaid drive time on behalf of home
dispatch technicians. The case settled following class certification.
- o. *Molloy v. ADT Security Services, Inc.*, No. 07-2-35368-2 SEA (King
Co. Superior Ct.), a class action under the MWA to recover unpaid
drive time on behalf of home dispatch technicians. The case settled on
a classwide basis.
- p. *Bockhahn v. AOL*, No. 07-2-12923-5 SEA (King Co. Superior Ct.), a
nationwide consumer class action on behalf of individuals who were
charged for internet access accounts that they never authorized or
accessed. The court granted final approval of a settlement with a value
of up to \$1.5 million on January 15, 2010.

- 1 q. *Price v. City of Seattle*, No. C03-1365RJL (W.D. Wash.), a class
2 action on behalf of over 10,000 registered owners of vehicles
3 impounded by the City for Driving While License Suspended
4 violations. The case settled prior to trial following partial summary
5 judgment in favor of the plaintiff class.
6
7 r. *Potter v. Washington State Patrol*, No. 04-2-01086-9 (Thurston Co.
8 Superior Ct.), a class action on behalf of over 10,000 registered owners
9 of vehicles impounded by the State Patrol for Driving While License
10 Suspended violations. The case settled on remand following two
11 Washington Supreme Court rulings that reversed summary judgment
12 on behalf of the State Patrol.
13
14 s. *Tinney v. American Water Resources Co.*, No. 01-2-00776-7 (Lewis
15 Co. Superior Ct.), a class action on behalf of 59 households whose
16 water company provided them with contaminated or improperly
17 chlorinated water. After a two-week trial, the jury returned a \$600,000
18 verdict in favor of the plaintiff class.
19
20 t. *Lautenbach v. Regence BlueShield*, No. C02-0412C (W.D. Wash.), a
21 class action under ERISA and the Washington Consumer Protection
22 Act to recover out-of-pocket costs incurred by consumers following
23 the termination of several provider agreements between Regence
24 BlueShield and surgical specialists. The federal district court
25 approved settlement of the class action on October 3, 2002.
26
u. *Knapp, et al. v. Bank of America, N.A.*, No. C00-1603Z (W.D. Wash.),
a class action under the Electronic Funds Transfer Act and the
Washington Consumer Protection Act (“WCPA”) arising from
transaction fees charged by defendant at its unbranded ATMs. The
case settled on a classwide basis.
v. *Drinkard, et al. v. PhotoWorks, Inc.*, No. 00-2-09552-0SEA (King Co.
Superior Ct.), a nationwide class action under the WCPA and common
law alleging misleading marketing practices on the part of one of a
leading mail-order photoprocessor. The case settled on a classwide
basis.

7. Ms. Halm is a graduate of Bowdoin College and the University of Washington School of Law. Following law school, Ms. Halm clerked for United States District Judge James L. Robart of the Western District of Washington.

8. Ms. Halm has co-counseled or assisted on the following class actions:

- a. *Anfinson, et al. v. FedEx Ground Package System*, No. 04-2-39981-5 SEA (King Co. Superior Ct.) (a class action on behalf of over 300 package delivery drivers who were classified by the company as independent contractors; the case settled on remand from the Supreme Court);

- 1 b. *Norman v. ATS Automation, Inc.*, No. 07-2-37180-0 SEA (a class
2 action involving failure to pay prevailing wage rates and travel time to
3 service and construction technicians. That case settled prior to trial);
- 4 c. *Perna, et al. v. OKI Developments Inc., et al.*, No. 11-2-28347-0 SEA
5 (a putative class action on behalf of banquet servers who were denied a
6 portion of a service charge paid by customers to the company; the case
7 settled prior to class certification);
- 8 d. *Lehman v. Extra Car Airport Parking, Inc.*, No. 14-2-08531-1 KNT (a
9 class action on behalf of transportation workers denied SeaTac’s
10 minimum wage);
- 11 e. *Alcock v. Audit & Adjustment Company, Inc.*, 16-2-19757-4 SEA (a
12 putative class action on behalf of consumers for unlawful interest
13 charges on medical debt);
- 14 f. *Syria v. AllianceOne*, No. 15-2-20861-6 SEA (a putative class action
15 on behalf of consumers for unlawful fees and interest charges on debt);
- 16 g. *Alfaro v. Pallino Seatac, LLC*, No. 16-2-23733-9 KNT (a putative
17 class action on behalf of hospitality workers denied SeaTac’s
18 minimum wage);
- 19 h. *Salvador v. Filo Food, LLC, et al.*, No. 16-2-23736-3 KNT (a putative
20 class action on behalf of hospitality workers denied SeaTac’s
21 minimum wage).

22 9. SGB has co-counseled in this matter with R. Andrew Free and Devin T.
23 Theriot-Orr, who have attested to their adequacy as class counsel in separately filed
24 declarations.

25 10. Attached to my declaration as **Exhibit 1** is a true and correct copy of a letter
26 from U.S. Immigration and Customs Enforcement (“ICE”) to my co-counsel, Mr. Free, dated
27 June 27, 2016, sent in response to his FOIA request in unrelated litigation. By way of the
28 letter, ICE transmits several excel spreadsheets pertaining to Detainee Volunteer Wages,
29 including Exhibits 2 and 5 described below.

30 11. Attached to my declaration as **Exhibit 2** is a true and correct copy of an excel
31 spreadsheet transmitted by ICE to Mr. Free on June 27, 2016, per the cover letter attached to
32 this declaration as Exhibit 1. The spreadsheet is titled “ERO Custody Management Division

1 Authorized DMCP Facility List.” The spreadsheet describes, among other things, the average
2 daily detainee population at the Northwest Detention Center for fiscal years 2010-2017.

3 12. Attached to my declaration as **Exhibit 3** are true and correct copies of
4 excerpts from ICE’s Performance-Based National Detention Standards 2011, as produced by
5 GEO. The complete document is available at [https://www.ice.gov/doclib/detention-](https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf)
6 [standards/2011/pbnds2011r2016.pdf](https://www.ice.gov/doclib/detention-standards/2011/pbnds2011r2016.pdf) (last visited Mar. 23, 2018).
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8 13. Attached to my declaration as **Exhibit 4** is a true and correct copy of GEO’s
9 responses to Plaintiff’s First Interrogatories and Requests for Production.

10 14. Attached to my declaration as **Exhibit 5** is a true and correct copy of an excel
11 spreadsheet transmitted by ICE to Mr. Free on June 27, 2016, per the cover letter attached to
12 this declaration as Exhibit 1. The spreadsheet is titled “ICE SPC/CDF Volunteer Detainee
13 Wage Payments for Contract Years (CYs) 2009-2014.”
14

15 15. Attached to my declaration as **Exhibit 6** is a true and correct copy of GEO’s
16 Fed. R. Civ. P. 26(a)(1) Initial Disclosures.

17 I declare under penalty of perjury under the laws of the United States that the
18 foregoing is true and correct and based on my personal knowledge.
19

20 Executed in Seattle, Washington, on March 23, 2018.

21
22 s/ Jamal N. Whitehead
23 Jamal N. Whitehead, WSBA #39818
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CERTIFICATE OF SERVICE

I hereby certify that on March 23, 2018, I electronically filed the foregoing 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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DATED at Seattle, Washington this 23rd day of March, 2018.

s/ Sheila Cronan

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