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Attorneys for Plaintiffs & Plaintiff Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

KATHLEEN GRACE, REGINA DELGADO,
ALICIA GRIJALVA, JAVIER TERRAZAS,
and all others similarly situated,

Plaintiffs,

v.

THE WALT DISNEY COMPANY, WALT
DISNEY PARKS AND RESORTS US, INC.,
SODEXO, INC., SODEXOMAGIC, LLC and
Does 1-100,

Defendants.

Case No. 30-2019-01116850-CU-OE-CXC

**DECLARATION OF PHILLIP M.
JOHNSON, PH.D., IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Judge: Hon. William D. Claster

Dept.: CX101

Action Filed: December 6, 2019

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1. I am an economist and a Managing Director at Econ One Research, Inc. ("Econ One"). Econ One is an economic research and consulting firm with offices in the U.S. and abroad. I have a doctoral degree in economics from the University of California at Los Angeles and a bachelor's degree in economics from California State University at Northridge. I was formerly an Assistant Professor of Economics at Instituto Tecnológico Autónomo de México (ITAM). I have been retained by Plaintiffs to assist with the calculation of remedies in the above-captioned litigation. I offer this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

3. A true and correct copy of my current curriculum vitae is attached as **Exhibit 2** to this declaration.



Phillip M. Johnson, Ph.D.

EXHIBIT 1

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

**KATHLEEN GRACE, REGINA DELGADO,
ALICIA GRIJALVA, JAVIER TERRAZAS,
and all others similarly situated,**

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**THE WALT DISNEY COMPANY, WALT
DISNEY PARKS AND RESORTS, US INC.,
SODEXO, INC., SODEXOMAGIC, LLC and
Does 1-100,**

Defendants.

**Case No. 30-2019-01116850-
CU-OE-CXC**

EXPERT REPORT OF PHILLIP M. JOHNSON, PH.D.

Econ ONE Research, Inc.

December 13, 2024

TABLE OF CONTENTS

I.	Introduction	1
II.	Assignment and Summary of Conclusions	1
III.	Background	3
IV.	Analysis of Damages	4
	A. Data	4
	B. Undercompensation Damages	5
	C. Service Fees Retained	7
	D. 401(k) Matching	8
	E. Statutory Waiting Time Penalties	10
	F. Statutory Wage Statement Penalties	11
	G. PAGA Wage Statement, Waiting Time, and Overtime Penalties	12

I. Introduction

1. I am an economist and a Managing Director at Econ One Research, Inc. (“Econ One”). Econ One is an economic research and consulting firm with offices in the U.S. and abroad. I have a doctoral degree in economics from the University of California at Los Angeles and a bachelor’s degree in economics from California State University at Northridge. I was formerly an Assistant Professor of Economics at Instituto Tecnológico Autónomo de México (ITAM).
2. Since joining Econ One in 2000, I have worked extensively on economic issues in a variety of markets and industries. I have analyzed impact and damages in various industries including those involving workers compensation insurance, appliances, displays, software, and bottled water. I have provided expert testimony, declarations, and/or reports to state and federal courts. A more detailed summary of my training, experience, and prior testimony is shown in Exhibit 1.
3. Econ One is being compensated for the time I spend on this matter at my normal and customary rate of \$675 per hour. Econ One is also being compensated for time spent by research staff on this project at their normal and customary hourly rates ranging from \$190 to \$430 per hour. Econ One’s compensation in this matter is not tied to the outcome of the litigation.
4. I have relied on the best information available to me at the time of the preparation of this report. I reserve the right to consider any further relevant evidence that might emerge and to supplement or amend my conclusions as necessary.

II. Assignment and Summary of Conclusions

5. Named Plaintiffs in this case are Kathleen Grace, Regina Delgado, Alicia Grijalva, and Javier Terrazas on behalf of themselves and a class of other nonexempt employees. They were each employed in Anaheim, California by The Walt Disney Company and Walt Disney Parks and Resorts, U.S., Inc. (“Disney”) between January 1, 2019 and October 28, 2023,¹ or by Sodexo, Inc. and Sodexomagic, LLC

¹ Counsel has informed me that Disney raised wages for employees to comply with the Living Wage Ordinance on October 29, 2023.

(“Sodexo,” jointly I may refer to Disney and Sodexo as “Defendants”) between January 1, 2019 and November 24, 2023. Plaintiffs allege that, during their employment in that period, Defendants failed to compensate them in accordance with the Living Wage Ordinance (“LWO”) in Anaheim’s municipal code.²

6. The Walt Disney Company is an entertainment company with corporate headquarters in Burbank, California. Disney owns and operates Disney Parks, including Disneyland Resort in Anaheim, California. Disney owns 489 acres of land in Anaheim and has a long-term lease of an additional 52 acres, on which Disneyland Resorts is located. Disneyland Resort includes two theme parks (Disneyland and Disney California Adventure), three hotels, and a retail complex (Downtown Disney).³ Disneyland Resort is Orange County’s largest employer with 35,000 employees.⁴
7. Counsel for Plaintiffs has asked me to:
 - a. Calculate back pay (including service fees and lost employer 401(k) match payments) and interest⁵ on the back pay for Class Members that were employed by Disney (“Disney Class Members”) during the Class Period of January 1, 2019, through October 28, 2023, and were not paid in accordance with the LWO, and
 - b. Calculate statutory and PAGA penalties. I understand that Disney Class Members are also seeking derivative penalties for Disney’s violations of the LWO. Accordingly, I have also been asked to calculate:
 - i. Statutory Waiting Time penalties,
 - ii. Statutory Wage Statement penalties, and

² Kathleen Grace et. al., v. The Walt Disney Company et. al., First Amended Class Action Complaint for Damages, Injunctive and Declaratory Relief, December 1, 2023, par. 1.

³ “The Walt Disney Company Fiscal Year 2023 Annual Financial Report,” The Walt Disney Company, <https://thewaltdisneycompany.com/app/uploads/2024/02/2023-Annual-Report.pdf>, p. 13.

⁴ Emily Santiago-Molina, “Disneyland Resort Ups Headcount to 35,000,” Orange County Business Journal, November 20, 2023.

⁵ For this report, counsel has instructed me to calculate interest through July 1, 2025.

iii. PAGA penalties.

8. Table 1, below, shows the damages for Disney employees.

Table 1

Disney Damages and Interest

<u>Damages Category</u>	<u>Damages Amount</u>	<u>Number of Impacted</u>
(1)	(Dollars) (2)	Employees (3)
<u>Undercompensation</u>		
Back pay	\$ 102,746,720	51,256
Interest	30,647,611	
<u>Service Charges Retained</u>		
Back pay	5,685,592	3,095
Interest	1,744,020	
<u>401(k)</u>		
Lost Compensation	715,593	14,663
Interest	219,861	
Total	\$ 141,759,397	51,478

Source: Disney payroll data; Disney 401(k) data; Disney Class List;
Disney service charge data.

III. Background

9. In 2018, Anaheim voters passed Measure L, which was enacted as Chapter 6.99 of the Anaheim Municipal Code, its Living Wage Ordinance (“LWO”). I understand that the LWO requires all businesses in the hospitality industry in the Anaheim Resort or Disneyland Resort areas who benefit from a subsidy from the City of Anaheim to pay employees a “living” minimum wage.⁶ The minimum wage required by Measure L was set to \$15 an hour starting January 1, 2019, rising by \$1 a year to \$18 on January 1, 2022. Beginning January 1, 2023, the minimum wage increases by

⁶ “Chapter 6.99 – Living Wages Paid by Beneficiaries of City Subsidies”, Anaheim.net, <https://www.anaheim.net/DocumentCenter/View/21954/2018-Initiative-Measure-Text?bidId=>

the greater of 2% or the inflation rate as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers for the Los Angeles Metropolitan Area.⁷ The minimum wage for each year is listed in Table 2 below.

Table 2
Measure L Minimum Wage

Year	Minimum Wage
(1)	(Dollars per Hour) (2)
2019	\$ 15.00
2020	16.00
2021	17.00
2022	18.00
2023	19.40
2024	19.90
2025	20.42

Source: City of Anaheim.

IV. Analysis of Damages

A. Data

10. **Payroll Data.** Disney produced payroll data for 51,360 hourly employees who worked at the Disneyland Resort in Anaheim, California from October 6, 2018 through October 28, 2023. After October 28, 2023, I understand that Disney has complied with the hourly wage rates required by the LWO, and so further hourly damages have not been incurred after this date. These data identify employees by ID number (“personnel number”) and include wage amount and hours worked by wage type, pay period, and shift. Disney employees were paid weekly. I was also provided wage descriptions for the codes used in wage type. These descriptions allow me to

⁷ “Measure L Flyer,” Anaheim.net, <https://www.anaheim.net/DocumentCenter/View/47472/Measure-L-flyer?bidId=>

differentiate between wage categories such as straight-time (regular shift), overtime, double-time, employee benefits, premium pay, shift differentials, etc.

11. **Class List (and Separation Dates).** Disney produced a list (the “Class List”) that identifies employees by both employee ID and provides the “last date worked” for employees who are no longer employed by Disney. I understand this list to be all hourly workers employed in Anaheim, California by Disney during the class period of January 1, 2019, through October 28, 2019.
12. **401(k) Data.** Disney produced a data set with both employer and employee contributions to 401(k) accounts. These data include 401(k) contributions for 17,088 employees for the period of January 2019 through October 28, 2023. Contributions are identified by employee ID and payroll date and provide the amount of the contribution, and the hours worked.
13. **Service Charges.** Finally, Disney provided data on service fees retained by Disney during the class period. The produced data include service charges by fee type, location, employee, and date. There are 14 different fee types in the data where Disney retained service fees, with descriptions such as security labor, room service delivery, service charge, etc. The service charge data shows the employees to whom services charges should have been allocated.

B. Undercompensation Damages

14. The data indicate that Disney failed to pay Class employees the minimum wage specified by the LWO during the Class Period of January 1, 2019, through October 28, 2023. During this period, Disney also failed to pay overtime and double-time compensation at the proper rate.
15. I took the following steps to calculate underpayment of wages to Disney Class Members:
 - a. Identified payroll payments for straight-time hours, overtime, double-time, and employee benefits.
 - b. Calculated underpayment per shift for each employee as follows:

- i. For straight-time pay, I calculated underpayment as the LWO minimum wage, less hourly wages, times the hours worked per shift.
 - ii. For overtime, the calculated underpayment is 1.5 times the LWO minimum wage, less the actual hourly wage, times hours worked per shift.
 - iii. For double-time, the calculated underpayment is two times the LWO minimum wage, less hourly wage, times hours worked per shift.
 - c. Weekly pay periods sometimes span calendar years. Because the minimum wage increased each January 1, starting in 2019, and because the payroll data provided by Disney does not include shift dates, some accounting for the intra-period minimum wage increase is necessary. Accordingly, I apportioned shifts that fell in pay periods that started in one calendar year but ended in the following calendar year according to the number of payroll days in each calendar year. For example, 2/7 of hours worked in the payroll week that started on December 30, 2018 and ended on January 5, 2019, are treated as though they were worked in 2018 and 5/7 of the hours are treated as though they were worked in 2019.
 - d. Finally, I calculate interest on this back pay. Counsel has instructed me to calculate 10% simple⁸ interest per year through July 1, 2025. That is, 10% interest is calculated for back pay on hours worked between July 2, 2023 and October 28, 2023; there is 20% interest for back pay on hours worked between July 2, 2022 and July 1, 2023, etc.
16. The methodology above calculates back pay and interest damages for each Disney Class Member. The total back pay and interest damages for Disney Class Members for each year during the class period are shown in Table 3 below.

⁸ I.e., not compounded.

Table 3**Disney Back Pay and Interest Damages**

Year	Number of Impacted Employees	Back Pay Damages	Interest ¹ (Dollars)	Back Pay Damages and Interest (3)+(4) (5)
(1)	(2)	(3)	(4)	(5)
2019	22,962	\$ 18,428,586	\$ 10,476,244	\$ 28,904,830
2020	19,041	5,555,817	2,728,593	8,284,411
2021	22,726	11,663,106	3,968,900	15,632,005
2022	32,421	25,100,724	6,251,141	31,351,864
2023	29,953	41,998,487	7,222,733	49,221,220
2019-2023	51,256	\$ 102,746,720	\$ 30,647,611	\$ 133,394,330

¹ Interest is accrued through July 1, 2025 at a 10% simple rate.

Notes: (1) Minimum wage for overtime is calculated as minimum wage * 1.5.

(2) Minimum wage for double-time is calculated as minimum wage * 2.

Source: Disney payroll data.

C. Service Fees Retained

17. I understand that the LWO specifies that service charges cannot be retained by the employer. All service charges collected must be paid to the employees.⁹ Accordingly, I understand any service charges retained by Disney during the Class Period are Disney Class Member damages. Disney provided data listing the service charges and fees it withheld from employees by employee, fee type, and date.
18. Counsel asked me to calculate interest on these retained fees using 10% simple interest per year through July 1, 2025.¹⁰

⁹ “Chapter 6.99 – Living Wages Paid by Beneficiaries of City Subsidies”, Anaheim.net, <https://www.anaheim.net/DocumentCenter/View/21954/2018-Initiative-Measure-Text?bidId=>, Section 6.99.020.

¹⁰ That is, no interest is calculated for service fees retained on and after July 2, 2024; there is 10% interest for

19. The fees retained and interest on this back pay are shown in Table 4.

Table 4
Disney Service Charge Back Pay and Interest Damages

Year	Back Pay Damages	Interest ¹	Back Pay Damages with Interest
		(Dollars)	
(1)	(2)	(3)	(2)+(3) (4)
2019	\$ 1,485,054	\$ 817,111	\$ 2,302,165
2020	364,591	182,291	546,882
2021	288,127	86,749	374,876
2022	1,539,104	374,216	1,913,320
2023	1,503,717	233,276	1,736,993
2024	504,999	50,376	555,375
Total	\$ 5,685,592	\$ 1,744,020	\$ 7,429,612

¹ Interest is accrued through July 1, 2025 at a 10% simple rate.

Source: Disney service charge data.

D. 401(k) Matching

20. Many Class employees were eligible for, and received, 401(k) matching benefits on their compensation. Had employees that directed a portion of their compensation to a 401(k) with Disney matching benefits received the additional compensation required by the LWO, they would have received a larger employer match from Disney. Accordingly, such employees were also damaged by having received smaller 401(k) employer contributions than they otherwise would have received. Disney provided 401(k) data with employee and employer contribution amounts by employee and pay period.

service fees retained between July 2, 2023 and July 1, 2024, etc.

21. To calculate each employee's employer matching percentage, I take the following steps:
- a. Compute the total wages received by each employee per pay period.
 - b. Calculate the back pay (undercompensation) for each employee and pay period, as described above in section IV.B.
 - c. Calculate the employer match ratio for each employee and pay period as the employer contribution amount divided by the wages received.
 - d. Calculate the lost 401(k) employer contributions by multiplying the employer matching percentage by the amount of unpaid back pay.
 - e. Finally, I calculate interest on the lost 401(k) matching payments. Counsel instructed me to calculate 10% simple¹¹ interest per year through July 1, 2025. These calculations are conducted as described in section IV.B. above. That is, there is 10% interest on lost 401(k) contributions between July 2, 2023 and October 28, 2023; there is 20% interest on lost 401(k) contributions between July 2, 2022 and July 1, 2023, etc.
22. The lost compensation and interest on 401(k) employer contributions are shown in Table 5.

¹¹ I.e., not compounded.

Table 5
Disney Lost 401(k) Compensation and Interest Damages

Year	Number of Impacted Employees	Lost Compensation Damages	Interest ¹ (Dollars)	Lost Compensation Damages and Interest (3)+(4) (5)
(1)	(2)	(3)	(4)	(5)
2019	8,429	\$ 128,299	\$ 72,201	\$ 200,500
2020	8,728	48,879	24,032	72,911
2021	9,683	105,961	36,761	142,722
2022	10,067	157,132	39,562	196,694
2023	10,146	275,321	47,306	322,627
2019-2023	14,663	\$ 715,593	\$ 219,861	\$ 935,454

¹ Interest is accrued through July 1, 2025 at a 10% simple rate.

Source: Disney payroll data; Disney 401(k) data.

E. Statutory Waiting Time Penalties

23. Counsel asked me to calculate statutory waiting time penalties for back pay owed to former employees whose employment was terminated on or after July 14, 2023 through July 31, 2024. I understand the penalty to be 30 days of the employees' daily rates of pay.
24. Disney has produced a list of 24,958 employees who were employed during the class period who are no longer employed by Disney and provided their last date worked. Separation data was only available through December 23, 2023, so I estimated separations for the period December 24, 2023 through July 31, 2024, using data from prior years.
25. For former employees owed back pay for Disney's violations of the LWO, I estimated each employee's daily rate using the average hours¹² per day worked in the

¹² Hours worked include straight-time, overtime, and double-time hours. Employee benefit time are excluded.

employee's last year¹³ of employment. I then multiplied the average hours worked by the LWO minimum wage. Some former employees did not have any shifts worked during their last year of employment and are excluded from my waiting time penalty calculation.

26. To estimate statutory waiting time penalties for separations between December 24, 2023 through July 31, 2024, I take the following steps:
 - a. I estimate the number of separations based on separations data for prior years ("A"),
 - b. I calculate the average hours worked per day ("B") across all employees that separated in the period December 24, 2022, through July 31, 2023,
 - c. I then multiply ("B") by the minimum wage specified in the LWO to get the estimated daily rate ("C"), and
 - d. I then estimate the waiting time penalties for the employees separated during December 24, 2023 through July 31, 2024 by multiplying the estimated daily rate times 30 days for the estimated number of separations ($A * C * 30$).
27. I calculate total waiting penalties of \$22,734,366 for 6,886 Disney Class Members for the period of July 14, 2023 through July 31, 2024.

F. Statutory Wage Statement Penalties

28. Counsel asked me to calculate statutory wage statement penalties for violations on or after July 14, 2023. Specifically, I understand that the penalty for a minimum wage violation resulting in an employee being owed back pay is \$50 for the first violation, and \$100 for each subsequent violation, with a maximum penalty of \$4,000 per employee.
29. For each employee, I count the number of pay periods where an employee was owed at least \$1 in back pay for a minimum wage or overtime violation. I then calculate a

¹³ Separation dates were produced through December 2023, but payroll data is only available through October 28, 2023. For employees whose last day is after October 28, 2023, I calculate the average hours for the period of October 29, 2022 - October 28, 2023.

penalty of \$50 for the first pay period with a violation, and \$100 for each subsequent pay period with a violation, with a maximum penalty of \$4,000 per employee.

30. I calculate total wage statement penalties of \$26,104,900 for 272,789 wage statement violations for the period on or after July 14.
31. Table 6 shows my calculation of statutory penalties:

Table 6

Disney Statutory Penalties

Penalty	Number of Violations	Penalty Amount (Dollars)	Number of Impacted Employees
(1)	(2)	(3)	(4)
Waiting Time Penalties	6,886	\$ 22,734,366	6,886
Wage Statement Penalties ¹	272,789	26,104,900	23,480
Total		\$ 48,839,266	

¹ Wage statement penalties are \$50 for initial violation and \$100 for each subsequent violation, capped at \$4,000 per employee.

Notes: (1) A violation is defined by underpayment of at least \$1 per person per pay period.

Source: Disney payroll data; Disney Class List.

G. PAGA Wage Statement, Waiting Time, and Overtime Penalties

32. Counsel has asked me to calculate PAGA penalties for wage statement, waiting time, and overtime violations, for three different time periods – the entire class period (violations on or after January 1, 2019), violations occurring on or after July 14, 2023, and violations occurring on or after October 26, 2023.¹⁴ I calculated the PAGA penalties as follows:

¹⁴ There are 51,225 employees impacted by PAGA penalties on and after January 1, 2019. There are 23,480

- a. Wage statement penalties. For the periods of violations on or after July 14, 2023, and violations on or after October 26, 2023, counsel instructed me to calculate a PAGA penalty (\$100 for the first and \$200 for each subsequent) for every pay period and every employee experiencing a minimum wage violation. For the calculation for the entire class period, counsel instructed me to calculate a PAGA penalty of \$100 for each pay period with a minimum wage violation from January 1, 2019 through July 13, 2023, and \$200 for each pay period with a minimum wage violation on and after July 14, 2023, for each employee. As described above, counsel instructed me to count as a violation each instance of an employee having a pay period for which the employee was undercompensated by at least \$1 (based on the LWO).
- b. Waiting time penalties. Counsel asked me to calculate PAGA waiting time penalties through July 31, 2024, for employees who were employed during the class period but are no longer employed by Disney. Disney only provided a list of these employees through December 24, 2023, so I estimated separations for the period December 24, 2023 through July 31, 2024. Counsel informed me that Disney incurred PAGA penalties for each of these employees for a 30-day period. For the calculation periods on and after July 14, 2023, and on and after October 26, 2023, counsel asked me to calculate a penalty of \$100 for the first pay period and \$200 for subsequent pay periods for employees whose employment was terminated. Since Disney payroll periods are weekly, Disney incurred five pay period violations for each of these employees during those 30 days. Therefore, the penalty is \$900 for each employee terminated during the period at issue. In the calculation for the entire class period, counsel asked me to calculate a penalty of \$100 for each pay period for employees whose employment was terminated between January 1, 2019, and July 13, 2023, and a penalty of \$200 for each pay period for employees whose employment was terminated on and after July 14, 2023. Since Disney payroll periods are weekly, Disney incurred five pay period violations for each of these employees during those 30 days. Therefore, the penalty is \$500 for each employee terminated

employees impacted by PAGA penalties on or after July 14, 2023. There are 14,068 employees impacted by PAGA penalties on or after October 26, 2023.

before July 14, 2023, and \$1,000 for each employee terminated on or after July 14, 2023.

- c. Overtime penalties. I understand that Disney also incurs a PAGA penalty for each payroll period it fails to pay an employee the correct overtime wage rate. I was asked by counsel to exclude from my calculation of overtime PAGA penalties those pay periods where total undercompensation was less than \$1 per pay period, or where overtime undercompensation was less than \$0.01. Per instructions, for the periods on and after July 14, 2023, and on and after October 26, 2023, I calculate the PAGA penalty at \$100 for the first overtime violation and \$200 for each subsequent violation during the period at issue. In the calculation for the entire class period, counsel instructed me to calculate the PAGA penalty at \$50 for violations that occur between January 1, 2019 through July 13, 2023 and \$100 for violations on or after July 14, 2023.
33. The PAGA penalties I calculated, by period and type, are shown in Table 7.

Table 7

Disney PAGA Penalties by Period

Penalty	Penalty Amount		
	On and After January 1, 2019	On and After ³ July 14, 2023	On and After ³ October 26, 2023
(1)	(2)	(3)	(4)
	(Dollars)		
1. Wage Statement Penalty	\$ 299,692,700 ¹	\$ 52,209,800	\$ 1,406,800
2. Over-time Violation	31,962,650 ²	9,316,200	259,600
3. Waiting Time Penalties	17,853,000 ¹	6,309,900	4,360,500
4. Total	\$ 349,508,350	\$ 67,835,900	\$ 6,026,900

¹ Penalty of \$100 per damaged pay period from January 1, 2019 through July 13, 2023; and a penalty of \$200 per damaged pay period on or after July 14, 2023.

² Penalty of \$50 per damaged pay period from January 1, 2019 through July 13, 2023; and a penalty of \$100 per damaged pay period on or after July 14, 2023.

³ Penalties are calculated as \$100 for the first violation and \$200 for subsequent violations, for the specified period.

Notes: (1) Separation dates available through December 23, 2023. Estimates of separations were estimated for December 24, 2023 through July 31, 2024.

(2) A violation is defined by underpayment of at least \$1 per employee per pay period.

(3) An Overtime violation is defined by an underpayment of at least \$0.01 per employee per pay period.

Source: Disney payroll data, Disney Class List.

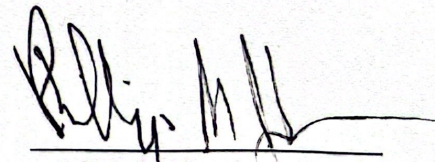

 Phillip M. Johnson, Ph.D.
 December 13, 2024

EXHIBIT 2



Curriculum Vitae

Phillip Johnson, Ph.D.

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Danville, California 94526
Email: pjohnson@econone.com
Tel: 925 282 6003

EDUCATION

PhD, University of California, Los Angeles, Economics, 1997
MA, University of California, Los Angeles, Economics, 1993
BA, California State University Northridge, Economics, 1991

PROFESSIONAL EXPERIENCE

Econ One Research, Inc.,

Managing Director, 2012 – Present

Senior Economist, 2009 – 2012

Economist, 2000 – 2009

Instituto Tecnológico Autónomo de México (ITAM),

Assistant Professor, 1997-2000

AREAS OF ECONOMIC EXPERTISE

Analysis of markets and antitrust issues
Damages calculation and estimation
Econometric and statistical analysis
Impact issues in class actions
Intellectual property damages and reasonable royalties

AWARDS

Jerry S. Cohen Memorial Fund Writing Award, for “Statistical Significance and Statistical Error in Antitrust Analysis,” <https://www.antitrustinstitute.org/awards>, June 21, 2018

PUBLICATIONS AND RESEARCH

“Testing for Bid Rigging in California Highway Construction Procurement,” 2020, with Nedko Yordanov and Alexander Berry

“Roundtable with Economists,” Antitrust, Spring 2018, with Dennis Carlton, Gregory Leonard, Maria Maher, and Carl Shapiro

- “Statistical Significance and Statistical Error in Antitrust Analysis,” *Antitrust Law Journal*, Vol. 81, 2017, with Edward Leamer and Jeffrey Leitzinger
- “Increasing Focus on Information Exchanges Among Competitors,” *Law360*, April 2017, with Niyati Ahuja
- “Regression Techniques for Estimating Overcharges Using Market Concentration Data,” *American Bar Association, Section of Antitrust Law, Economics Committee Newsletter*, Volume 12, Number 1, Summer 2012, with Armen Markosyan
- “Reasonable Royalty Damages and License Structure,” *Econ One Newsletter*, Spring 2007
- “A Surprising Result from Patent Infringement: Price Accretion Instead of Price Erosion,” *Econ One Newsletter*, Spring 2005
- “Lost Profits Damages When Infringement Raises the Patentee’s Prices,” *American Bar Association, Section of Intellectual Property Law, Newsletter*, Volume 23, Number 1, Fall 2004, with Tessie Su
- “Patent Damages and Price Erosion,” *Econ One Newsletter*, Fall 2003
- “Evolution and Information in a Gift-Giving Game,” *Journal of Economic Theory*, Volume 100, 2001, with David Levine and Wolfgang Pesendorfer
- “Mergers, Alliance and Welfare in Differentiated Markets with Quality-Improving Innovations in Markets with Complementary Goods,” with Tessie Su and Tridib Sharma
- “Evolution and Information in a Prisoners’ Dilemma,” with David Levine and Wolfgang Pesendorfer
- “The Stability of Monetary Institutions as a Social Institution”

PRESENTATIONS

- Emerging Trends in Antitrust Enforcement, The Knowledge Group, May 2022
- Economic Perspectives on Damages: What You Must Know, The Knowledge Group, October 2019
- Antitrust Class Certification: Recent Trends and Developments, The Knowledge Group, August 2019
- Statistical Issues with Regression Analysis for Antitrust Litigation, Kaplan Fox, 2015
- West LegalEdCenter Patent Disputes Conference, 2013
- Deposing the Expert Witness, NITA, 2012
- Cross Examining Expert Witnesses, Annual Meeting of the California State Bar, 2012
- West LegalEdCenter Patent Disputes Conference, 2011
- Deposing the Expert Witness, NITA, 2011
- Cross Examining Expert Witnesses, Trial Advocacy Group, 2011
- Patent Damages Webinar, Law.com, 2010
- Cross Examining Expert Witnesses, Trial Advocacy Group, 2009
- Deposing the Expert Witness, NITA, 2008
- Latin American Meetings of the Econometric Society, 1999
- Stony Brook Summer Festival on Game Theory, 1999
- University of California at Los Angeles, 1999

Allied Social Sciences Association, 1998

Academica Sinica, Taiwan, 1997

National Taiwan University, 1997

Instituto Tecnológico Autónomo de México, 1997

Stony Brook Summer Festival on Game Theory, 1996

SUMMARY OF DISCLOSED ENGAGEMENTS

Patane et al. v. Nestle Waters North America, Inc. Retained to analyze impact and damages of class purchasers of Poland Spring bottled water that Nestle represented to be spring water but was allegedly not actually spring water. Expert reports and deposition testimony. 2019 – Present.

Gulick et al. v. State Farm Mutual Automobile Insurance Company. Retained to analyze claims that State Farm’s “typical negotiation adjustments” breached its contract obligations to a class of Kansas insureds who experienced a total vehicle loss. Expert reports and deposition testimony. 2023 – Present.

Palmer et al. v. Cognizant Technology Solutions. Retained to analyze disparities in the employment, promotion, and termination of South Asian and non-South Asians by Cognizant. Expert reports and deposition and trial testimony. Class certified October 2022. Testified in jury trial June 2023 and September 2024. Verdict for the Plaintiff Class. 2021 – 2024.

Clippinger et al. v. State Farm Mutual Automobile Insurance Company. Retained to analyze claims that State Farm’s “typical negotiation adjustments” breached its contract obligations to a class of Tennessee insureds who experienced a total vehicle loss. Expert reports and deposition testimony. 2023 – Present.

Wiggins et al. v. State Farm Mutual Automobile Insurance Company. Retained to analyze claims that State Farm’s “typical negotiation adjustments” breached its contract obligations to a class of South Carolina insureds who experienced a total vehicle loss. Expert reports and deposition testimony. 2023 – Present.

Chadwick et al. v. State Farm Mutual Automobile Insurance Company. Retained to analyze claims that State Farm’s “typical negotiation adjustments” breached its contract obligations to a class of Arkansas insureds who experienced a total vehicle loss. Expert reports and deposition testimony. 2022 – Present.

In Re Keurig Green Mountain Single Serve Coffee Antitrust. Retained to analyze impact and damages to BJ’s arising from alleged anticompetitive conduct by Keurig. Expert reports and deposition testimony. 2022 – Present.

Robinson et al. v. Jackson Hewitt, Inc. and Tax Services of America, Inc. Retained to analyze class-wide impact and damages arising from alleged collusive no-poach agreements between Defendants and Defendants’ franchisees. Expert reports and deposition testimony. Settled. 2020 – 2024.

In Re: CRT Antitrust Litigation (Irico). Retained to analyze economic issues relating to class certification, liability, and damages for a case in which a class of direct purchasers of cathode ray tubes alleged price-fixing by the major CRT manufacturers. Expert reports and deposition testimony. Class certified August 2022. 2021 – present.

Hunter et al. v. Booz Allen Hamilton, Mission Essential, and CACI. Retained to analyze class-wide impact and damages arising from alleged collusive no-poach agreement between Defendants. Expert reports and testimony, both in deposition and in a class certification hearing. Settled. 2020 – 2022.

In Re Keurig Green Mountain Single Serve Coffee Antitrust. Retained to analyze impact and damages to The McLane Company arising from alleged anticompetitive conduct by Keurig. Expert reports and deposition testimony. 2020 – Present.

Alchem v. Terianne Cage and North American Nicotine. Retained to analyze damages arising from an alleged theft of trade secrets. Expert report. Summary judgement in favor of Defendant. 2021.

In Re Keurig Green Mountain Single Serve Coffee Antitrust. Retained to analyze impact and damages to indirect purchasers arising from alleged anticompetitive conduct by Keurig. Settled 2020.

In Re Rail Suppliers Antitrust. Retained to analyze data and issues relating to common impact and damages from an alleged no-poach agreement between manufacturers of rail equipment. Settled 2020.

Zephyr v. Compass et al. Retained to analyze damages arising from an alleged breach of no-poach provisions of a non-disclosure agreement during due diligence. Settled 2020.

HCF Insurance Agency v. Kevin Hamm et al. Retained to address antitrust issues involving an alleged group boycott relating to the provision of workers' compensation coverage for extended care facilities. Expert witness deposition testimony. Settled 2019.

Softwood Lumber. Retained to analyze claims that policies of Canada and its province, British Columbia resulted in below market stumpage fees that impacted trade in softwood lumber with the United States. 2015 – Present.

Chen-Oster vs. Goldman Sachs. Retained to analyze class certification issues and damages related to alleged gender discrimination. 2013 – 2020.

In Re Duke/UNC Antitrust. Retained to analyze data and issues relating to common impact and damages from a no-hire agreement by Duke and University of North Carolina medical school faculty. Settled. 2016 - 2019.

L.A. Taxi Cooperative, et al. vs. Uber. Retained to address issues in an opposing expert economist's report regarding the analysis of Uber and taxi safety data. Expert report. Settled 2017.

In Re Lithium-Ion Batteries Antitrust. Retained to analyze data and issues relating to common impact and damages for a proposed class of indirect purchasers of products containing cylindrical lithium-ion batteries. Settled. 2015 – 2019.

Scott et al. vs. Chipotle Mexican Grill, Inc. Retained to analyze employee data and calculate damages related to the alleged misclassification of Chipotle Apprentices as salaried employees. Expert report and deposition testimony. 2015 – 2017.

Margie Daniel, et al. v Ford Motor Company. Conducted an analysis of Defendant's experts' statistical procedures and provided analyses regarding a class of Ford Focus owners alleging a product defect. 2013 – 2018.

First Western Capital Management v. Kenneth D. Malamed. Retained to analyze damages relating to alleged misappropriation of trade secrets. Expert report. Settled. 2016 - 2017.

Surf City Steel, Inc. et al. vs. International Longshore and Warehouse Union, et al. Retained to analyze the competitive effects of an agreement to exclude contractors employing Ironworkers Union members from port crane modification and structural maintenance projects. Expert report and deposition testimony. Case dismissed. 2014 - 2017.

Kunkel et al v. John Wiley & Sons, Inc. Retained to analyze common impact and damages for a proposed class of photograph copyright holders who allege that Wiley infringed their copyrights in books it published. Expert report and deposition testimony. Settled. 2015 - 2017.

In Re: CRT Antitrust Litigation. Analyzed economic issues relating to class certification, liability, and damages in a price-fixing case for a class of direct purchasers of cathode ray tubes against the major manufacturers. Class certified. Settled. 2011 – 2017.

In Re: TFT-LCD Antitrust Litigation. Retained to analyze economic issues relating to antitrust liability and damages for Proview Technology Inc.'s (PTI) claims against manufacturers of TFT-LCD panels. Expert report. Settled. 2014 – 2015.

Cobb et al. vs. BSH Home Appliances. Retained to analyze manufacturers' service data relating to the incidence of mold in front-loading washers. Expert report and deposition testimony. Settled. 2014 – 2015.

Symantec vs. Veeam. Retained to analyze lost profits, reasonable royalty, and irreparable harm resulting from alleged infringement of Symantec patents. Expert report. Case dismissed. 2013 – 2015.

Ottenberg, et al v. XY, LLC and Inguran, LLC. Retained to analyze antitrust issues and damages arising from the misuse of patents and intellectual for bovine sexing technology and related equipment and sorted semen straw markets. Expert report and deposition testimony. Settled 2013.

In Re: High Tech Workers Antitrust Litigation. Analyzed economic issues relating to class certification and damages for a class of employees of seven major technology companies (Apple, Adobe, Google, Intel, Intuit, Lucasfilm, and Pixar) alleging a series of agreements to limit competition for workers. Settled following class certification. 2012 – 2015.

In Re: TFT-LCD Antitrust Litigation. Analyzed economic issues relating to class certification, liability, and damages for a class of direct purchasers of TFT-LCD panels against the major manufacturers of TFT-LCD panels. Class was certified and all defendants except Toshiba settled prior to trial. Toshiba was found liable, and damages were awarded to Plaintiffs. Toshiba settled following trial. 2008 – 2012.

Pecover v. Electronic Arts. Analyzed damages arising from the monopolization of football video games for a nationwide class of consumers. 2011 – 2012.

Realtime Data v. Packeteer, et al. Retained by defendant Expand Networks as economic expert to provide analysis of markets for wide-area network acceleration products and calculate damages from alleged patent infringement. Expert reports and deposition testimony. 2008 – 2010.

In Re: Korean Airlines Co., LTD. Antitrust Litigation. Analyzed economic issues, including market definition and common impact, relating to the certification of a class of direct purchasers of travel between the U.S. and Korea against the major Korean Airlines. 2008 – 2010.

California State Foster Parent Assoc., et al. v. John A. Wagner, Director of the California Department of Social Services, in his official capacity, et al. Retained to analyze the economic and State budget impact of a change in foster care reimbursement policies. Expert report. 2008 – 2009.

High Point Sarl v. Sprint Nextel Corp., et al. Analyzed cellular communications markets and reasonable royalty rate in a patent case involving digital cellular communications technology. 2008 – 2009.

Montana Food Distributors Assoc. v. International Outsourcing Services et al. Conducted preliminary damages analysis in a case involving allegations of anticompetitive behavior and fraud by coupon processors. 2008 – 2009.

DealerTrack v. RouteOne, et al. Analyzed lost profits and reasonable royalty damages, and the commercial success of patented features in a case involving credit application aggregation systems used for automotive sales. 2007 – 2009.

Silvaco v. Cypress Semiconductor. Analyzed lost profits and unjust enrichment in a theft of trade secrets case involving providers and customers for software for the design of chips used in devices. Expert declarations. 2007 – 2009.

Amado v. Microsoft. Analyzed post-trial royalty rate in a patent case involving office productivity software technology. Expert declaration. 2008.

Amex v. MasterCard, Visa, et al. Analyzed damages issues in a monopolization case involving the major providers of credit and charge cards. 2007 – 2008.

M.I., LLC v. Halliburton Energy Services, Inc. Analyzed relevant market and damages issues in an attempted monopolization case involving the alleged misuse of a patent on deepwater oil drilling fluid technology. 2007 – 2008.

In re: Kdur Antitrust Litigation. Analyzed relevant market and impact issues in a monopolization case involving branded and generic drugs. 2006 – 2007.

In re: Tricor Direct Purchaser Antitrust Litigation. Analyzed relevant market and impact issues in a monopolization case involving branded and generic drugs. 2006 – 2007.

In re: Nifedipine Antitrust Litigation. Analyzed relevant market and impact issues in a monopolization case involving branded and generic drugs. 2006 – 2007.

Columbus Drywall, et al. v. Masco Corporation. Analyzed antitrust issues and assisted in drafting liability report in a price fixing conspiracy case alleged to involve a major insulation buyer and manufacturers. Analyzed issues relating to buyer power. 2006 – 2008.

Synopsys v. Magma. Analyzed lost profits, reasonable royalties, and unjust enrichment in a patent infringement trade secret case relating to software for the design of computer chips. 2005 – 2007.

The Regents of the University of California v. Monsanto. Analyzed reasonable royalties and license structure in a patent infringement case relating to bovine growth hormone. 2005 - 2006.

Pixion v. PlaceWare. Analyzed reasonable royalties and unjust enrichment in a trade secret and patent infringement case relating to web conferencing technology. 2004 – 2005.

Novell, Inc. Retained by Novell to analyze damages for mediation with Microsoft. Microsoft was alleged to have harmed Novell through alleged anticompetitive conduct in the workgroup operating system market. 2003 – 2004.

Affymetrix v. Agilent. Analyzed damages in a breach-of-contract arbitration. 2004.

France Telecom v. Novell. Analyzed reasonable royalties in a copyright infringement case. 2003 – 2004.

University of California, San Francisco. Analyzed the value of bovine growth hormone technology in the milk market to assist a patentee in a potential license negotiation. 2004.

DOS Class v. Microsoft. Assisted plaintiffs' expert in the analysis of defendant's damages models. 2003.

CATC v. Catalyst. Analyzed lost profits and reasonable royalties in a trade dress and copyright infringement case. 2002 – 2003.

IFPC Shareholders v. AT&T et al. Analyzed the option value of a lost business opportunity due to a breach of contract. 2002.

Phillip Johnson, Ph.D.

Managing Director

Page 7

Martha Chapman v. El Paso Energy Corporation. Analyzed economic evidence regarding the nature and extent of control of El Paso Natural Gas by its parent, El Paso Energy Corporation. 2001.

In re: Flat Glass Antitrust. Analyzed liability and damages issues in a price-fixing case, including industry analysis, entry barriers, concentration, firms' conduct, and facilitating industry practices. 2000 – 2005.

In re: Methionine Antitrust Litigation. Analyzed class certification issues for a price-fixing case, including industry analysis, market structure, and the impact of the alleged conspiracy on pricing. 2000 – 2001.