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15 Attorneys for Defendants
16 VIRGIN AMERICA INC. and
17 ALASKA AIRLINES, INC.

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

20 JULIA BERNSTEIN, LISA MARIE SMITH,
21 and ESTHER GARCIA, on behalf of
22 themselves and all others similarly situated,

23 Plaintiffs,

24 v.

25 VIRGIN AMERICA, INC.; ALASKA
26 AIRLINES, INC.; and Does 1-10, inclusive;

27 Defendants.

Case No. 3:15-cv-02277-JST

**DECLARATION OF VALENTIN
ESTEVEZ**

28 I, Valentin Estevez, declare as follows:

1. I submit this declaration in support of Defendants Virgin America, Inc. and Alaska Airlines, Inc.'s opposition to Plaintiffs' motion to amend the judgment in the above-captioned matter.

1 2. I know the facts in this declaration to be true of my own personal knowledge. If
2 called as a witness, I could and would testify competently under penalty of perjury to the matters
3 set forth in this declaration.

4 3. I am currently a Vice President with Charles River Associates (CRA). I was
5 previously a Senior Managing Director at Welch Consulting, a consulting firm that provided
6 expert services in economics and statistics. On March 1, 2022, CRA acquired Welch Consulting.

7 4. I have submitted multiple expert reports and declarations in this matter on behalf
8 of Defendants.

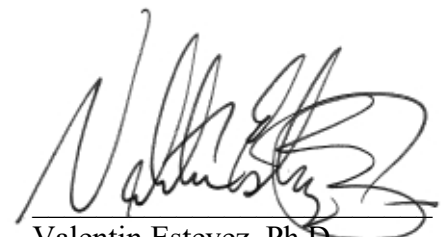
9 5. I have been asked by Defendants' counsel to review the 2022 Supplemental Report
10 of Plaintiffs' expert David Breshears. Specifically, I was asked to determine whether the
11 calculations in Mr. Breshears' 2022 Supplemental Report are consistent with the decision of the
12 Ninth Circuit of Appeals in *Bernstein v. Virgin America, Inc.*, 3 F.4th 1127 (9th Cir. 2021).

13 6. It is my understanding that in that decision, the Ninth Circuit of Appeals found that
14 Defendants' flight attendant compensation system did not violate California law and had paid for
15 all hours worked and reversed the district court's prior decision finding that Defendants had
16 violated California's minimum wage law. In calculating the updated potential damages, Mr.
17 Breshears correctly excluded Plaintiffs' unpaid hours claim from his wages due calculation, but
18 he did not adjust his calculation of waiting time penalties under California Labor Code section
19 203 to exclude Waiting Time Penalties Subclass members who did not have unpaid wages at the
20 time of their termination. I reviewed Mr. Breshears' 2022 Supplemental Report to identify
21 Waiting Time Penalties Subclass members who at the time their employment with Virgin
22 America, Inc. ended: (1) had unpaid overtime wages; or (2) had unpaid overtime wages, meal
23 period premiums and/or rest break premiums, and the waiting time penalties Mr. Breshears
24 calculated for each such member. If the waiting time penalties are limited to the first group of
25 Waiting Time Penalties Subclass members, Mr. Breshears' total waiting time penalties for those
26 members is \$2,014,738.35. If the waiting time penalties are limited to the second group of
27 Waiting Time Penalties Subclass members, Mr. Breshears' total waiting time penalties for those
28 members is \$2,249,470.58 (an additional \$234,732.23).

1 7. It is my understanding that the Ninth Circuit also ruled that Defendants were not
2 subject to heightened PAGA penalties for alleged subsequent violations of the California Labor
3 Code. In his calculation of PAGA penalties for alleged violations of California Labor Code
4 section 204, Mr. Breshears used the heightened penalty of \$200 for subsequent pay periods
5 instead of the initial-violation penalty of \$100 per pay period. Applying the \$100 per pay period
6 initial-violation penalty to each pay period Mr. Breshears identified with untimely paid wages, the
7 resulting amount is \$7,046,100.

8 8. At the request of Defendants' counsel, I also calculated pre-judgment interest for
9 Mr. Breshears' calculated damages for Plaintiffs' unpaid meal period and rest break claims using
10 a 7% simple prejudgment interest rate starting as of May 23, 2022 through July 28, 2022. For
11 meal period premiums, I calculated \$103.62 in prejudgment interest for the amounts during the
12 period covered by AIMS reports from March 18, 2011 to September 30, 2011, and \$2,344.50 in
13 prejudgment interest for amounts during the period covered by CrewTrac reports from October 1,
14 2011 to December 15, 2017, for a total of \$2,448.12 in prejudgment interest for this claim during
15 the entire class period. For rest break premiums, I calculated \$113.67 in prejudgment interest for
16 the amounts during the period covered by AIMS reports from March 18, 2011 to September 30,
17 2011, and \$5,165.36 in prejudgment interest for amounts during the period covered by CrewTrac
18 reports from October 1, 2011 to December 15, 2017, for a total of \$5,279.03 in prejudgment
19 interest for this claim during the entire class period.

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21 I declare under penalty of perjury under the laws of the United States that the foregoing is
22 true and correct. Executed this 16th of June 2022 in Bryan, Texas.

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Valentin Estevez, Ph.D.