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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 DUANE WATERS, DEBRA TURNER)
16 and RUDY FAJARDO, on behalf of)
17 themselves, all others similarly situated)
and the general public,)

18 Plaintiffs,)

19 vs.)

20 AT&T SERVICES, INC. (formerly SBC)
Services, Inc.) and DOES 1 through 10;)

21 Defendants.)
22)
23)
24)

Case No: CV 09-3983 BZ

**DECLARATION OF RANDY RENICK IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND MOTION FOR
AWARD OF ATTORNEYS' FEES, COSTS,
CLAIMS ADMINISTRATION EXPENSES
AND CLASS REPRESENTATIVE
ENHANCEMENTS**

Date: February 9, 2011
Time: 10:00 a.m.
Courtroom: G

DECLARATION OF RANDY RENICK

I, Randy Renick , declare as follows:

1. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

2. I am a partner at the law firm of Hadsell Stormer Keeny Richardson & Renick, LLP (“HSKRR”). I am admitted to practice law in the State of California and before this Court.

3. I have been selected as a "Super Lawyer" by Los Angeles Magazine and Law & Politics Magazine each year since 2005. I was also selected as a "Rising Star" by the Los Angeles Magazine and Law & Politics Magazine for 2004. I have been named one of "The Best Lawyers in America" each year since 2007. I am regularly asked to give lectures regarding public interest and class action litigation to lawyers, law students and public interest organizations; including the National Employment Lawyers Association, California Employment Lawyers Association, University of California at Los Angeles School of Law; State Bar of California Labor and Employment Section; Los Angeles County Bar Labor and Employment Section; The Coalition Against Slavery and Trafficking; and the Western Trial Lawyers Association.

4. Some of the cases I have litigated include: *Wang v. Chinese Daily News*, United States District Court, CV-04-1498 CBM; *Pinney v. Great Western Bank*, United States District Court, CV-95-2110 IH; *Doe v. Unocal Corp.*, United States District Court, CV 96-6959 RAP; *Paige v. State of California*, United States District Court, CV 94-0083 CBM , *Rogers v. Weyerhaeuser Corp.*, United States District Court, CV 05-06076 NM, *Levitan v. TV Fanfare Media Inc.*, Los Angeles Superior Court Case No. BC 241713, and *Vitamin Antitrust Cases*, San Francisco Superior Court, J.C.C.P. No. 4076. (My Curriculum Vitae is attached hereto at Exhibit “1”). I have served as counsel for more than 40 class action cases. Specifically, I have served as Lead Counsel on more than 20 wage and hour class action cases, many of which have settled with a distribution of significant monies to the class members.

5. In my role as Lead Counsel in wage and hour cases, I am keenly aware of the importance of communicating with class members before, during and after settlement or trial. This is true regardless of the number of class members. One of the reasons why communication with the class is critical is so that if and when the case resolves, class members can be advised of the settlement so that they can make

1 an informed decision as to whether to participate by filing a claim form or object to the settlement.
2 Providing timely information to the class and talking to class members during the litigation is a time
3 consuming and at times complex endeavor for the attorneys. In wage and hour cases where I am Lead
4 Counsel, my firm must dedicate experienced paralegals and attorneys to talk with class members, obtain
5 documents from them, and follow up with updates throughout the litigation. In addition, keeping the
6 information obtained from the class members organized requires a substantial investment of time and
7 money. When a case settles, it is critically important to reach out to class members with phone calls, or
8 in some cases, in person visits to ensure that they have received notice of the settlement and understand
9 what their options are.

10 6. In my experience, the rates of participation by class members depends on many factors,
11 including geographic considerations, the amount each claimant is entitled to receive, and the
12 sophistication of class members. The most important factor, however, is the breadth and depth of class
13 counsel's efforts to communicate with class members prior to and during the claims period. While
14 participation rates in some cases is as low as 20%, my cases tend to have participation rates around 45%.
15 I believe that the participation rates obtained in my cases is well above the average in wage and hour
16 cases involving low wage earning employees. In cases where the class is less than 250 members, most
17 of whom are currently employed, and counsel has done a very good job communicating with the class,
18 participation rates sometimes exceed 70%. This is the rare exception. In order to obtain such a degree
19 of participation requires Plaintiffs' counsel to dedicate substantial personnel, time and expense.

20 7. Based on information provided to me by Plaintiffs' counsel, I understand that the
21 settlement in *Waters v. AT&T Services* is on behalf of a class of 673 current and former IT employees of
22 AT&T Services in the State of California in which Defendant has agreed to a maximum payment of
23 \$17,000,000 to the Class (including payments to class representatives, class counsel, the claims
24 administrator and the State of California Labor Workforce Development Agency), plus the employer's
25 share of payroll taxes. The settlement will result in participating class members receiving payments of
26 approximately \$124 per compensable work week. It is also my understanding that over 84% of the
27 Class members have submitted claims amount to over 87% of the compensable work weeks. It is also
28 my understanding that the average payments to class members is estimated to be approximately

1 \$18,000.00. I also understand that there have been eight (8) opt outs and no objections to the settlement

2 8. Based on my experience and knowledge litigating employment class action cases, the
3 settlement in the *Waters* case is a truly outstanding result. Wage and hour class actions, particularly
4 those involving issues of statutory exemptions from overtime laws, can be highly risky and can involve
5 years of litigation, as well as substantial costs to Plaintiffs' counsel. The fact that Plaintiffs were able to
6 reach a settlement of this case relatively early is highly commendable and will result in a tremendous
7 benefits to the class members who will not have to wait years for the outcome of the litigation. As set
8 forth below, I am familiar with the attorneys representing Plaintiffs especially Jim DeSimone, Michael
9 Seplow, Michael Morrison, and Courtney Abrams of Schonbrun DeSimone Seplow Harris Hoffman &
10 Harrison and they are excellent lawyers. I am also very familiar with the firm of Paul Hastings Janofsky
11 and Walker which represents Defendant in this case, and who are well respected counsel for employers.
12 Given the attorneys representing the Defendant, it is a testament to the skill and excellence of Plaintiffs'
13 counsel that they were able to reach such a favorable settlement. Based on my knowledge and
14 experience, the settlement in this case is eminently fair and reasonable.

15 9. It is my understanding that Class Counsel is seeking attorneys in the amount of 30% of
16 the maximum settlement amount of \$17,000,000. Based on my knowledge and experience, this amount
17 for attorneys fees in this action is clearly justified. I have litigated numerous cases in which my firm has
18 been awarded 30% or more of the maximum settlement amount, including *Serrano v. Starwood Hotels*,
19 *BC 391013*; *Navarro v. Pacifica Hosts Hotels, Inc.*, *BC352017*; *John Amaro v. the Ritz-Carlton*,
20 *Huntington Hotel & Spa*; *BC 376739*; *Hernandez v. Tyco International (US) Inc.*, *BC315749*; and
21 *Levitan v. TV Fanfare Media Inc.*, *BC 241713*. This amount, which is based on percentage of the
22 settlement amount (as opposed to a lodestar amount), is especially justified in this case because it
23 encourages early settlements and discourages counsel from over litigating cases which could be resolved
24 sooner in order to churn fees. Counsel's fee request is also highly reasonable in light of the substantial
25 benefits that the class members will receive, as well as the incredibly high participation rate in the
26 settlement. As stated above, it is rare to see more than 50% of the class members participate in a wage
27 and hour settlement. The size of the recovery here and the fact that there is over 84% participation is a
28 testament to the hard work and effort of Plaintiffs' counsel. I believe that both factors support a fee

1 award of 30% of the maximum settlement amount.

2 10. I have co-counseled a number of cases with Schonbrun DeSimone Seplow Harris &
3 Hoffman (“SDSHH”), the predecessor firm to Schonbrun DeSimone Seplow Harris Hoffman & Harrison
4 (“SDSHHH”). Two of those cases, *Slaughter v. County of San Bernardino* (wrongful death, SCV
5 36126) and *Sims v. Lucky Stores* (race discrimination and harassment, CV-98-10213 ABC), were
6 litigated up to the moment of trial before they were ultimately resolved. During the course of the
7 litigation on those cases, I worked closely with SDSHH attorneys, taking depositions, writing briefs,
8 discussing strategy, participating in mediations, and appearing in court. Through the work performed on
9 those cases, I am familiar with the quality of the legal work provided by SDSHH as well as the skills and
10 experience of Jim Desimone, Paul Hoffman, Ben Schonbrun, and Mike Seplow. Without exception, I
11 have found each of those attorneys to be highly-skilled, efficient, focused and effective. I would not
12 hesitate to work with them on cases in the future or to recommend them to a client or another attorney.

13 11. As a named partner with Hadsell Stormer Keeny Richardson & Renick, the nature of my
14 firm’s work demands that I am current and knowledgeable regarding fees charged by attorneys in the Los
15 Angeles area that specialize in civil rights cases and employment cases. While I have gained this
16 knowledge in a variety of ways, I have gathered most information about these matters in the course of
17 preparing fee motions both for my own firm and for other attorneys who have requested my firm to
18 submit fee declarations on their behalf. In this context, I have obtained numerous declarations from
19 attorneys knowledgeable about the rates charged by attorneys in the Los Angeles legal market and about
20 the expected return for work done on cases in which any recovery of a fee is contingent upon success on
21 the merits.

22 12. My current hourly rate is \$575. That rate was recently approved by United States District
23 Court Judge Jacqueline Nguyen in *Zendejas v. Aramark*, et al, 2:09-cv-05565 and Orange County
24 Superior Court Judge Gail Andler in *Small v. Brinderson*, 04CC00717 and San Francisco Superior Court
25 Judge Richard Kramer in *Labelstock Cases I, II and III*, J.C.C.P. 4314, 4318 and 4326. My 2009 rate of
26 \$550 was approved by Superior Court Judge Yvette Palazuelos in *De La Rosa v. ICC Collision Centers*,
27 BC 389024. In October 2008, United States District Court Judge Consuelo J. Marshall awarded my firm
28 \$3.5 million in fees in *Wang v. Chinese Daily News*, CV 04-1498 based on my hourly rate of \$550.

1 Judge Marshall also awarded a multiplier of 1.5 times my hourly rate to reflect my skill and experience.
2 That opinion was recently affirmed in all respects by the Ninth Circuit (2010 U.S. App. LEXIS 19929).
3 In 2007, my then hourly rate of \$500 was approved in a number of cases in Los Angeles, San Francisco
4 and San Diego. Los Angeles Superior Court Judge Rolf M. Treu approved my hourly rate in *Soto v.*
5 *Starwood Hotels* (BC 352849) as did Judge Emilie H. Elias in *Hernandez v. Tyco International*
6 (BC315749). My rate was also approved by San Francisco Superior Court Judge Richard A. Kramer in
7 *Villa v. Crompton* (CGC-04-431278) and *Competition Collision v. Crompton*, CGC-04-431278. In
8 addition, San Diego Superior Court Judge Ronald S. Prager approved fees based on my hourly rate in *In*
9 *Re: Natural Gas Cases*, JCCP Case Numbers: 4221, 4224, 4226, 4228.

10 13. I am a 1995 law school graduate and my current hourly rate of \$575 is consistent with
11 those of Los Angeles attorneys with similar experience to mine who specialize in the fields of civil
12 rights, employment, and wage and hour and class action litigation. I maintain current on the rates
13 charged by attorneys similar in stature and experience to myself, my partners and my firm's associates.
14 My firm's hourly rates are consistent with and in many cases lower than the hourly rates charged by
15 other similarly experienced attorneys in California. I have reviewed the current hourly rates charged by
16 SDSHH and Law Offices of Thomas Falvey find those rates to be consistent with those rates charged by
17 Southern California attorneys with similar expertise. Nonetheless, as set forth above, I believe that
18 attorneys fees in this case should be based on the percentage of the total settlement, given the excellent
19 results achieved for the Class.

20 14. I declare under penalty of perjury that under the laws of the State of California and the
21 United States that the foregoing is true and correct.

22 Executed December 22, 2010, in Pasadena, California.

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24 _____
/s/ Randy Renick

25 Randy Renick
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