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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 MITCH DAVENPORT, as an individual and on
11 behalf of all others similarly situated,

12 Plaintiff,

13 vs.

14 THE WENDY'S COMPANY, a foreign
15 corporation, WENDY'S RESTAURANTS LLC,
16 a foreign limited liability company, WENDY'S
17 INTERNATIONAL, INC. (dba THE
18 WENDY'S RESTAURANT SYSTEMS IN
19 THE UNITED STATES), A FOREIGN
20 CORPORATION, and DOES 1 through 20,
inclusive,

Defendants.

Case No. 2:14-CV-00931-JAM-DAD

**ORDER DENYING PLAINTIFF MITCH
DAVENPORT'S MOTION TO CERTIFY
CLASS [DOCKET 45], AND MOTION TO
STRIKE DECLARATIONS OBTAINED BY
DEFENDANT FROM PUTATIVE CLASS
MEMBERS [DOCKET 74]**

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[PROPOSED] ORDER DENYING PLAINTIFF'S MOTION TO CERTIFY CLASS AND
PLAINTIFF'S MOTION TO STRIKE DECLARATIONS OBTAINED BY DEFENDANT

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1. Plaintiff's Motion to Certify Class [Docket 45] is hereby DENIED for the reasons stated on the record at the October 21, 2015 hearing (the transcript of which is expected to be available on or about November 23, 2015), including that Plaintiff failed to establish predominance and superiority as required under Fed. Rule. Civ. Proc. 23;
2. Plaintiff's Motion to Strike Declarations Obtained by Defendant from Putative Class Members [Docket 74] is hereby DENIED for the reasons stated on the record at the October 21, 2015 hearing (the transcript of which is expected to be available on or about November 23, 2015).

DATED: 11/9/2015

Honorable John A. Mendez,
United States District Judge