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2           3.       I am an attorney licensed to practice law in the States of Washington,  
3 Oregon, and Texas. I have been actively practicing law for over 34 years. I have been  
4 licensed to practice in Washington since 1987, and I have practiced in Washington  
5 continuously since then. I have been admitted to practice before the U.S. District Court for  
6 the Western District of Washington, the U.S. District Court for the Eastern District of  
7 Washington, the U.S. District Court for Oregon, the Federal Court of Claims, and the U.S.  
8 District Court for the Northern District of Texas.  
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10           4.       I graduated in 1984 from Harvard Law School. I obtained my Bachelor's  
11 Degrees in History and in Political Science (I obtained two separate degrees, not simply one  
12 degree with a double major), *summa cum laude* as to both degrees, from the University of  
13 Illinois in 1981, with Bronze Tablet Honors. I am a member of several honorary societies,  
14 including Phi Beta Kappa.  
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16           5.       I have extensive experience in employee compensation litigation. For more  
17 than twenty-seven (27) years my practice has included litigating employee compensation  
18 cases.  
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20           6.       I have co-authored three (3) published articles on various aspects of  
21 Washington attorney fee law. They are: (1) When a Prevailing Party Fee Provision is  
22 Unconscionable, King County Bar Bulletin, April 2016; (2) The Effect of Success on  
23 Attorney Fee Awards (Part 1), King County Bar Bulletin, February 2014; and (3) The Effect  
24 of Success on Attorney Fee Awards (Part 2), King County Bar Bulletin, April 2014.  
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26           7.       I have earned an AV rating from Martindale-Hubbell, first granted in 2011. I  
have also earned a 10.0 (Superb) rating from the lawyer website avvo.com. While

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2 companies like Martindale-Hubbell have used a general peer-review system for grading  
3 attorneys for many years, Avvo goes beyond a peer-review system and considers the  
4 opinions of other lawyers as only one of many factors in evaluating an attorney. Avvo gives  
5 each attorney a numerical score on a scale of 1 to 10. I have been granted a 10.0 score.

6           8.       Since the beginning of my involvement in this case, I have worked with no  
7 guarantee of being compensated for my time and efforts. Payment of my fees (whether for  
8 time spent at my predecessor law firm, Burkett & Burdette, or for time spent in my  
9 subsequent solo practice) has always been contingent on successfully obtaining relief for  
10 Plaintiffs and proposed class members. Thus, there was a substantial risk of non-payment,  
11 particularly in light of the challenges inherent in this type of case. Work on this case has  
12 necessarily been to the exclusion of work on other matters that likely would have generated  
13 fees. I have also been denied use of the fees I earned over the course of this case.

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16           9.       My regular practice is to keep contemporaneous time records, maintained on  
17 a daily basis. I describe the tasks performed, in increments of .1 hour. I enter my time into  
18 my electronic timekeeping system on a daily basis.

19           10.     I performed essentially all of the work billed by my prior law firm, Burkett &  
20 Burdette, from our first work on this case in September 2013, through April 2016, when I  
21 became a sole practitioner. In this regard, my former partner, Lee Burdette, performed a  
22 total of 30 minutes of billed time on this matter from September 2013 through December  
23 2015. I performed all of the rest of the work billed by Burkett & Burdette during that  
24 period. After April 2016 and continuing through the present, I have performed all of the  
25 work billed by my office, David C. Burkett, Attorney at Law. Because I performed virtually  
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1  
2 all of the billed work performed by the two firms, there was very little duplication of effort  
3 and maximum efficiency.

4         11. I set my rates based on a variety of factors, including: the experience, skill,  
5 and sophistication required for the type of legal services typically performed in the matter;  
6 the rates customarily charged in similar matters; and my experience, reputation, and ability.  
7 I recorded all of my time in this matter at the rate of \$525.00 per hour, a rate which I believe  
8 to be fair and reasonable. Mr. Burdette recorded his 30 minutes of time at the rate of  
9 \$525.00 per hour. Mr. Burdette has been licensed to practice in Washington since 1988,  
10 after leaving a partnership in a St. Louis, MO law firm. He is an experienced trial attorney,  
11 and his rate with the resulting charge of \$262.50 for time spent in working with me on case  
12 strategy is fair and reasonable.  
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14         12. I started working on this matter in September 2013, approximately nine (9)  
15 months after it was filed. Since then I have contributed to the successful outcome by  
16 performing, among other things, the following: working with Plaintiffs' experts to review a  
17 cargo container holding hundreds of thousands of pages of documents produced by  
18 Defendant, to determine evidence sampling protocols; taking and defending depositions;  
19 interviewing witnesses; obtaining recorded witness declarations; working on case strategy;  
20 drafting written discovery requests and responses; reviewing and analyzing Defendant's  
21 extremely voluminous written discovery responses; briefing motions; and engaging in  
22 settlement negotiations.  
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25         13. As of the date of this Declaration, I have spent 394.95 hours prosecuting this  
26 case (inclusive of Mr. Burdette's one half of an hour) over the last five (5) years. My total

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2 lodestar to date is **\$207,348.75** at the billed hourly rate. My lodestar calculation is based on  
3 a reasonable hourly rate, which is consistent with the factors identified in RPC 1.5. The  
4 lodestar calculation is based on contemporaneous, daily time reports prepared and  
5 maintained by me in the regular course of business.

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7 14. Throughout this case, I avoided duplicating efforts of my co-counsel by  
8 coordinating closely with them regarding the tasks the responsibility for which we each  
9 assumed. This encouraged maximum efficiency. When recording my time, I was careful to  
10 exercise discretion to reduce or eliminate time where necessary. For example, I did not bill  
11 for any administrative or clerical time. I reduced my time when I believed that I could have  
12 spent my time more efficiently. Because I was in effect the sole timekeeper at Burkett &  
13 Burdette, and because I am the sole timekeeper in my current firm, I was able to exercise  
14 billing discretion at the point when I entered, on a daily basis, my time into my timekeeping  
15 software.

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17 15. Through the date of this Declaration, I have incurred **\$33,751.20** in  
18 reasonable litigation costs which have not been reimbursed, all of which have been  
19 reasonably related to the prosecution of this case. I advanced all but \$50 of these costs after  
20 I became a solo practitioner. These expenses are customarily charged to and paid by hourly  
21 clients. The following chart summarizes my litigation expenses, and is taken from  
22 contemporaneous documented expense records regularly prepared and maintained by me in  
23 the regular course of business.

<u>Cost Item</u>	<u>Amount</u>
Courier	\$90.00
Court Reporting and Transcripts	2,009.20

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Experts	30,948.19
Mediation	625.00
Record Requests and Document Production	41.42
<u>Travel Expense</u>	<u>37.39</u>
<b>Total</b>	<b><u>\$33,751.20</u></b>

16. I believe the settlement reached in this case is fair, reasonable, adequate, and in the best interests of the Settlement Classes.

SIGNED under penalty of perjury of the laws of the State of Washington that the above is true and correct to the best of my knowledge October 30, 2018, at Seattle, Washington.



David C. Burkett, #17099  
Attorney for Plaintiffs