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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **IN AND FOR THE COUNTY OF ORANGE**

12
13 STEVENSON TAN, DEEPAK MATHUR,
14 CLAUDIA ADAMS, and SIMON AU, as
15 individuals, on behalf of themselves, and on
behalf of all persons similarly situated and on
behalf of the general public,

16 Plaintiffs,

17 vs.

18 CALIFORNIA STATE AUTOMOBILE
19 ASSOCIATION, a California Corporation,
and Does 1 to 100,

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21 Defendants.
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CASE NO. 30-2008-00231219-CU-BT-CXC

**DECLARATION OF APARAJIT
BHOWMIK IN SUPPORT OF MOTION
FOR CLASS CERTIFICATION**

Hearing Date: August 4, 2009
Hearing Time: 9:00 a.m.

Judge: Hon. Nancy Stock
Courtroom: CX-105

Action Filed: December 19, 2008

1 I, APARAJIT BHOWMIK, declare:

2 1. I am an attorney licensed to practice law in the State of California and
3 am one of Plaintiffs' counsel in this case. I have personal knowledge of the facts stated herein, and
4 if called as a witness, could competently testify thereto.

5 2. A true and correct copy of the Department of Labor Opinion Letter of
6 October 26, 2006, FLSA 2006-42, regarding Customer Support Workers ("2006 DOL Opinion
7 Letter") and the Department of Labor Opinion Letter of April 19, 1999 are attached collectively
8 hereto as Exhibit 1; *compare to* Job Family Chart, Bates No. D000342-D000346, a true and correct
9 copy of which is attached hereto as Exhibit 2.

10 3. A true and correct copy of the Plaintiffs' Class Action Complaint (the "Complaint")
11 [Docket No. 1], is attached hereto as Exhibit 3.

12 4. CSAA is an organization servicing more than 4 million members located in
13 California, Nevada and Utah. The products provided by CSAA to members are 24-hour Emergency
14 Roadside Assistance, auto travel services, and auto and home insurance policies. *See* "Who We
15 Are" section from the CSAA Handbook, Bates No. D000008, a true and correct copy of which is
16 attached hereto as Exhibit 4; *see also* Complaint, Exhibit 3 at ¶ 2.

17 5. Since the beginning of the Class Period on August 31, 2003, CSAA has
18 employed ninety-two (92) Systems Engineers II and Systems Engineers III (the "Class Members").

19 a. *See* Declaration of Cynthia Asayesh, Exhibit "A", (shows class list of ninety-
20 two Systems Engineers II and Systems Engineers III who worked in
21 California during the period August 31, 2004 to the present), attached hereto
22 as Exhibit 5.

23 6. The Class Members' job responsibilities are primarily to install, configure,
24 troubleshoot, maintain and decommission the infrastructure hardware and software of CSAA's
25 information technology ("IT") in order to deliver the AAA branded products to CSAA's members
26 on a 24/7/365 basis. Absent the technical support provided by the Class Members, the delivery of
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1 these AAA branded products and services by CSAA to CSAA’s customers would grind to a
2 complete halt.

- 3 a. *See* Defendant’s Answer to Plaintiffs’ Federal Third Amended Class Action
4 Complaint (“Def’s Answer”), a true and correct copy of which is attached
5 hereto as Exhibit 6 at ¶14, pg 8:4-7 (“Defendant further admits that it serves
6 millions of members in California, Utah and Nevada and provides services to
7 its members 24 hours per day, 7 days per week, 365 days per year”);
- 8 b. Id. at ¶ 15 (“Defendant admits that since August 2003, it may have had 600
9 individual servers that suffered issues such as outages, disk failures and ...that
10 technical failures have occurred in its hardware and software...that at least
11 some of the individuals it employed as System Engineers II and/or III during
12 the class period provide technical support...that CSAA’s business would have
13 difficulty functioning without technical support.”);
- 14 c. *see, e.g.*, Deposition of Declaration of Stevenson Tan, Class Representative
15 (“Tan Depo.”), attached to the Declaration of Stevenson Tan, a true and
16 correct copy of which is attached hereto as Exhibit 7 at pgs 249:24-250:3
17 (“**[W]e are always on-call no matter where we are. You know, Easter
18 Sunday we get calls; Christmas we get calls; the holidays we get
19 calls...when my wife gave birth to my daughter I got called.**”);
- 20 d. *see also* Deposition of Deepak Mathur, Class Representative, (“Mathur
21 Depo.”), attached to the Declaration of Deepak Mathur, a true and correct
22 copy of which is attached hereto as Exhibit 8 at 47:13-48:3, 52:13-53:3
23 (describing how as an IT support employee, calls for technical support and
24 troubleshooting come at all hours);
- 25 e. *see also* Deposition of Claudia Adams, Class Representative, (“Adams
26 Depo.”), attached to the Declaration of Claudia Adams, a true and correct
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copy of which is attached hereto as Exhibit 9 at 165:21-166:3 (“**We worked...a lot of overnight stuff...a lot of kind of literally sleep over kind of projects...**”);

- f. *see also* Deposition of Simon Au, Class representative, (“Au Depo.”), attached to the Declaration of Simon Au, a true and correct copy of which is attached hereto as Exhibit 10 at 106:3-107:6 (“**I just remember the period that my wife was pissed at me. For about a year and a half, I was getting called nights, weekends, so about 30 to 40 percent of the time**”);
- g. *See* Exempt Employee Concerns E-mail, Exhibit 11 (showing CSAA’s uniform policy of refusing to pay Systems Engineers II-III overtime for on-call troubleshooting duties performed after hours);
- h. *see also* Deposition of Thomas Hawley, Director of CSAA IT Infrastructure Services, (“Hawley Depo.”), a true and correct copy of which is attached hereto as Exhibit 12 at pgs 5:15-6:2, 14:7-10 (“**I managed operational units; responsible for the maintenance and upkeep of the systems that drove the internal corporate network and drove the internal phone systems for 140 offices**”); and,
- i. *see also* Errata Sheet to the Hawley Deposition, a true and correct copy of which is attached hereto as Exhibit 13 (repeatedly describing the job duties of the Systems Engineers II-III in each division as responsible for “design, configuration, implementation, support, etc.”).

7. As a result, CSAA’s expectation was and still is for the Class Members to work overtime hours, respond to IT support requests that come in at all hours of the day and night, and to work through meal and rest periods as required in “order to get the job done.”

- 1 a. See Exempt Employee Concerns E-mail, Exhibit 11 (showing CSAA’s
2 uniform policy of refusing to pay Systems Engineers II-III overtime for on-
3 call troubleshooting duties performed after hours);
- 4 b. Hawley Depo., Exhibit 12 at 105:13-107:9 (uniform policy systematically
5 employed for all Systems Engineers II-III is for every employee to work
6 overtime hours and through meal and rest periods “in order to get the job
7 done”);
- 8 c. see also Complaint, Exhibit 3 at ¶ 3;
- 9 d. see also Def’s Answer, Exhibit 6 at ¶ 3, pg 2:13-24 (Defendant admitting that
10 no overtime compensation is provided for after hours troubleshooting support
11 performed by Systems Engineers II and III);
- 12 e. Deposition of Sheron Smith, Manager of CSAA Network and Telephony
13 (“Smith Depo.”), a true and correct copy of excerpts of which are attached
14 hereto as Exhibit 16 at 123:6-126:19 (describing 30 minute time frame for
15 Systems Engineers II-III to respond to after hours troubleshooting requests);
16 and,
- 17 f. Deposition of Douglas J. MacLean, Consultant for CSAA Data Facilities
18 (“MacLean Depo.”), a true and correct copy of which is attached hereto as
19 Exhibit 18, 88:4-90:21 (describing process of responding to troubleshooting
20 tickets by Systems Engineers II-III in his group), 96:15-97:9 (admitting that
21 no evaluation is performed to assess what percentage of time Systems
22 Engineers II-III spend responding to after hour troubleshooting requests).

23 8. CSAA produced eleven (11) witnesses who each testified on behalf of the
24 corporation regarding the history of the exempt classification of the SE II and SE III positions.
25 CSAA has also taken the depositions to date of all four (4) named Plaintiffs and one (1) Class
26 Member. CSAA has produced over 70,000 pages of documents and answered twenty-one (21)
27 interrogatories. To date, declarations of eighteen (18) Class Members have been signed, and
28 Plaintiffs have interviewed eleven (11) Class Members.

1 9. CSAA never engaged in a proper legal analysis as to exempt status of any of the
2 Class Members. CSAA’s corporate designees all confirmed that no first party or third party audits
3 were ever conducted to analyze what duties each Class Member actually performed as their primary
4 job duties.

- 5 a. *See* Deposition of Diane Burkert, Enterprise CSAA Deskside Services
6 Executive (“Burkert Depo.”), a true and correct copy of which is attached
7 hereto as Exhibit 14 at 179:24-185:18 (no evaluation performed of percentage
8 of time spent by Systems Engineers II-III providing support and performing
9 troubleshooting, although such task is performed by Systems Engineers II-III
10 as well as their **non-exempt** Systems Engineers I counterparts, *see* Job
11 Family Char, Exhibit 2);
- 12 b. *see also* Deposition of Kenneth Beaty, Senior Manager II CSAA Platform
13 Services (“Beaty Depo.”), a true and correct copy of which is attached hereto
14 as Exhibit 15 at 174:2-10, 188:2-24, 200:15-201:3 (analysis of job duties
15 primarily performed by Systems Engineers II-III is never performed);
- 16 c. *see also* Smith Depo., Exhibit 16 at 82:12-86:4 (although daily activity of
17 Systems Engineers II-III is to respond to HelpDesk tickets, no audit was
18 performed as to percentage of time spent performing such activity);
- 19 d. *see also* Deposition of Robert Shawn Stevens, Assignment Manager CSAA
20 Network (“Stevens Depo.”), a true and correct copy of which is attached
21 hereto as Exhibit 17 at 71:13-72:20; 86:5-23, 145:2-23 (no attempt is made in
22 performance reviews to ascertain percentage of time spent performing exempt
23 vs non-exempt activities);
- 24 e. *see also* MacLean Depo., Exhibit 18, 76:2-79:14; 89:13-92:9; 96:15-97:9 (no
25 audits performed of job duties primarily performed by Systems Engineers II-
26 III and no attempt to determine job duties primarily performed by Systems
27 Engineers II-III in performance reviews);
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- 1 f. *see also* Deposition of David A. Gillman, Manager CSAA IT Security
2 (“Gillman Depo.”), a true and correct copy of which is attached hereto as
3 Exhibit 19 at 148:6-159:9 (although after hours troubleshooting required, no
4 attempt is made to assess percentage of time Systems Engineers II-III spend
5 performing the non-exempt activity);
- 6 g. *see also* Deposition of Mark Hernandez, IT Manager Environment
7 Management (“Hernandez Depo.”), a true and correct copy of which is
8 attached hereto as Exhibit 20 at 57:3-15 (Mr. Hernandez was never instructed
9 by CSAA to determine primary job responsibilities of Plaintiff Simon Au);
- 10 h. *see also* Deposition of Dale Guest, Manager of CSAA Staffing (“Guest
11 Depo.”), a true and correct copy of which is attached hereto as Exhibit 21 at
12 98:11-99:15 (no effort made by CSAA to forecast by percentage of time work
13 CSAA expected Systems Engineers II-III to perform on job requisitions);
- 14 i. *see also* Deposition of Jerrold Frank, Manager of Compensation for CSAA
15 (“Frank Depo.”), a true and correct copy of which is attached hereto as
16 Exhibit 22 at 12:2-13:5 (no study of time spent by CSAA’s Systems
17 Engineers II-III performed because “job responsibilities...contained on the job
18 family matrix,” which is attached hereto as Exhibit 2), 21:5-22:16 (CSAA
19 managers “slot” employees as Systems Engineers I-IV via the Job Family
20 Chart, Exhibit 2, without the use of any study or audit of the employees’
21 primary job responsibilities); 44:8-15 (no organizational study by CSAA of
22 primary job duties performed by Systems Engineers II-III), 48:21-49:21
23 (Simmons Manual relied upon by CSAA in crafting the Job Family Chart,
24 Exhibit 2), 52:19-53:1 (no audits performed of primary duties of Systems
25 Engineers II-III employed by CSAA to aid in constructing Job Family Chart).
- 26 j. *see also* Deposition of Steve Parker, Program Manager for CSAA Talent
27 Management (“Parker Depo.”), a true and correct copy of which is attached
28 hereto as Exhibit 23 at 60:21-63:24 (auditing of job duties primarily

1 performed by Systems Engineers II-III employed was performed and
2 documented by Western United, but not by CSAA); and,

3 k. *see also* Complaint, Exhibit 3 at ¶ 17; Def’s Answer, Exhibit 6 at ¶ 16, pg
4 8:19-9:6 (admitting **non-exempt** Systems Engineers I perform same
5 troubleshooting duties as **exempt** Systems Engineers II-III).

6 10. Western United, a subsidiary of CSAA, employed the use of such audits to fulfill the
7 legal duty to properly determine the primary job duty of their Systems Engineers.

8 a. *See* Frank Depo., Exhibit 22 at 40:21-41:23 (no audit performed by CSAA of
9 job duties primarily performed by Systems Engineers II-III);

10 b. *see also* Defendant’s Response to Interrogatory No. 19, a true and correct
11 copy of which is attached hereto as Exhibit 43 (CSAA has lost all records of
12 audit performed of duties primarily performed by Systems Engineers who
13 worked for Western United, a company that was later acquired by CSAA);
14 and,

15 c. *see also* Parker Depo., Exhibit 23 at 74:24-75:22 (Western United audited the
16 job duties primarily performed by Systems Engineers employed by the
17 company to ensure the classification of them as exempt was correct, although
18 no such audit of the job duties primarily performed by CSAA Systems
19 Engineers II-III employed by CSAA was ever done by CSAA).

20 11. A true and correct copy of the “Exemption Worksheet” Bates No. D001871 is
21 attached hereto as Exhibit 44.

22 12. Although the Exemption Worksheet is ideally suited for complying with
23 CSAA’s legal duty as an employer to quantitatively determine whether an employee is properly
24 classified as exempt, CSAA chose not to use the worksheet.

25 a. *See* Defendant’s Response to Interrogatory No. 20, a true and correct copy of
26 which is attached hereto as Exhibit 45 (the Exemption Worksheet was “not
27 used for any specific purpose, but rather, was kept by the compensation
28 department in or around 2003.”).

1 13. One of the primary sources used by CSAA was Richard J. Simmons' Wage and Hour
2 Manual for California Employers. Although the Simmons' Manual explicitly cautions employers
3 that an "employee 'must spend more than 50% of his or her work time engaged in exempt activity in
4 order to be exempt' from overtime under state law," CSAA took no steps to ensure that this actually
5 was the case for any of the Class Members.

- 6 a. *See* Richard J. Simmons, Wage and Hour Manual for California Employers §
7 10.3(a)(5), pgs. 399-400 (8th ed. 2003) and Richard J. Simmons, Wage and
8 Hour Manual for California Employers § 10.3, pgs. 434-435 (13th ed. 2008),
9 Bates 235-243, true and correct copies of which are attached collectively
10 hereto as Exhibit 46;
- 11 b. *see also* Burkert Depo., Exhibit 14 at 126: 12-18 (for Systems Engineers II-III
12 she managed, "Primary job duty is to, you know, provide Deskside support to
13 users..."); 179:24-185:18 (no evaluation performed of percentage of time
14 spent by Systems Engineers II-III performing troubleshooting, although such
15 task is performed by Systems Engineers II-III as well as their **non-exempt**
16 Systems Engineers I counterparts);
- 17 c. *see also* Beaty Depo., Exhibit 15 at 174:2-10, 188:2-24, 200:15-201:1 (No
18 evaluation of job duties primarily performed conducted);
- 19 d. *see also* Smith Depo., Exhibit 16 at 82:12-86:4 (same);
- 20 e. *see also* Stevens Depo., Exhibit 17 at 71:13-72:20; 86:5-23, 145:2-23 (same);
- 21 f. *see also* MacLean Depo., Exhibit 18, 76:2-79:14; 89:13-92:9; 96:15-97:9
22 (same);
- 23 g. *see also* Gillman Depo., Exhibit 19 at 148:6-159:9 (same);
- 24 h. *see also* Hernandez Depo., Exhibit 20 at 57:3-15, 91:5-92:12 (same);
- 25 i. *see also* Guest Depo., Exhibit 21 at 98:11-99:15 (same);
- 26 j. *see also* Frank Depo., Exhibit 22 at 12:2-13:5, 21:5-22:16; 48:21-49:21
27 (Simmons Manual relied upon by CSAA in crafting the Job Family Chart,
28 Exhibit 2); and,

1 k. *see also* Parker Depo., Exhibit 23 at 57:14-58:7, 60:21-63:24 (Although
2 Western United performed audit of and documented primary job duties
3 performed by Systems Engineers II-III, only documentation addressing
4 proper classification of Systems Engineers II-III employed by CSAA is the
5 Job Family Chart, attached hereto as Exhibit 2).

6 14. CSAA's company policy was to uniformly label these workers as "Systems
7 Engineers" without any analysis of their actual primary job duties. The "engineering jobs" title is
8 also a misnomer as these IT Support workers are, in truth, just non-degreed, non-licensed, non-
9 supervisor employees who solve IT problems experienced by CSAA's production line workers. No
10 engineering or computer science degree or license is required of them.

- 11 a. *See* Job Family Chart, Exhibit 2 at Bates No. D000345 (describing
12 requirement of *either* a BS degree or equivalent or 2-4 years of "relevant
13 experience");
- 14 b. *see also* Tan Depo., attached to the Declaration of Stevenson Tan at 61:13-
15 62:6 (Plaintiff Tan does not hold any college degree);
- 16 c. *see also* Adams Depo., attached to the Declaration of Claudia Adams at
17 194:21-24 (Plaintiff Adams hold BS Degree in *Education*); and,
- 18 d. *see also* Resume of Plaintiff Deepak Mathur, a true and correct copy of which
19 is attached hereto as Exhibit 47 (Plaintiff Mathur holds BA Degree in
20 *Marketing*).

21 15. Instead of determining the exempt status of the employee based on the
22 actual job duties primarily performed as required by law, CSAA erroneously based each Class
23 Member's exempt status on (i) the years working in the IT Support field; (ii) number of IT Support
24 training classes the Class Member has taken; and/or (iii) the level of independence at which the
25 Class Member may be capable of working.

- 1 a. See Hawley Depo., Exhibit 12 at 81:16-82:3 (difference between **non-exempt**
2 Systems Engineer I and **exempt** Systems Engineers II-III is based on “**years**
3 **of experience that an individual has within their product tower or**
4 **domain**”);
- 5 b. see also Burkert Depo., Exhibit 14 at 126:20-127:13 (policy for classifying
6 certain employees as **non-exempt** Systems Engineer I instead of **exempt**
7 Systems Engineers II-III is based on “**certifications and years of**
8 **experience**”);
- 9 c. see also Beaty Depo., Exhibit 15 at 67:20-68:7 (“basic factors” for classifying
10 Systems Engineers are “**years of experience and...depth of knowledge**”);
- 11 d. see also Stevens Depo., Exhibit 17 at 119:1-120:6 (describing depth of
12 knowledge as major factor in classifying Systems Engineers as exempt); and,
- 13 e. see also Frank Depo., Exhibit 22 at 13:7-20 (describing the progression from
14 a non-exempt Systems Engineer I to an exempt Systems Engineer II-IV as a
15 “**career path continuum**”).

16 16. CSAA admitted that the general scope of the job responsibilities of the SE II and SE
17 III positions are accurately set forth in the Job Family Chart. Frank Depo., Exhibit 22 at 12:16-
18 13:20.

19 17. CSAA maintains that because the job family profile accurately describes the job
20 duties generally performed by the Class members during the Class period, a study or evaluation of a
21 Class Member’s job duties that are primarily performed is unnecessary. Indeed, even the job duties
22 of the Class Members, as generally set forth in the Job Family Chart, include virtually no activities
23 which are even arguably exempt. The plain fact is that these levels of employees share an
24 abundance of common job duties with CSAA’s non-exempt Systems Engineers I.

- 25 a. See Job Family Chart, Exhibit 2;
- 26 b. see also Frank Depo., Exhibit 22 at 12:16-13:20, 17:24-18:16 (Job Family
27 Chart is a “**general description of work**” of the Systems Engineers II-III and
28 a “**career path continuum**”);

- 1 c. *see also* Def’s Answer, Exhibit 6 at ¶ 3, pg 2:23 (all SEIIs and SEIIIs
2 classified as exempt);
- 3 d. *see also* Tan Depo., Exhibit 7 at 81:4-13 (“**We’re all the same. We all do**
4 **the same thing.**”), 96:18-97:19 (“**Everything that we...do is always**
5 **on...tickets...It’s always tickets. We’re all the same.**”), 186:13-23 (“**We all**
6 **had the same manual labor we had to put together...We all put in more**
7 **than 15 hours in a day. We are all our equal part, the same**”);
- 8 e. *see also* Mathur Depo., Exhibit 8, 106:12-22 (“**...requests that came in from**
9 **help desk for assistance, we were all involved in that.**”), ; and,
- 10 f. *see also* Gednov Statement, Exhibit 39 at ¶ 10 (“**During my employment I**
11 **had the opportunity to observe the work performed by my fellow co-**
12 **worker, Deepak Mathur....he and I performed substantially similar**
13 **tasks.**”).

14 18. The primary job responsibilities of the SE IIs and SE IIIs are not only similar, but
15 also equivalent to the non-exempt work performed by their **non-exempt** counterparts, “Systems
16 Engineers I” which is to: (i) “monitor system performance;” (ii) perform maintenance; (iii) “assist in
17 integrating new programs and designs into production;” and, (iv) problem diagnosis and resolution,
18 determining root cause and actions to be taken.

19 DECLARATIONS PROCURED AND PRODUCED BY DEFENDANT

- 20 a. *See* Declaration of Franklin Mendez, Bates No. D000347-D000349, at ¶ 7, a
21 true and correct copy of which is attached hereto as Exhibit 25 (System
22 Engineer II stating “troubleshooting and/or installing hardware and software
23 issues company wide...encompasses 70% of my work day”)
- 24 b. *see also* Declaration of Robert De Lellis, Bates D000357-D000359 at ¶ 6, a
25 true and correct copy of which is attached hereto as Exhibit 26 (Systems
26 Engineer II describing technical support for computer software as 1/3 of
27 workday and configuration and “resolving user issues” as 2/3 of workday);
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- 1 c. *see also* Declaration of Jason Andreine, Bates No. D000360-D000362 at ¶ 4,
2 a true and correct copy of which is attached hereto as Exhibit 27 (Systems
3 Engineer II stating “**the majority of my time is spent on break-fix issues**”);
- 4 d. *see also* Declaration of Saul Alvarez, Bates No. D000974-D000375 at ¶ 5, a
5 true and correct copy of which is attached hereto as Exhibit 28 (Systems
6 Engineer II stating “duties consist of ... **deploying** desktops, laptops and
7 servers and **troubleshooting** the network);
- 8 e. *see also* Declaration of Gilbert Albazi, Bates No. D000460-D000462 at ¶ 3, a
9 true and correct copy of which is attached hereto as Exhibit 29 (Systems
10 Engineer II stating that “sixty-five percent [65%] of my time is spent
11 performing troubleshooting operations for CSAA employees who experience
12 technical difficulties with their computers”);
- 13 f. *see also* Declaration of David Caravantes, Bates No. D000463-D000465 at ¶¶
14 3-4, a true and correct copy of which is attached hereto as Exhibit 30
15 (Systems Engineer II stating “**my two primary responsibilities as an SEII**
16 **are to respond to ‘trouble tickets’ and complete work set forth in work**
17 **orders that I receive**”);
- 18 g. *see also* Declaration of Philip Saunders, Bates No. D000466-D000468 at ¶ 6,
19 a true and correct copy of which is attached hereto as Exhibit 31 (Systems
20 Engineer II responsible for “**installing, upgrading, maintaining, and**
21 **replacing Company’s Apple macintosh (“Mac”) computers**”);
- 22 h. *see also* Declaration of Darius Libuda, Bates No. D000350-D000352 at ¶ 5, a
23 true and correct copy of which is attached hereto as Exhibit 32 (Systems
24 Engineer III describing maintenance, hardware support and “first call
25 support” as 60% of workday);
- 26 i. *see also* Declaration of Michael Gong, Bates No. D000353-D000356 at ¶ 6, a
27 true and correct copy of which is attached hereto as Exhibit 33 (Systems
28 Engineer III describing maintenance, on-call support, assist in areas of

1 disaster recovery, technical walkthrough standards, and troubleshooting as
2 40% of daily work and “design, develop and/or customize systems and
3 components” as 50% of daily work);

4 j. *see also* Declaration of Mike Hernandez, Bates No. D000372-D000373 at ¶¶
5 2 & 4, a true and correct copy of which is attached hereto as Exhibit 34
6 (Systems Engineer II stating job duties primarily are to facilitate printing and
7 provide technical support and troubleshooting);

8 k. *see also* Declaration of Randy Weaver, Bates No. D000376-D000377 at ¶¶ 4-
9 6, a true and correct copy of which is attached hereto as Exhibit 35 (Systems
10 Engineer II describing troubleshooting and maintenance of network as
11 primary job duty);

12 l. *see also* Declaration of Huy Nguyen, Bates No. D000391-D000392 at ¶¶ 2 &
13 5, a true and correct copy of which is attached hereto as Exhibit 36 (Systems
14 Engineer II discussing job duties of troubleshooting and on-call support);

15 DECLARATIONS PROCURED AND PRODUCED BY PLAINTIFFS

16 m. *see also* Declaration of Ali Zand, Bates No. 115-117, 108 at ¶¶5-7, a true and
17 correct copy of which is attached hereto as Exhibit 37 (Systems Engineer II
18 whose 60% of working time spent **installing, configuring, and/or**
19 **troubleshooting** computer equipment, applications in order to support “e-
20 business” application);

21 n. *see also* Declaration of Julio Medina, Bates No. 105-106, 224 at ¶¶3-7, a true
22 and correct copy of which is attached hereto as Exhibit 38 (Systems Engineer
23 II who says, “**The bulk of my working time, approximately 75% was**
24 **spent troubleshooting** CSAA’s computer applications, equipment and/or
25 hardware, with an emphasis on CSAA’s cashiering machines”);

26 o. *see also* Declaration of Elena Gednov, Bates Nos. 230-233 at ¶¶ 6-8, a true
27 and correct copy of which is attached hereto as Exhibit 39 (describing duties
28 as **installing, configuring, troubleshooting, maintenance and testing, but**

- 1 **not** designing, developing or creating computer systems or programs);
- 2 p. *see also* Declaration of Daniel Cobb, Bates No. 225-228 at ¶¶ 5-7, a true and
- 3 correct copy of which is attached hereto as Exhibit 40 (“15% of my working
- 4 time is spent performing acts of manual labor” and “**I ...spend 65% of my**
- 5 **working time installing, configuring, and/or troubleshooting computer**
- 6 **equipment, applications, and/or hardware**”);
- 7 q. *see also* Declaration of Natalie Toledo, Bates No. 246-248, a true and correct
- 8 copy of which is attached hereto as Exhibit 41 (describing role as technical
- 9 support of “e-business”);
- 10 r. *see also* Declaration of Jason Brown, Bates No. 270-272 at ¶¶ 6-8, a true and
- 11 correct copy of which is attached hereto as Exhibit 50 (“I spend
- 12 approximately **seventy percent (70%) of my working time**
- 13 **troubleshooting...**”); and,
- 14 s. *see also* Complaint, Exhibit 3 at ¶¶ 14-16; and,
- 15 t. *see also* Def’s Answer, Exhibit 6 at ¶¶ 13-15, pgs 6-8 (**admitting duties of**
- 16 **Systems engineers II and III include manual labor, as well as**
- 17 **troubleshooting, installation, configuration, upgrading and**
- 18 **implementing computer hardware and software**).

19 DEPOSITION TESTIMONY

- 20 u. Tan Depo., Exhibit 7 at 145:20-146:8 (“We **install** the server, we **build** the
- 21 server, and we **support** the server for the evaluation.”); 80:21-81:13 (“We
- 22 share the same load across the board...We’re all the same. **We all do the**
- 23 **same thing.**”), 96:18-97:19 (“Everything that we [do] is always on...tickets
- 24 from our network team, from our desktop team, from our helpdesk team. **It’s**
- 25 **always tickets. We’re all the same.**”), 145:20-146:8 (“We **install** the server,
- 26 we **build** the server, and we **support** the server for evaluation.”);

1 186:13-23 (“**We all had the same manual labor we had to put together.**
2 We all did - all the tickets. We all ut in more than 15 hours in a day. We are
3 all our equal part, the same.”), 197:21-198:19 (rarely spends time at work on
4 the Internet because he is “**building servers and...troubleshooting servers.**”),
5 231:11-15(“**I’m just a guy who builds servers, installs it, and support it**
6 **and troubleshoots it.**”), 255:1-9 (“Our phone is always ringing. When we’re
7 going to take a break, phone rings so we sit back at our desk, we get back on
8 the phone, we start **troubleshooting.**”), 290:22-291:14 (sometimes **24 to 48**
9 **hour shifts required to troubleshoot servers**);

10 v. Mathur Depo., Exhibit 8 at 106:12-22 (“I was also involved in all the other
11 day-to-day issues that would come up...any application **problems** or any
12 network **problems**, connectivity **problems** with the servers... Any
13 **problems**...requests that came in from **help desk** for assistance, we were all
14 involved in that.”), 23:11-17 (“We are also involved in **troubleshooting any**
15 **server issues or other application issues** turn up.”), 24:2-5 (“I was, you
16 know, monitoring all our servers, making sure everything was running, you
17 know, installed OS’s if we have to rebuild a server; any troubleshooting for
18 application issues”), 35:4-8 (“Designing was not taking up a lot of my time.
19 It was more of the **maintenance** of the backups, checking on, you know,
20 successful or not, any **troubleshooting** issues that we would have. That was
21 taking the bulk of my time.”), 50:10-51:7 (“...I would go and check out the
22 backups, see how they went. And once I’m done with that, then go and look
23 at any other issues that may have popped up that people needed help out on or
24 tickets...”), 103:13-25 (“I had to **rack** it, connect...**power it up, connect the**
25 **network cables, configure** the IP addresses, **configure** permissions for
26 NetBackup servers...”), 106:12-22 (helpdesk troubleshooting was Plaintiff
27 Mathur’s “primary role”), 112:10-18 (“...I **installed** the same amount of
28 servers...**racking the servers, connecting them up**...powering them up,

1 **installing** the OSs...”), 117:2-8 (job duty of server migration involves
2 uninstallation of tools and software), 117:19-119:6 (uninstallation as common
3 task on Plaintiff Mathur’s team), 178:14-24 (“The only time I did anything
4 close to [design] was when I was **installing** the servers...when I was cabling it
5 up...”), 180:15-25 (regular work time where I was involved in, you know,
6 **troubleshooting** and **resolving** any **help desk tickets** that I have.”), 187:13-
7 188:6(“...there’s more important things I needed to be doing than attending a
8 webcase...the **troubleshooting and helpdesk.**”), 201:15-202:2 (describing
9 travel to Arizona in order to perform “installation and installing of servers
10 and operating system and applications.”);

11 w. Adams Depo., Exhibit 9 at 16:24-17:17 (“I **troubleshoot** network issues when
12 the **help desk** forwarded those issues to us. We **monitored** the network
13 hardware...called upon to gather information about processes and procedures,
14 departmental and for the Operations Department as a whole...we **installed**
15 network hardware. We **configured** network hardware. We **gathered**
16 information from telephone bills and circuit inventories, helped gather
17 information about hardware inventories. We documented those. ...network
18 drawings ...We performed **on-call** duties, which were mostly
19 **troubleshooting** after hours...), 25:4-16 (describing project requiring
20 installation of switches and cabling), 26:15-24 (installation duty involved
21 “manager instructed me where to put the hardware in what room in what
22 location and that’s it.”), 55:14-56:7 (“**I didn’t design the dashboard.** That
23 was designed by Mercury...I would say we customized it with the existing
24 data”), 68:9-68:23 (“I did edit drawings and add information...to assist us in
25 **troubleshooting**...”), 70:24-71:5 (“I **configured** the network hardware. I
26 **installed** the network hardware. I **helped in cabling up** that hardware and
27 **troubleshoot that...particular site very often,**”), 79:24-80:12 (“We
28 **monitored** their...hardware that we **installed**...We **configured** firewall

1 rules...”), 87:9-20 (“Most of us used [NetQ tool] all the time to monitor
2 network performance, and **we all used it as a troubleshooting tool...**”),
3 92:21-93:4 (Plaintiff Adams “worked to **troubleshoot** all the issues that
4 occurred with [CSAA’s] computer network problems.”), 109:20-110:3
5 (describing job duty involving physical installation), 112:11-20 (describing
6 documentation of **installation** job duty), 148:20-149:2 (“...we were **installing**
7 the new workstations. Somebody came up with the cabling scheme...**And so**
8 **I just hooked...them all up...**”), 187:13-21 (“...my primary roles were
9 **Network Operations, answering telephone calls, and troubleshooting**”),
10 189:11-190:1 (“day to day operations” are **troubleshooting, trouble tickets**
11 and coordinating resolution with vendors), 201:17-202:2 (describing process
12 for **responding to trouble tickets**), 202:5-203:5 (describing how trouble
13 tickets are responded to by Systems Engineers II-III was a group pursuant to a
14 trouble ticket “que”), 205:5-15 (“**With the amount of tickets that we**
15 **handled on a day-to-day basis...it was significant...it was a full-time**
16 **job...**”), 209:13-24 (traveled to CSAA’s Livermore location “**to install**
17 **hardware on several occasions and move cables...**”);

18 x. Au Depo., Exhibit 10 at 18:21-19:14 (“to **support** this application that is
19 written by developers, we had to **build** these environments... So we have to
20 **build and configure** each of these 14 plus 50 **server** environments and in
21 SQL and **configure** software on it.”); 31:8-32:14 (“**I build the server, I**
22 **configure the server, and I install the software to support the developers**
23 **so they can do their work.**”), 56:14-57:2 (“**So I build a server. I installed**
24 **the software and configured it so the developers can start using it.**”),
25 160:21-163:19 (explaining that designing refers to where to **install** servers
26 and how to plug in required cables), 167:13-168:6 (“**All the procedures I go**
27 **through to fix something, all the troubleshooting I do, depending on what**
28 kind of problem it is, solution can come from everywhere. So most of the

1 time, I don't document that stuff. I just fix it and then go on to the next
2 problem.”), 179:1-192:4-18 (describing **troubleshooting** duties), 181:3-23
3 (explaining that designing refers to “**server racks**, where - the design, where
4 would it fit, stuff like that”), 262:18-264:1-23 (clarifying that he does not
5 help developers write computer code, does not help design computer tools
6 used, and does not select the computer tools used).

7 19. Not one SE II or SE III was ever reclassified from exempt to non exempt by
8 CSAA. *See* Defendant's Response to Interrogatory No. 14, a true and correct copy of which is
9 attached hereto as Exhibit 24.

10 20. Each Plaintiff was employed by CSAA as an exempt SE II and/or SE III in California
11 during the class period, has the same claims as the other Class Members, and has ably and
12 conscientiously assisted in the litigation.

- 13 a. *See* Job Histories Document, Bates No. D001112, a true and correct copy of
14 which is attached hereto as Exhibit 42 (showing dates of employment and
15 exempt classification status of each Plaintiff);
16 b. *see also* Complaint, Exhibit 3 at ¶¶ 31-32 & 42-43;
17 c. *see also* Def's Answer at ¶¶ 4-11 (each Plaintiff was classified as an exempt
18 Systems Engineer II and/or III during the Class Period).

19 21. Attached hereto as Exhibit 48 is a true and correct copy of a CSAA Job Description
20 for a Systems Engineer IV in the Network Group, Bates No. D070933.

21 22. Attached hereto as Exhibit 49 is a true and correct copy of a CSAA Job
22 Description for a Systems Engineer III in the Middleware and Database Services Group, Bates No.
23 D000500.

24 23. Attached hereto as Exhibit 50 is a true and correct copy of the Declaration of Jason
25 Brown.

26 24. Attached hereto as Exhibit 51 is a true and correct copy of a summary
27 of the Deposition of Steve Parker, Bates No. 266-268, which I provided to Mr. Wayne B. Norris.
28

