

SPIRO MOSS LLP

1 MICHAEL R. NEWHOUSE (SBN 211204)
mnewhouse@newhouseseroussi.com
2 RUTH L. SEROUSSI (SBN 182623)
rseroussi@newhouseseroussi.com
3 SUZANNE M. HENRY (SBN 204772)
shenry@newhouseseroussi.com
4 **NEWHOUSE|SEROUSSI, ATTORNEYS**
1800 Century Park East, 6th Floor
5 Los Angeles, California 90067
Telephone: (310) 684-3162
6 Facsimile: (310) 496-0551

7 J. MARK MOORE (SBN 180473)
mark@spiromoss.com
8 IRA SPIRO (SBN 67641)
ira@spiromoss.com
9 H. SCOTT LEVIANT (SBN 200834)
scott@spiromoss.com
10 **SPIRO MOSS LLP**
11377 W. Olympic Blvd., 5th Floor
11 Los Angeles, California 90064-1683
Telephone: (310) 235-2468
12 Facsimile: (310) 235-2456

13 Attorneys for Plaintiffs Bradley B. Larsen, as
Trustee of the Brad and Cindy Larsen Loving
14 Trust; Jimmy R. Bunch, Jr.; Stephen J.
Woodward; Sun Holdings, LLC; and Daniel Todd
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16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA
18

19 BRADLEY B. LARSEN, as Trustee of
the BRAD AND CINDY LARSEN
20 LOVING TRUST, et al.,

21 Plaintiff,

22 vs.

23 COLDWELL BANKER REAL
ESTATE CORPORATION, a California
24 corporation, doing business as
COLDWELL BANKER
25 COMMERCIAL AFFILIATES, INC., et
al.

26 Defendants.
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Case No. SACV 10-00401 AG (MLGx)

CLASS ACTION

**DECLARATION OF H. SCOTT
LEVIANT IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

Date: December 5, 2011
Time: 10:00 a.m.
Place: Courtroom 10D

DECLARATION OF H. SCOTT LEVIANT

I, H. Scott Leviant, declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California, the United States Supreme Court, the Eighth Circuit Court of Appeals, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Northern and Southern Districts of California. I have never been subject to discipline by the State Bar of California. I am a fully qualified, adult resident of the State of California, and, if called as a witness herein, I would testify truthfully to the matters set forth herein. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true.

2. I am employed as a Senior Associate at the law firm of Spiro Moss LLP. My business address is 11377 Olympic Boulevard, 5th Floor, Los Angeles, California 90064 and my business telephone number is (310) 235-2468. I am counsel of record for Plaintiffs. Prior to appearing formally in this matter, I assisted with legal research in support of the theories of liability alleged in the Complaint.

3. This Declaration is submitted in support of Plaintiffs' Motion for Class Certification.

THE EXPERIENCE OF PROPOSED CLASS COUNSEL

4. Spiro Moss LLP and its lawyers have handled more than 200 class actions in the past ten years. The firm has settled over 100 cases during that time. In the summer of 2004, and again earlier this year, Spiro Moss handled class action trials, a rarity in this practice area. Spiro Moss is routinely appointed lead or co-lead class counsel in federal and state courts in California and elsewhere, by way of motion for class certification or motion for settlement approval.

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1 5. My experience relevant to class action litigation includes the
2 following:

3 (a) During 2010 alone, I negotiated or helped negotiate class action
4 settlements worth approximately \$8,500,000. During the first
5 four months of 2011, I negotiated or helped negotiate class
6 action settlements worth over \$3,200,000.

7 (b) I have been involved in the litigation of class actions since 1997,
8 working as a law clerk on a number of class action matters.
9 Since 1999, I have participated as an attorney in the litigation of
10 well over 100 class actions, in California Superior Courts and in
11 federal courts in California and Louisiana.

12 (c) Dating back to 1999, some of the earliest cases in which I
13 contributed to my then-firm’s efforts as co-lead/liaison counsel
14 include:

15 i. *In re Paradise Memorial Park Litigation*, Los Angeles
16 Superior Court Lead Case No. BC130375; and,

17 ii. *In re Lincoln Memorial Park Litigation*, Los Angeles
18 Superior Court Lead Case No. BC133643.

19 (d) I have prosecuted appeals in approximately 20 class action
20 matters, arguing before the United States Court of Appeals for
21 the Ninth Circuit Court and several of California’s Courts of
22 Appeal. I have taken several appeals through to Petitions for
23 Writs of Certiorari to the United States Supreme Court. In
24 connection with the appeals I have handled, I have participated
25 in appeals resulting in published appellate decisions concerning
26 or relating to class actions. Among others, those include:

27 i. *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal.App.4th
28 1524 (2009), Pet. for rev. denied;

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- ii. *Laliberte v. Pacific Mercantile Bank*, 147 Cal.App.4th 1 (2007), rev. denied, Pet. for Cert. denied;
- iii. *Alvarez v. May Dept. Stores Co.*, 143 Cal.App.4th 1223 (2006), rev. denied, Pet. for Cert. denied;
- iv. *Johnson v. Glaxosmithkline, Inc.*, 166 Cal.App.4th 1497 (2008), rev. denied.
- v. *Howard, et al. v. America Online, Inc.*, 208 F.3d 741 (9th Cir. 2000), Pet. for Cert. denied.
- vi. *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489 (2011) (amicus counsel).

(e) In addition to my work on complex litigation matters and class actions, I have authored published articles and columns on issues related to class actions, including:

- i. H. Scott Leviant, *Unintended Consequences*, 6 U.C. Davis Bus. L.J. 18 (2006), at <http://blj.ucdavis.edu/article.asp?id=636> (May 1, 2006);
- ii. H. Scott Leviant, *Arbitration: A Look Back, a Look Ahead*, DAILY JOURNAL (Los Angeles), December 28, 2010;
- iii. H. Scott Leviant, *Witnesses Cannot Hide*, Daily Journal (Los Angeles), April 21, 2010;
- iv. H. Scott Leviant, *Divide and Conquer: The New Paradigm of Class Action Defense?*, FORUM, January/February 2009
- v. H. Scott Leviant, *Class Action Appellate Report*, FORUM, 2009-2010 (Ongoing series);
- vi. H. Scott Leviant & Linh Hua, *Legislature Using Purse*

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Strings to Bind Judiciary, Daily Journal (San Francisco), March 15, 2010;

vii. H. Scott Leviant, *Wrongfully Recused?*, DAILY JOURNAL (Los Angeles), December 2, 2009;

viii. H. Scott Leviant, *Cutting Class*, DAILY JOURNAL (Los Angeles), April 15, 2008;

ix. H. Scott Leviant, *Leveling The Playing Field*, DAILY JOURNAL (Los Angeles), May 4, 2007;

x. H. Scott Leviant, *A Bad Meal Deal: ‘Brinker’ Gets the Incentive Question Wrong*, DAILY JOURNAL (Los Angeles), August 6, 2008;

xi. H. Scott Leviant & Jason E. Barsanti, *Maximize Recovery in Unpaid Wage Cases*, FORUM, January/February 2008;

xii. H. Scott Leviant, et al., *Electronic Evidence: No Longer an Optional Element in a Comprehensive Litigation Plan*, ADVOCATE, April 2006;

xiii. H. Scott Leviant, *Improving Rule 12(b)(6) survival odds: Some considerations for effective RICO pleading*, CIVIL RICO REPORT, Volume 15, Number 22, April 26, 2000 (LRP Publications).

(f) In addition to publications in industry newspapers, periodicals and journals, I am the Supervising Editor, primary author and founder of the legal blog The Complex Litigator (<http://www.thecomplexlitigator.com>). The Complex Litigator reports and comments on news and topics relevant to class action and complex litigation practice. My blog has been cited to the California Supreme Court in at least one Petition for

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1 Review.

2 (g) I have also lectured on issues related to class actions and
3 complex litigation, including the following educational
4 seminars:

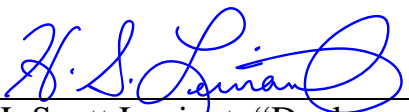
- 5 i. *Concepcion v. AT&T and Derivative Wage & Hour*
6 *Claims*, Bridgeport's Mid Year Wage & Hour
7 Litigation Conference (June 3, 2011)
- 8 ii. *Advanced Principles: UCL Remedies and Defenses*,
9 20th Annual Golden State Antitrust and Unfair
10 Competition Law Institute (October 21, 2010)
- 11 iii. *Refining Your Wage and Hour Practice*, 2010 CELA
12 Annual Conference (October 2, 2010)
- 13 iv. *Word v. WordPerfect Software, Tips, Tools and Tricks:*
14 *Legal Technology for Plaintiffs Employment Lawyers*
15 (September 30, 2010)
- 16 v. *California's 17200 -- Its Use and Abuse*, Federalist
17 Society (May 19, 2010)
- 18 vi. *20 Tips for Successful Navigation of e-Discovery*
19 *Requirements*, Los Angeles County Bar Association's
20 Thirtieth Annual Labor and Employment Law
21 Symposium (March 31, 2010)
- 22 vii. *Social Networking for Lawyers: A Roadmap to*
23 *Success*, Los Angeles County Bar Association's 2nd
24 Annual two-day 2009 Small Firm and Solo
25 Practitioners Conference: MISSION POSSIBLE (June
26 25, 2009)
- 27 viii. *A Seminar Overview of the Current State of*
28 *Employment Law*, The Westchester/LAX/Marina Del

Rey Chamber of Commerce (February 23, 2006)

(h) I am currently serving in my third consecutive year as an elected member of the Board of Governors of the Consumer Attorneys of California. In that capacity, I have worked to preserve the right of California’s consumers and employees to bring proposed class actions. For example, I provided assistance to CAOC in its successful effort to defeat AB 298, which would have substantially impaired the ability of plaintiffs to prosecute class actions in California. More recently, on behalf of CAOC, I co-authored several requests for publication of unpublished class action decisions, including one such request in *Jaimez v. Daiohs USA, Inc.*, 181 Cal. App. 4th 1286 (2010), and authored amicus briefs for CAOC in the Eighth Circuit matter entitled *Avritt v. Reliastar Life. Ins. Co.*, Case No. 09-2843, the California Supreme Court matter entitled *Californians for Disability Rights v. Mervyn’s, LLC*, 39 Cal. 4th 223 (2006), and the California Court of Appeal matter entitled *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489 (2011).

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed this 22nd day of August 2011, at Los Angeles, California.



 H. Scott Leviant, “Declarant”

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