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9 Attorneys for Plaintiff SHAUNA BARNARD And All  
Others Similarly Situated

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SHAUNA BARNARD, an individual, on  
behalf of herself and all others similarly  
situated, all other aggrieved employees, and on  
behalf of the general public,

Plaintiff,

v.

COREPOWER YOGA LLC, a Colorado  
Limited Liability Company, and DOES 1  
through 50, Inclusive,

Defendant.

Case No. 43:16-03861 (HSG)

**CLASS ACTION**

**DECLARATION OF DEREK J EMGE IN  
SUPPORT OF MOTION FOR FEES,  
REIMBURSEMENT OF LITIGATION  
EXPENSES AND CLASS  
REPRESENTATIVE SERVICE AWARD**

Complaint Filed: May 3, 2016  
Judge: Hon. Haywood S. Gilliam, Jr.  
Date: February 15, 2018  
Time: 2:00 p.m.

1           1.       I am a founder and partner at The Emge Firm, LLP, co-counsel of record for  
2 Plaintiff Shauna Barnard in this matter. I am duly admitted to practice before the United States  
3 District Court, Northern District of California. The following facts are within my personal  
4 knowledge and if called to testify, I could and would competently testify thereto.

5           2.       I have been a litigation attorney for 25 years, and have more than a decade of  
6 experience primarily litigating class actions. I have been appointed class counsel and lead  
7 counsel through both certification and settlement on numerous consumer and wage and hour  
8 class actions and have recovered hundreds of millions of dollars on behalf of consumers and  
9 employees in the last decade. I have been appointed as class counsel for a certified class on  
10 more than two dozen class actions in the United States District Court, Southern District of  
11 California; United States District Court, Central District of California; Los Angeles County  
12 Superior Court; Orange County Superior Court; Riverside County Superior Court; and San  
13 Diego County Superior Court.

14           3.       To assure that this case was properly prosecuted, my firm had to devote substantial  
15 time and resources, which precluded our ability to take on other potential fee-generating cases.

16           4.       The case was accepted on a contingency fee basis and my firm advanced and  
17 risked litigation expenses throughout the litigation.

18           5.       Prior to associating in as counsel in this matter, I conducted research and made  
19 inquiries regarding the factual and legal bases for the allegations alleged, including an analysis  
20 of Defendant's written policies and requirements concerning yoga class preparation, use of  
21 music, scheduling between different studios, reimbursement of reasonable business expenses,  
22 pay policies, meal breaks, and the actual practices followed in the field.

23           6.       After the action was filed, formal discovery revealed more about the facts and  
24 circumstances that led to this litigation and the amount of damages suffered by class members.  
25 Such discovery and investigation included: the propounding of written discovery (interrogatories  
26 and requests for production); extensive meet and confer efforts regarding deficiencies with  
27 Defendant's responses; the deposition of Defendant's 30(b)(6) witness covering 13 distinct  
28 topics; the production by Plaintiff of nearly two thousand pages of requested documents; the

1 defense of Plaintiff in deposition on November 2, 2016; discussion with absent class members  
2 about actual practices in the field; and obtaining detailed expert analysis of concerning the rates  
3 of off-the-clock time, meal period violations, business expenses incurred by class members and  
4 the value of same.

5 7. On January 11, 2017, I attended a settlement conference before Magistrate Judge  
6 Maria-Elena James. Prior to this settlement conference, the parties exchanged additional  
7 evidence and further discussed the possibility of settlement.

8 8. Although a settlement was not reached on January 11, 2017, important  
9 information was learned that led to another round of discovery and a renewed effort to meet and  
10 confer about documents that were not yet produced by Defendant.

11 9. On April 28, 2017, the parties met for a second mediation, this time with the  
12 assistance of a well known, private mediator, Steve Rottman. Mr. Rottman successfully brought  
13 the parties to a settlement in principle, which was subsequently documented in a written  
14 settlement agreement.

15 10. Following settlement, I continued to work on the case, preparing settlement  
16 documents such as the Class Notice and Motion for Preliminary Approval of Class Action  
17 Settlement.

18 11. Members of my firm keep contemporaneous record of time and litigation  
19 expenses. To date, I have billed 296.80 hours at our regular and customary hourly rate of \$650.  
20 My firm's lodestar (fees only) is \$192,920. I anticipate spending additional time to facilitate  
21 notice to the Class Members, fielding Class Member inquiries, responding to objections, if any,  
22 filing a motion for final approval and traveling to San Francisco to attend the Final Fairness  
23 Hearing in February 2018.

24 12. Attached here to as Exhibit "A" are true and correct excerpts from the 238 page  
25 2016 Real Rate Report that provides updated, detailed analysis of law firm billing rates. The  
26 2016 Real Rate Report used data from more than \$19.6 billion in fees billed for legal services in  
27 the United States between 2010 and 2015 by more than 5,900 law firms and more than 213,000  
28 timekeepers (p.8).

1           13.       The 2016 Real Rate Report provides a breakdown of average billing rates by  
2 major cities, including San Francisco, California. The Report categorizes all billing rates into  
3 four groups, called quartiles. It then lists the *average* billing rate for the lowest quartile and the  
4 *average* billing rate for the highest quartile. Actual low and high rates are not identified. Partner  
5 rates for this venue range from an *average* low of \$384 per hour to a *average* high of \$773 per  
6 hour (p.56). Derek J. Emge's billing rate of \$650 per hour fits within the average ranges for  
7 partners in this venue. Mr. Hawkes' billing rate of \$495 per hour also falls within the average  
8 ranges of billing rates in this venue.

9           14.       My billing rate of \$650 per hour has been approved various judges reviewing our  
10 class action settlements, including: Hon. John A. Houston, Southern District of California in  
11 *Santiago v. Delaware North Companies Sportservice, Inc.*, Case No. 3:15cv00269 JAH (WVG);  
12 Hon. Fernando M. Olguin, Central District of California in *Spann v. J.C. Penney Corporation*,  
13 Case No. SACV120215 FMO (KESx); Hon. Larry A. Burns, Southern District of California in  
14 *Cortes v. Market Connect Group, Inc.*, Case No. 14cv784-LAB (DHB); and Hon. Joan M.  
15 Lewis, San Diego Superior Court in *Pech v. Moneytree, Inc.* Case No. 37-2014-20466-CU-OE-  
16 CTL.

17           15.       Class Counsels' total lodestar is \$401,265 (\$208,345 for Blanchard Krasner and  
18 \$192,920 for The Emge Firm). The requested fee award seeks a multiplier of  
19 approximately 1.047 (\$420,000 requested fees divided by lodestar of \$401,265 = 1.0467).

20           16.       My firm had to incur out-of-pocket costs paid to third party vendors during the  
21 prosecution of this case and are the type of costs my firm typically charges its clients. These  
22 litigation expenses currently total \$10,203.32 and are comprised of the following: depositions:  
23 \$2,108.20; service fees: \$91.20; travel: \$5,728.12; copy charges: \$275.80; and mediation fees:  
24 \$2,000.00.

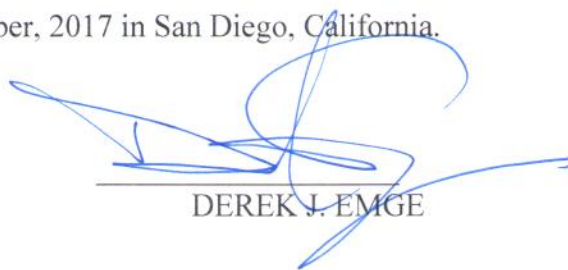
25           17.       My client, Shauna Barnard, has performed, and continues to perform, her duties  
26 as the class representative admirably. She has spent significant time working with me to identify  
27 claims, evidence and witnesses; to prepare for her deposition and to help me prepare for the  
28 deposition of Defendant's 30(b)(6) witness; and to provide input and opinion at mediation. My

1 client has also incurred a significant amount of risk in pursuing this class litigation, as she was a  
2 current employee until just prior to settlement. She expressed concerns about retaliation for  
3 acting as a class representative and she understands that her actions here may impact her ability  
4 to obtain future employment, especially in the yoga instruction industry which is formed of a  
5 small, tight community.

6 18. Based on the assistance Ms. Barnard provided throughout the litigation, the  
7 personal risks she undertook, and the benefit she has obtained for the class, I feel that an  
8 enhancement award of \$10,000 is reasonable.

9 I declare under penalty of perjury under the laws of the United States of America that the  
10 foregoing is true and correct.

11 Executed this 26<sup>th</sup> day of October, 2017 in San Diego, California.

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15 DEREK J. EMGE  
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