

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

KENNI MILLER,

Proposed Plaintiff-
Intervenor

v.

**SHEETZ, INC.; SHEETZ
DISTRIBUTION SERVICES, LLC; and
CLI TRANSPORT, LP,**

Defendants.

Civil Action No. 3:24-cv-00231-SLH

Judge: Stephanie L. Haines

**DECLARATION OF CHRISTOPHER M. MCNERNEY IN SUPPORT OF
PLAINTIFF-INTERVENOR'S MOTION TO INTERVENE**

I, Christopher M. McNerney, declare as follows:

1. I am a partner at the firm of Outten & Golden LLP (“O&G”) in New York, New York, and a member of its Class Action Practice Group. O&G is a 60+ attorney firm based in New York City, with additional offices in San Francisco and Washington, D.C., that focuses on representing plaintiffs in a wide variety of employment matters, including individual and class action litigation involving wage and hour, discrimination, and harassment claims, as well as contract and severance negotiations.

2. I am one of the lawyers primarily responsible for prosecuting Plaintiff-Intervenor’s claims and I make this declaration in support of Plaintiff-Intervenor’s Motion to Intervene.

3. I make these statements based on personal knowledge and would so testify if called as a witness at trial.

Background and Experience of O&G

4. I am a partner at O&G and have been with the firm since September 2013. I represent employees in class action Title VII (and other discrimination), wage and hour, and Fair Credit Reporting Act cases. I also co-chair the Firm’s Public Interest Committee, helping to oversee O&G’s commitment to pro bono representation of low-income clients who otherwise could not afford lawyers for their employment-related claims, and am a member of the Firm’s Appellate and Government Representation Practice Groups. Prior to joining O&G, I clerked in the Southern District of New York for the Honorable Sarah Netburn. I received my B.A., cum laude, from Macalester College in 2005 and my J.D., cum laude, from New York University School of Law in 2012. The recognitions I have received include when I was named a 2017 Trial Lawyer of the Year by Public Justice for my work on *Gonzalez v. Pritzker*, No. 10 Civ. 3105 (S.D.N.Y.).

5. I have successfully prosecuted many class actions involving criminal history, including *Long v. Southeastern Pennsylvania Transportation Authority*, No. 16 Civ. 1991 (E.D. Pa.) (successfully resolving Fair Credit Reporting Act (“FCRA”) and Pennsylvania Criminal History Records Information Act (“CHRIA”) class claims after successful appeal to the Court of

Appeals for the Third Circuit and discovery); *Gonzalez v. Pritzker*, No. 10 Civ. 3105 (S.D.N.Y.) (successfully resolving groundbreaking Title VII criminal history discrimination claims after class certification and years of litigation); *Lee v. Hertz Corp.*, No. 18 Civ. 7481 (N.D. Cal.) (successfully resolving Title VII criminal history discrimination claims, including through the defendant's bankruptcy); *Reed v. Balfour Beatty Rail, Inc.*, No. 21 Civ. 1846 (C.D. Cal.) (successfully resolving criminal history discrimination claims under the FCRA and California Investigative Consumer Reporting Agency Act ("ICRAA")); *Millien v. Madison Square Garden Co.*, No. 17 Civ. 4000 (S.D.N.Y.) (FCRA and NYCHRL criminal history discrimination claims); *Kelly v. Brooklyn Events Ctr., LLC*, No. 17 Civ. 4600 (E.D.N.Y.) (FCRA and NYCHRL criminal history discrimination claims); *Keels v. Geo Group, Inc.*, No. 15 Civ. 6261 (E.D.N.Y.) (FCRA claims under Section 1681b(b)(3)); *Pickett v. SIMOS Insourcing Solutions, Corp.*, No. 17 Civ. 1013 (N.D. Ill.) (FCRA claims under Section 1681b(b)(2) and (b)(3)); *Soler v. Fresh Direct LLC*, No. 20 Civ. 3431 (S.D.N.Y.) (NYHRL and NYCHRL criminal history discrimination claims); *NAACP New York State Conference Metropolitan Council of Branches v. Philips Electronics North America Corporation*, Index No. 156382/2015 (Sup. Ct. N.Y. Cty.) (NYCHRL criminal history discrimination claims resolved through defendant class action); and *Times, et al. v. Target Corp.*, No 18 Civ. 2993 (S.D.N.Y.) (Title VII disparate impact action on behalf of African-American and Latino applicants). I also have significant appellate experience in criminal history matters including, most recently, arguing and prevailing on appeals before the Second Circuit Court of Appeals in *Mandala v. NTT Data, Inc.* (2d Cir. 2023) 88 F.4th 353 (Title VII disparate impact criminal history discrimination case), and the California Court of Appeal in *Kemp v. Superior Court*, 86 Cal.App.5th 981 (2022).

Exhibits

6. Attached hereto as **Exhibit A** is a true and correct copy of Plaintiff-Intervenor Kenni Miller's Proposed Class Action Complaint in Intervention.

7. Attached hereto as **Exhibit B** is a true and correct copy of the EEOC Notice sent to Plaintiff-Intervenor Kenni Miller on or around May 22, 2025.

8. Attached hereto as **Exhibit C** is a true and correct copy of the United States District Court for the Middle District of Alabama's Order Granting Intervention in *EEOC v. Harmony Hospitality, LLC*, Case No. 1:24-cv-357-CWB, dated March 21, 2025, after the EEOC's withdrawal from the litigation.

9. Attached hereto as **Exhibit D** is a true and correct copy of the United States District Court for the Northern District of California's Order Granting Intervention in *EEOC v. Lush Handmade Cosmetics, LLC*, Case No. 24-cv-06859-PCP, dated April 11, 2025, after the EEOC's stipulation to dismiss the case.

Dated: June 5, 2025

Respectfully submitted,

/s/ Christopher M. McNerney

Christopher M. McNerney