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Attorney for Petitioner

Oto Analytics, LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

OTO ANALYTICS, LLC,

Petitioner,

v.

BENWORTH CAPITAL PARTNERS LLC,

Respondent.

Case No. 3:24-cv-03975-AMO

**DECLARATION OF ALEXANDER L.
CHENEY IN SUPPORT OF
PETITIONER'S OPPOSITION TO
RESPONDENT'S ADMINISTRATIVE
MOTION FOR ENLARGMENT OF PAGE
LIMITS APPLICABLE TO
RESPONDENT'S CROSS-MOTION TO
VACATE, AND FOR EXTENSION OF
TIME TO RESPOND TO PETITIONER'S
MOTION TO CONFIRM**

Hon. Araceli Martínez-Olguín

1 I, Alexander L. Cheney, pursuant to 28 U.S.C. § 1746, declare as follows:

2 1. I am a member in good standing of the bars of California and New York. I am
3 admitted to practice in the United States District Court for the Northern District of California. I
4 am a partner at Willkie Farr & Gallagher LLP, counsel for Petitioner Oto Analytics, LLC (f/k/a
5 Oto Analytics, Inc. d/b/a Womply) (“Womply”).

6 2. I respectfully submit this declaration to provide this Court with the basis for
7 Womply’s opposition to Respondent’s Administrative Motion for Enlargement of Page Limits
8 Applicable to Respondent’s Cross-Motion to Vacate, and for Extension of Time to Respond to
9 Petitioner’s Motion to Confirm, as required by Local Civil Rule 6-3(b), and to provide additional
10 relevant facts and documents. This declaration is based on my personal knowledge or
11 information provided to me.

12 3. On August 12, 2024, Womply’s counsel notified Benworth’s counsel by email that
13 its August 12, 2024 Notice of Petition and Petition to Vacate Final Arbitration Award (“Petition
14 to Vacate”), which spans 67-pages, in the related case *Benworth Capital Partners LLC v. Oto*
15 *Analytics, LLC*, 3:24-cv-4840-AMO (N.D. Cal.), exceeded the 25-page limit under Civil Local
16 Rule 7-2 by 42 pages. A true and correct copy of that email is attached hereto as **Exhibit 1**.

17 4. On Sunday, August 25, 2024—one day before Womply’s response to the Petition
18 to Vacate was due—Benworth’s counsel sent an email to Womply’s counsel asking to meet and
19 confer about the due date and proposed that Womply not file any response to the Petition to
20 Vacate and consent to Benworth filing a 60-page combined opposition to Womply’s Notice of
21 Motion and Motion to Confirm Arbitration Award and For Entry of Judgment (“Confirmation
22 Motion”) and a new cross-motion to vacate the Final Award.

23 5. On Monday, August 26, 2024, Womply’s counsel responded to Benworth’s
24 counsel’s August 25 email. A true and correct copy of the email string containing the August 25
25 and August 26 emails is attached hereto as **Exhibit 2**.

26 6. In its August 26 email, Womply’s counsel declined Benworth’s counsel’s proposal
27 for several reasons, including because Womply had nearly completed its opposition to the
28 Petition to Vacate, Womply was concerned that it would waive its rights if it failed to respond to

1 the Petition to Vacate by the August 26 deadline, and Womply disagreed that Benworth needed
2 60 pages to oppose Womply's Confirmation Motion given the limited scope of judicial review
3 permitted under the Federal Arbitration Act ("FAA").

4 7. In its August 26 email to Benworth's counsel, Womply's counsel offered to meet
5 and confer on the issues raised in Benworth's counsel's August 25 email the following day—
6 August 27—but Benworth never responded to that offer.

7 8. Womply opposes Benworth's request for 10-day extension of its deadline to
8 respond to Womply's Confirmation Motion for the following reasons:

- 9 a. Benworth's only basis for seeking more time is that its response to Womply's
10 Confirmation Motion is due on September 3, and it does not know whether it
11 remains subject to the 25-page limit in the Local Civil Rules or if his Court will
12 grant its unreasonable and belated request for an additional 35 pages;
- 13 b. Thus, Benworth has created the very uncertainty and time crunch that it now
14 relies on to argue for an extension;
- 15 c. Benworth's request for 60 pages to respond to Womply's Confirmation Motion
16 is unreasonable, because judicial review of the underlying arbitration award is
17 limited and deferential under the FAA;
- 18 d. Womply understands that Benworth intends to use those 60 pages to replace a
19 67-page Petition to Vacate Benworth filed in a related action;
- 20 e. The vast majority of Benworth's Petition to Vacate is devoted to criticizing the
21 arbitrator's legal conclusions and findings of fact, which are beyond the limited
22 scope of this Court's review under the FAA;
- 23 f. Womply has been litigating against Benworth for more than three years, and
24 that litigation has suffered from repeated delays;
- 25 g. Further delays increase the risk that Womply will be unable to collect its award;
26 and

1 h. While the hearing on Womply's Motion to Confirm is not until January 2025,
2 Womply respectfully submits that a hearing is unnecessary and that the Court
3 can and should resolve Womply's Motion to Confirm on the papers.
4

5 I declare under the penalty of perjury under the laws of the State of California and the United
6 States that the foregoing is true and correct.
7

8 Executed at San Francisco, California on this 29 day of August, 2024.
9

10 Dated: August 29, 2024

WILLKIE FARR & GALLAGHER LLP

11 By: /s/ Alexander L. Cheney

12 Alexander L. Cheney

13 *Attorney for Petitioner*
14 *Oto Analytics, LLC*
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