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Attorneys for Proposed Plaintiff Juan Partida

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JUAN PARTIDA, on behalf of himself
and all others similarly situated,

Plaintiffs,

v.

FLEETPRIDE, INC., an Alabama
corporation; and DOES 1 to 100,
inclusive,

Defendants.

) **CLASS ACTION**

) Case No.: 20STCV15187

) **DECLARATION OF KEVIN T. BARNES IN**
) **SUPPORT OF PLAINTIFFS' MOTION FOR**
) **FINAL APPROVAL OF CLASS ACTION**
) **SETTLEMENT**

) Date: January 5, 2022

) Time: 9:00 a.m.

) Department: 10C

) Honorable Jayne Lee

) Department 10C

) Action filed: April 20, 2020

) Trial Date: None Set

DECLARATION OF KEVIN T. BARNES

I, Kevin T. Barnes, declare:

1. I am an attorney duly licensed to practice law in the State of California and am the principal attorney at The Law Offices of Kevin T. Barnes and am co-counsel for Plaintiff Juan

1 Partida and the Class Members in this action. I have personal knowledge of the matters set forth
2 herein and would and could testify thereto if called as a witness herein.

3 2. I graduated from the University of Colorado at Boulder in 1985 with a degree in
4 Business Administration and Real Estate. I graduated from Loyola Law School of Los Angeles
5 in 1988. I am currently the managing partner in The Law Offices of Kevin T. Barnes in Los
6 Angeles. I am admitted to practice before the following Courts: United States Court of Appeal,
7 Ninth Circuit; United States District Court- Northern, Central, and Eastern Districts of
8 California; United States District Court- District of Colorado, United States District Court-
9 Fourth Circuit; all of California State Courts; and the United States Supreme Court.

10 3. In 1997, I was one of the first attorneys in the State of California to represent a
11 Plaintiff in a Class Action Wage and Hour case, specifically the case of Amezcuca, et. al. v. Trak
12 Auto Corporation, Los Angeles County Superior Court Case No. BC183900 coordinated with
13 Tett v. Trak Auto Corporation, Los Angeles County Superior Court Case No. BC186931. Since
14 that time, my firm has been hired by many plaintiffs and law firms to serve as Class Counsel in
15 such cases. Few, if any, attorneys in California are more experienced in Wage and Hour Class
16 Action cases than my firm.

17 4. I have been invited on numerous occasions to speak on Class Action and Wage-
18 and-Hour employment issues. I have spoken at seminars given by the Labor and Employment
19 Section of the Los Angeles County Bar Association, various labor lawyer associations, mediator
20 seminars and Nuts & Bolts seminars for new lawyers. I was selected as one of the Top 10
21 Plaintiff Labor and Employment Attorneys in 2008 by the Daily Journal, the Top 75 Labor and
22 Employment Attorneys in 2017 by the Daily Journal and the Top 75 Labor and Employment
23 Attorneys in 2018. I have been selected as a Southern California Super Lawyer from 2007-2022
24 in Employment and Labor. This recognition is a selection by my peers based upon ethics,
25 experience and reputation and represents the top 5% of our profession. I am also AV rated by
26 Martindale-Hubbell, the highest possible rating for a lawyer.

27 5. In 2008 I tried with Joseph Antonelli the case of Mutuc v. Huntington Memorial
28 Hospital, Case number BC288727. This is one of the few Wage and Hour Class Action cases

1 tried in the state of California. Judge William A. MacLaughlin Issued a Statement of Decision
2 awarding Plaintiffs' \$32.8 million which led to a \$60 million lump sum settlement. Also in 2008,
3 I tried another Wage and Hour Class Action entitled Solis v. Worldwide Network, Inc., et al.,
4 Orange County Superior Court Case no. 03CC00069, before Hon. Ronald L. Bauer, which
5 resulted in judgment in favor of Defendant Worldwide Network, Inc. I also tried a third Wage
6 and Hour case in San Diego that is currently on appeal.

7 6. My firm has also been involved in numerous favorable appellate court decisions
8 which have been very important in Wage and Hour Class Action Law. These appellate decisions
9 include the following cases:

- 10 a. Huntington Memorial Hospital v. Superior Court (2005) 131 Cal.App.4th 893
11 (a landmark decision regarding the manner in which the regular rate must be
12 calculated and what is considered a "subterfuge" to avoid the correct payment
13 of the regular rate and overtime rate);
- 14 b. Tien v. Sup. Ct. (Tenet Healthcare) (2006) 139 Cal.App.4th 528 (protecting
15 the interest of putative Class Members in a Wage and Hour case who want
16 their identity protected);
- 17 c. Jaimez v. Daiohs USA, Inc. (2010) 181 Cal.App.4th 1286 (the criteria required
18 to certify pay stub claims, waiting time penalty claims, and meal and break
19 claims among other matters);
- 20 d. Williams v. Superior Court (Allstate) (2013) 221 Cal.App.4th 1353 (confirms
21 several important legal theories which support certification regarding common
22 questions);
- 23 e. Cochran v. Schwan's Home Service, Inc. (2014) 228 Cal.App.4th 1137 (one of
24 the first California cases to consider the California Supreme Court decision in
25 Duran v. U.S. National Bank Association (2014) 59 Cal.4th 1, holding that
26 Plaintiffs can use statistical sampling evidence to establish either liability or
27 damages in a Wage and Hour Class Action case. The Schwan's opinion is also
28 a seminal case regarding an employer's obligation to reimburse employees'

business expenses under California Labor Code §2802);

- f. Laffitte v. Robert Half International Inc., (2014) 231 Cal.App.4th 860 (Review granted and Opinion *superseded* by Laffitte v. Robert Half Intern., (2015) 342 P.3d 1232) (use of a common fund recovery for attorneys' fees in Class Action cases). On May 27, 2016, I argued this case to the California Supreme Court;
- g. Vaquero v. Ashley Furniture Industries Inc., 824 F.3d 1150, 2016 WL 3190862 (9th Cir. June 8, 2016) (limits the impact of Wal-Mart v. Dukes, (2011) 564 U.S. 338 with respect to the issue of commonality, limits the impact of Comcast v. Behrend, (2013) 133 S. Ct. 1426 with respect to predominance and underscores the 9th Circuit rule that the need for individualized finding with respect to damages does not defeat Class Certification); and
- h. Vaquero v. Ashley Furniture Industries Inc., (2017) 9 Cal.App.5th 98 (expands the impact of Bluford v. Safeway Stores, Inc., (2013) 216 Cal.App.4th 864 to commissioned employees for the first time; they must be separately compensated for rest breaks).

7. Declarant is a very experienced Class Action Counsel, including specializing in the area of Wage and Hour issues. Some of the Class Action and Wage and Hour Litigation on which The Law Offices of Kevin T. Barnes has served as Lead and/or Class Counsel are as follows: Cruz v. Suntory Water Group, Inc., Case No. BC243596; Joel v. Athlete's Foot Group, Inc., Case No. BC 234231; Cardilino v. Perrier, Case No. BC 210181 and Holt v. Great Springs Water, OC Superior Court Case No. 810642; Hines v. CSK Auto; Tett v. CSK Auto and Noel v. CSK Auto, Case No. San Diego Superior Court, Case No. 720346; Soto et. al. v. Park Uniform Rental Service, et. al., Case No. BC215318; Amezcuca, et. al. v. Trak Auto Corporation, Case No. BC 183900 coordinated with Tett v. Trak Auto Corporation, Case No. BC 186931 matter ("Trak Auto"); Maldonado v. Footstar Center, Inc., Case No. 00CC06359; Calvo, et. al. v. McKesson HBOC, Inc., et. al., Case No. BC 228366 coordinated with Ware, et. al. v. McKesson Water

1 Products Company, Case No. BC 231420; Franco v. Vans Inc., Case No. 01CC03995; Cruz v.
2 Suntory Water Group, Inc., Case No. BC243596; Toney v. McDonald's Restaurant, et al., Case
3 No. BC234243; Tong v. 21st Century Insurance Company, Case No. 01CC10913 coordinated
4 with Echegaray v. 21st Century Insurance Co., Case No. BC255189 and Requirme v. 21st
5 Century Insurance Co., Case No. BC253952 ("21st Century"); Wood v. Hollywood
6 Entertainment, Case No. CV779511 coordinated with Dannelley v. Hollywood Entertainment,
7 Inc., Case No. OC 816155 and Peterson v. Hollywood Entertainment Corp., Case No.
8 CV788126; and Lynn Lazdowski, et al. v. Bowne of Los Angeles, Inc., Case No. 02CC16722.

9 8. Plaintiffs' Counsel, along with the assistance of the Class Representatives,
10 conducted an extensive investigation prior to the initial Plaintiff Masinas' Complaint being filed
11 on December 18, 2018 and thereafter, throughout the litigation. The parties engaged in formal
12 discovery including propounding and responding to, written interrogatories, and the production
13 of documents. The parties engaged in good faith, arms-length negotiations with Defendant
14 concerning possible resolution of the claims asserted in the litigation. The parties attended a full-
15 day of mediation on November 19, 2020 before David A. Rotman, Esq. Ultimately, after
16 continued settlement negotiations and with the assistance of the mediator's evaluations, the
17 Parties reached a settlement. To prepare for the mediation, Defendant provided extensive
18 documentation and data related to the claims asserted in this case as well as a number of work
19 weeks, class size and other necessary information for Plaintiffs to create a damage exposure
20 analysis for the mediations. Plaintiffs hired an expert economist to prepare damage calculations
21 and an exposure analysis for the mediations.

22 9. The settlement amount is, of course, a compromise figure. Plaintiffs took into
23 account the risks that they would not prevail at trial, risks related to proof of Plaintiffs' claims
24 and the strengths and weaknesses of Defendant's other defenses. Plaintiffs also took into account
25 the possibility that if a settlement were reached after additional years of litigation, the great
26 expenses and attorneys' fees of litigation would even further reduce the amount of funds
27 available to the Class Members for settlement.

28 10. The settlement that has been reached is the product of very strategic and efficient

1 effort, and a great deal of expense by the Parties and their Counsel.

2 11. I believe that a collective attorney fee of 35% of the total value of this case for all
3 Plaintiffs' counsel is fair and reasonable. Below is a list of cases approving attorneys' fees based
4 on a common fund in the State of California:

5 a. In Abzug v. Kerkorian, CA-000981 (Los Angeles Superior Court, Nov.
6 1990), the Honorable R. William Schoettler awarded a 45% fee on a
7 \$35,000,000.00 securities Class Action Settlement.

8 b. In Haitz v. Meyer, et al., No. 512968-3 (Alameda County Superior Court,
9 August 20, 1990), the court awarded a 40% fee of a \$2,670,000.00 settlement.

10 c. In Steiner v. Whittaker Corp., CA000817 (Los Angeles County Superior
11 Court, March 23, 1989), Judge Eli Chernow awarded a fee of 35% of a
12 \$17,750,000.00 recovery in a securities Class Action.

13 d. In Hess v. Dayton Hudson, et al., No. 777130 (Orange County Superior
14 Court, 2000), Judge William F. McDonald awarded a 33-1/3% fee of a
15 \$7,000,000.00 settlement.

16 e. In Bushnell v. Cremer, Inc., No. 657778 (Orange County Superior Court),
17 Judge Donald E. Smallwood awarded a 38% fee of a \$16,100,000 pre-trial
18 settlement.

19 12. I am very familiar with the contingent fee market throughout California
20 particularly as it pertains to complex Employment, Wage and Hour, and Class action Litigation.
21 Contingency fee agreements with Plaintiffs, both as an individual and as a representative in Class
22 Action suits, commonly provide that Counsel will receive a fee that is between 1/3-40% of any
23 recovery that is obtained, and, in addition, that Counsel be reimbursed for the costs they incurred
24 out of a recovery amount. These are typical and standard percentages in employment related
25 contingency agreements in the Los Angeles, Orange County, and throughout California. Indeed,
26 in my opinion, the Plaintiffs in this complex Wage and Hour case could not have retained
27 competent Counsel in California, particularly with the considerable skill and expertise of Class
28 Counsel for any amount significantly less than the contingency fee percentage provided in these

1 retainer agreements. As the Court is well aware, Plaintiffs' Counsel has never been paid any
2 money for attorneys' fee on this case and has advanced all costs.

3 13. Class Counsel are experienced and qualified to evaluate the Class claims and
4 viability of the defenses. The recovery for each Class Member in the present is fair and
5 reasonable based on all risk factors.

6 14. **The Law Offices of Kevin T. Barnes has total costs of \$3,196.95** (*see*
7 Itemization of Costs of the Law Office of Kevin T. Barnes as **Exhibit 1**). These costs were a
8 result of investigation, research, litigation and other related matters to the prosecution of this
9 case.

10 15. **My law office has a total of 128.3 attorney hours, including the additional 10**
11 **hours that I expect to spend to prepare for and attend the final approval hearing, contact**
12 **with Class Members, contact with the Claims Administrator, ensure that proper claims**
13 **administration and distribution occurs to all Class Members, and prepare and file the post**
14 **distribution declarations.** My standard hourly rate for Class Action Litigation is \$795 per hour.
15 I am the Managing partner in my law firm and have extensive experience handling Class Action
16 Litigation as set forth in this declaration. My law partner, Gregg Lander, regularly bills for Class
17 Action Litigation at \$750 per hour. Gregg Lander has twenty years' experience in wage and hour
18 class action litigation and is well versed in all aspects of this litigation. Mr. Lander graduated
19 from Texas A&M University in 1989 with a Bachelor of Business Administration degree in
20 Marketing. He graduated from California Western School of Law in San Diego and was admitted
21 to the California Bar in 1997. He joined The Law Offices of Kevin T. Barnes in 2001 and
22 became a partner in 2004. Mr. Lander was recognized as a Southern California Super Lawyer in
23 2004 and the years 2019, 2020, 2021 and 2022, and was a speaker at the Bridgeport December
24 2008 Wage & Hour Litigation Conference. In 2015, Mr. Lander received an AV Preeminent
25 Rating as part of Martindale-Hubbell's Peer Review Rating process. He is admitted to practice
26 before the following Courts: all California State Courts, all Texas State Courts, United States
27 District Court for the following California Districts: Northern, Central, Eastern and Southern,
28 United States Court of Appeal for the Ninth Circuit, United States Court of Appeals for

1 Veteran's Claims, United States Court of Appeals for the Armed Forces, United States Court of
2 Appeals for the Federal Circuit, United States Tax Court, United States Court of International
3 Trade, United States Court of Federal Claims and United States Supreme Court. **My firms'**
4 **lodestar will be approximately \$100,617** (see Itemization of Hours of the Law Office of Kevin
5 T. Barnes as **Exhibit 2**).

6 16. Furthermore, a key point to consider when awarding Plaintiffs' counsel fees is
7 that Defendant's firm is able to bill its client on a monthly basis. A survey conducted by The
8 National Law Journal for the year 2010 and 2011 provides a sample of a billing rate for California
9 lawyers. The requested hourly rates are consistent with the prevailing rates for attorneys of similar
10 experience, skill and reputation in this district. A 2010 survey by the National Law Journal (NLJ)
11 shows rates of firms in Los Angeles from \$495-\$820 for partners and \$270-\$620 for associates; and in
12 Irvine from \$395-\$710 for partners and \$285-\$450 for associates. A 2011 survey by the NLJ shows
13 partner rates of \$275-\$860 in the Southern California area, with a range of \$205-\$635 for associates in
14 the same geographic region. Copies of the NLJ surveys are in Class Counsel's possession but are not
15 being filed due to their volume. (See also generally Catala v. Resurgent Capital Servs., L.P., 2010 U.S.
16 Dist. LEXIS 63501, at *19 n.3 (S.D. Cal. June 22, 2010) (relying on same to award fees).) These are
17 the types of firms that Plaintiffs' counsel regularly opposes in these Class Action cases. The only
18 difference is that these defense attorneys are paid on a monthly basis and do not have to advance any
19 costs on a case. To the contrary, Plaintiffs' counsel is only paid if they win, which in this case will
20 result in payment over four years after the case was originally filed.

21 17. Finally, Plaintiffs attach the Declaration of Richard M. Pearl in support of a
22 Plaintiff's Motion for Final Approval in the case of Rosa Cantu, et al. v. Pacific Bell Telephone
23 Company, Case No. BC 441237, dated January 4, 2011 (see Declaration of Richard M. Pearl
24 attached as **Exhibit 3**). Mr. Pearl specializes in issues related to cost-award attorney's fees,
25 including the representation of parties in fee litigation and appeals, serving as an expert witness
26 and serving as a mediator and arbitrator in disputes concerning attorney's fees and related issues.
27 Mr. Pearl is also the author of California Attorney's Fee Awards (3d ed Cal. CEB 2010), as well
28 as the author of the Second Edition, years 1994 through 2008. He has also authored numerous

1 other publications on attorney's fees, as set forth in his Declaration. (See paragraph numbers 4
2 and 5).

3 18. Mr. Pearl has reviewed the comparable hourly rates of attorney fees in California.
4 He confirms that courts have approved hourly rates of attorneys as follows:

- 5 • Rates up to \$875.00 in Savaglio, et al. v. Wal-Mart, Alameda County Superior
6 Court, Case No. C-835687-7 (before applying a 2.36 multiplier);
- 7 • Rates of up to \$750.00 in Kashmiri, et al. v. Regents of UC, San Francisco
8 County Superior Court (before applying a 3.7 multiplier);
- 9 • Rates of up to \$750.00 in Environmental Law Foundation v. Laidlaw Transit,
10 Inc., San Francisco Superior Court, Case No. CGC-06-451832 (before
11 applying a 1.25 multiplier). (See pages 4 and 5).

12 19. Additionally, Mr. Pearl has reviewed numerous declarations, depositions and
13 surveys of legal rates on a non-contingent basis for the year 2009 and found hourly rates of up to
14 \$775.00, \$795.00, \$800.00, \$855.00, \$950.00, etc. (See pages 6-12). These are non-contingent
15 rates where payment in full is expected promptly upon billing (See page 13). These rates
16 indicate that the requested hourly rate, as well as the multiplier, is reasonable in the case-at-hand
17 in view of Plaintiffs' counsel's experience, the result achieved in this case and the contingent
18 nature of the fees in Class Action cases.

19 20. I believe that the requested Class Representative Service Payments for Plaintiff
20 Anthony Masinas of \$10,000 and for Plaintiff Juan Partida of \$10,000 are fair and reasonable.
21 This is based on all facts set forth in the Motion for Final Approval and the Declarations of the
22 Class Representatives filed with the Preliminary Approval Motion and refiled again with this
23 motion.

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

26 Executed December 6, 2021, at Los Angeles, California.

27
28 By: 
- 9 - KEVIN T. BARNES, Declarant

**DECLARATION OF KEVIN T. BARNES IN SUPPORT OF FINAL APPROVAL OF
CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

EXHIBIT 1

Disbursement Detail

Printed: 12/02/2021

<u>Firm</u>	Firm not entered
<u>CaseID</u>	20.001
<u>Style</u>	Partida, Juan vs. FLEETPRIDE, INC.

COURT COSTS

<u>Payee/Description</u>	<u>Description</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Amount</u>
CalRulings	L.A. Tentative Rulings	20200708	07/08/2020	25.00
L.A. Court Connect	Remote Video Appearance	20200901	09/01/2020	23.00
				48.00

FILING FEES

<u>Payee/Description</u>	<u>Description</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Amount</u>
LWDA	Filing	20200213	02/13/2020	75.00
Janney & Janney	Filing	3532778	04/20/2020	1,500.00
Janney & Janney	Filing	3646980-01	06/26/2020	35.00
Janney & Janney	Filing	3786287-01	08/21/2020	50.00
Janney & Janney	Filing	3786287-02	08/21/2020	30.00
Case Anywhere	Filing	20201119	11/19/2020	120.00
Case Anywhere	Filing	206203	12/03/2020	109.20
Janney & Janney	Filing	4213445-01	01/27/2021	35.00
Janney & Janney	Filing	4213445-02	01/27/2021	20.00
Case Anywhere	Filing	214326	03/04/2021	126.00
Case Anywhere	Filing	7811	06/03/2021	120.00
Case Anywhere	Filing	7909	09/07/2021	120.00
				2,340.20

SERVICE OF PROCESS

<u>Payee/Description</u>	<u>Description</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Amount</u>
Allstar Atty Service	Serve Summons and Complaint	70730	04/24/2020	200.00
				200.00

EXPERT FEES

<u>Payee/Description</u>	<u>Description</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Amount</u>
Berger Consulting Group	Expert Fee	2597	09/01/2019	437.50
				437.50

COSTS

<u>Payee/Description</u>	<u>Description</u>	<u>Check No.</u>	<u>Check Date</u>	<u>Amount</u>
Photocopy/Scan	Photocopy/Scan	20200217	02/17/2020	80.00
Postage	Postage	20200821	08/21/2020	11.25
Photocopy/Scan	Photocopy/Scan	20210104	01/04/2021	80.00
				171.25

TOTAL:				3,196.95
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EXHIBIT 2

FLEETPRIDE, INC.
KTb TIMESHEET

<u>Date</u> <u>KB</u>	<u>Subject Matter</u>	<u>Time</u>	<u>Atty</u>
	review docs, meeting with class rep, emails re		
1/12/20	retainer	3.9	KB
1/13/20	emails with RK, review additional P docs	2.1	KB
	review all docs/notes, prepare Class Action Data		
2/2/20	sheet	4.3	KB
2/13/20	reivse LWDA letter, emails	1.3	KB
3/19/20	review/revise complaint, emails	2.7	KB
4/23/20	emails re filing	0.2	KB
5/27/20	review D's Answer to complaint, emails	1.3	KB
8/28/20	review Notice of Related case, emails	0.4	KB
	email/tel with Edwin re his prior		
9/1/20	filing/mediation/claims	0.6	KB
9/2/20	memo re my call with Edwin and mediation	0.2	KB
	review fee split agreement, tel with GL, tel wth RK,		
9/2/20	emails	1.1	KB
	prep/attend ISC, emails with D atty, memo re		
9/4/20	dates/issues	2.4	KB
11/8/20	prepare Mediation brief, review docs for exhibits	6.7	KB
	prepare Mediation brief, emails to co-counsel at		
11/9/20	Edwins' firm	3.9	KB
	review D's mediation data/docs, memo to co-		
11/10/20	counsel re arguments	3.1	KB
11/16/20	emails re mediation brief; prep	4.4	KB
	review mediation brief, emails with mediator, prep		
11/17/20	for mediation	7.2	KB
11/18/20	emails with mediator, prep for medation	3.2	KB
	prep/attend Zoom mediation, emails, tel with class		
11/19/20	rep	10.1	KB
11/27/20	review co-counsel's redlines to MOU, emails	0.5	KB
11/30/20	emails with D atty re MOU/issues	0.5	KB
	review D's reldines to MOU, emails re which		
12/9/20	court/case	1.1	KB
1/4/21	emails re JPA	0.2	KB
1/5/21	emails re signed fee split	0.3	KB
1/7/21	emails	0.2	KB
1/25/21	prepare Notice of Settlement ,emails	1.1	KB
1/27/21	emails re fee agrmeent and settlement docs,	1.2	KB
2/1/21	review/redline settlement docs, emails	2.1	KB
2/2/21	emails re settlement docs/costs	0.3	KB
3/9/21	emails re PA docs	0.3	KB
3/10/21	emails re settlement docs	0.2	KB
	emails re revised settllement docs, review D's		
3/24/21	redlines, emails	2.2	KB
3/25/21	review D's redlines to Order/Class Notice, emails	1.2	KB
3/28/21	email to co-counsel re redlines	0.3	KB
3/29/21	emails re costs/revised docs/PA hearing date	0.7	KB
4/5/21	emails re docs	0.2	KB
4/7/21	emails re redlines/costs	0.4	KB
4/20/21	review D's redlines to settlement docs, emails	0.5	KB
4/21/21	email to co-counsel re changes	0.1	KB

FLEETPRIDE, INC.**KTb TIMESHEET**

4/27/21	emails re redlines	0.2	KB
4/30/21	emails re redlines	0.2	KB
5/10/21	review co-counsel redlines, emails	0.7	KB
5/13/21	emails re revised docs	0.3	KB
6/15/21	emails re PA motion	0.2	KB

	redline PA motion, prepare KB Decl,		
6/21/21	teleconference w/ class rep, prepare class rep decl	5.1	KB
7/6/21	emails re PA motion	0.2	KB
7/17/21	emails re PA motion	0.3	KB
7/27/21	emails re PA motion	0.2	KB
8/23/21	emails	0.3	KB
9/20/21	emails	0.2	KB
11/26/21	emails re: costs/lodestar	0.3	KB
12/1/21	emails re FA motion	0.3	KB
12/2/21	teleconference w/ cocounsel re FA motion, emails	0.7	KB
12/2/21	review costs, emails	0.4	KB
12/6/21	prepare KB FA decl, review lodestar, emails	5.3	KB
	KB Total =	87.6	\$69,642.00

GL

1/12/20	Email from KB re new case	0.2	GL
1/13/20	Email from RK re P's docs	0.1	GL
2/13/20	Open file, draft LWDA ltr, EMs t/f KB	2.7	GL
3/19/20	Draft Complaint + email f/t KB	2.2	GL
	Emails t/f KB/CD re revised complaint + further		
3/19/20	review/revise	0.4	GL
4/9/20	Email f/t KB re new motion	0.3	GL
4/10/20	Email VR re M4Lead	0.2	GL
4/17/20	Email f/t CD re complaint + re-review	0.2	GL
4/20/20	Tcw CD re complaint	0.1	GL
4/23/20	Email from CD re filing	0.1	GL
4/27/20	Email f/t CD re service	0.1	GL
5/7/20	Draft/serve Disc1 (SROG1+RFPD1)	0.4	GL
5/27/20	Email f/t OPC re Answer + review	0.3	GL
5/27/20	Emails from OPC/KB re mtg	0.1	GL
6/4/20	Email from CD re Answer	0.1	GL
6/19/20	Email f/t Crt/CD re J. Freeman hearings	0.1	GL
6/19/20	Emails t/f OPC/KB re Disc1 + research	0.5	GL
6/23/20	Email OPC re # CMs/P's docs	0.1	GL
6/25/20	Research service of discovery before appearance	1.3	GL
6/25/20	Emails f/t OPC/VR re Disc1/ISC Order	0.6	GL
6/26/20	Email f/t CD re ISC Order/Statement + review	0.2	GL
8/11/20	Email from CD re Joint Report	0.1	GL
8/17/20	Email from OPC re Joint Report	0.1	GL
8/18/20	Email OPC/CD re Joint Report + revise	0.4	GL
8/19/20	Email f/t OPC re ISC Statement	0.2	GL
8/20/20	Emails f/t OPC re Joint Statement + revise	0.3	GL
8/21/20	Email to OPC re Statement	0.1	GL
8/24/20	Email from OPC re Ntx of Related + review	0.3	GL
8/27/20	Emails f/t CD/KB re app	0.2	GL
8/28/20	Emails f/t CD/KB/RK re Masinas case	0.4	GL
9/1/20	Email from KB re Masinas case	0.1	GL

FLEETPRIDE, INC.**KTB TIMESHEET**

9/1/20	Emails from KB/RK re EA call	0.1	GL
9/2/20	Emails f/t KB/RK re fee split + review agt	0.2	GL
9/2/20	Emails from/to KB/RK re EA call/Med/CMC	0.2	GL
9/3/20	Email from KB re missed punch form	0.1	GL
9/4/20	Emails f/t KB/OPC re CMC / Order	0.3	GL
9/8/20	Email from OPC re related case	0.1	GL
9/9/20	Email from Crt re caseanywhere	0.1	GL
9/17/20	Email from OPC re mediation	0.1	GL
9/18/20	Email from CD re Ntx of Ruling re related	0.1	GL
9/18/20	Email from KB re mediation	0.1	GL
9/18/20	Email from KB re mediation brief	0.1	GL
11/4/20	Emails f/t JL/KB re mediation data	0.2	GL
11/5/20	Emails from KB/OPC re mediation data	0.1	GL
11/6/20	Email from KB re mediation data	0.1	GL
11/9/20	Emails from CC/KB re brief/mediation	0.1	GL
11/9/20	Emails from KB/JL re mediation brief + review	0.4	GL
11/10/20	Email from/to KB re paycard facts	0.1	GL
11/10/20	Emails f/t OPC/KB re med docs	0.2	GL
11/15/20	Email from KB re mediation brief	0.1	GL
11/17/20	Emails from KB/JL re mediation brief	0.1	GL
11/18/20	Email from OPC re pay card images	0.1	GL
11/19/20	Emails from OPC/KB re mediation docs	0.2	GL
11/19/20	Emails from/to KB/RK re mediation/settlement	0.2	GL
11/20/20	Email from OPC re MOU + review	0.2	GL
11/23/20	Emails from KB/JL re MOU	0.1	GL
11/25/20	Emails from OPC/KB/CC re MOU	0.1	GL
11/27/20	Email from CC re MOU	0.1	GL
11/30/20	Emails f/ KB/JL re MOU revisions + review	0.2	GL
12/8/20	Email from OPC re MOU + review	0.2	GL
	Emails from KB/CC re MOU/settlement + review		
12/9/20	changes	0.2	GL
12/10/20	Emails from KB/JL re mediation brief + review	0.3	GL
12/12/20	Email from OPC re MOU + review	0.1	GL
12/13/20	Email from CC re MOU	0.1	GL
12/14/20	Emails from KB/JL re MOU	0.1	GL
12/15/20	Email from KB re settlement agt	0.1	GL
12/23/20	Emails from CC/OPC re MOU	0.1	GL
12/29/20	Emails from CC/KB re MOU	0.1	GL
12/30/20	Email from CD re settlement agreement	0.1	GL
1/4/21	Email from KB re settlement agt	0.1	GL
1/5/21	Email from CD re settlement agt signatures	0.1	GL
1/7/21	Emails from OPC/CD re signed MOU	0.1	GL
1/14/21	Email from OPC re ntx of settlement	0.1	GL
	Emails from KB/CC/CD re Ntx of Settlement +		
1/15/21	review	0.2	GL
1/26/21	Email from OPC re Ntx of settlement	0.1	GL
1/26/21	Emails from KB/OPC re ntx of settlement	0.2	GL
1/27/21	Email from Crt re Ntx of Settlement	0.1	GL
1/27/21	Emails from KB/CC re settlement agt	0.1	GL
1/28/21	Email from OPC re Ntx of settlement	0.1	GL
2/1/21	Emails from CC/KB/JL re settlement docs + review	0.3	GL

FLEETPRIDE, INC.**KTB TIMESHEET**

2/2/21	Email from KB re settlement agt redlines	0.1	GL
2/3/21	Emails from OPC/CC/KB re settlement agt	0.1	GL
2/9/21	Emails from CC/OPC re admin quotes	0.1	GL
2/10/21	Emails from KB/CC re PAH	0.1	GL
2/12/21	Email from CC re admin	0.1	GL
3/5/21	Email from KB re settlement docs	0.1	GL
3/9/21	Email from KB re settlement docs	0.1	GL
3/9/21	Emails from KB/CC re settlement docs	0.1	GL
3/10/21	Emails f/t CC/KB re settlement drafts	0.1	GL
3/24/21	Email from OPC re class notice	0.1	GL
3/24/21	Emails from KB/CC/JL re settlement docs + review	0.1	GL
3/25/21	Email to CC re PAH	0.1	GL
3/25/21	Emails to/f OPC/CC re class notice + review	0.3	GL
3/29/21	Email from KB re KTB costs	0.1	GL
3/29/21	Emails from CC/KB re settlement agt/notice	0.1	GL
4/5/21	Email from KB re settlement docs	0.1	GL
4/7/21	Emails from KB/JL re settlement agt	0.1	GL
4/8/21	Email from CC re settlement docs	0.1	GL
4/9/21	Emails t JL/KB re settlement docs + review	0.3	GL
4/19/21	Email from OPC re settlement docs + review	0.3	GL
4/20/21	Emails from KB/JL re settlement agt revisions	0.1	GL
4/27/21	Email from KB re settlement docs	0.1	GL
4/27/21	Emails f/t RK re P call + tcw P re status	0.2	GL
4/30/21	Email from KB re settlement agt	0.1	GL
5/7/21	Email f/t CC re settlement docs	0.1	GL
5/10/21	Email from KB re cy pres	0.1	GL
5/13/21	Email from OPC re settlement agt	0.1	GL
5/13/21	Emails from KB/CC/OPC re settlement agt	0.2	GL
5/17/21	Email from CC re FAC	0.1	GL
5/17/21	Email from OPC re settlement agt	0.1	GL
5/17/21	Emails f/t CC/KB re FAC, + revise	0.3	GL
5/18/21	Email from CC re MOU/Settlement agt	0.1	GL
5/18/21	Email from KB re settlement agt	0.1	GL
5/20/21	Emails from CC/KB re settlement agt	0.1	GL
5/21/21	Emails f/t KB re P info	0.1	GL
5/21/21	Emails from CC/OPC re settlement agt	0.1	GL
5/26/21	Email from KB re settlement docs	0.1	GL
5/27/21	Email f/t OPC re executed settlement agt	0.1	GL
5/28/21	Emails from CC re PAD	0.1	GL
6/15/21	Email from KB re status	0.1	GL
6/21/21	Email f/t CC/JL re PAD + review	0.3	GL
6/21/21	Emails from JL/KB re MPA/KB decl	0.2	GL
6/22/21	Email from JL re RK decl	0.1	GL
6/23/21	Email from KB re declarations	0.1	GL
6/24/21	Emails from CC/KB/CD re decls + review	0.3	GL
6/25/21	Email from OPC re PAD + review	0.3	GL
6/28/21	Emails from CC re MPA	0.1	GL
7/6/21	Email from KB re MPA	0.1	GL
7/10/21	Emails from CC/KB re P's decl	0.1	GL
7/12/21	Email f/t JL re P's decl + revise	0.3	GL
7/12/21	Emails f/t CC/JL re decl	0.1	GL

FLEETPRIDE, INC.**KTB TIMESHEET**

7/13/21	Email from CC re PAD	0.1	GL
7/15/21	Email from KB re MPA docs	0.1	GL
7/17/21	Email from KB re PAD	0.1	GL
7/19/21	Emails from CD/KB re MPA	0.1	GL
8/2/21	Emails from CC/CD/KB re PA/TR	0.3	GL
8/3/21	Emails from CC/KB re PAH	0.1	GL
8/4/21	Email from/to CC re Foster + review changes	0.2	GL
8/7/21	Email from CC re FAH	0.1	GL
8/9/21	Emails from CC/OPC re FAH	0.1	GL
8/13/21	Email f/ P re FAH	0.1	GL
8/17/21	Email from CC re verifs	0.1	GL
8/18/21	Email from CC re FAH date	0.1	GL
8/23/21	Email from CC re PAD	0.1	GL
8/24/21	Email from TPA re admin	0.1	GL
9/2/21	Emails from OPC/TPA/KB re admin	0.2	GL
9/3/21	Emails from TPA/OPC/KB re FTP/timeline	0.1	GL
9/16/21	Emails from TPA/OPC re status	0.2	GL
9/17/21	Email from TPA re mailing	0.1	GL
9/20/21	Emails from CC/KB re Class Ntx, etc.	0.2	GL
9/21/21	Emails from KB/TPA re Ntx	0.1	GL
9/22/21	Email from TPA re Ntx	0.1	GL
9/23/21	Emails from CC/OPC re settlement admin	0.1	GL
10/1/21	Email from TPA re status	0.1	GL
10/8/21	Email from TPA re status	0.1	GL
10/15/21	Email from Crt re NonAppearance	0.1	GL
10/15/21	Email from TPA re status	0.1	GL
10/22/21	Email from TPA re status	0.1	GL
10/29/21	Email f/ TPA re status report	0.1	GL
11/5/21	Email from TPA re admin status	0.1	GL
11/26/21	Emails from CC re TPA decl/conf re FA	0.1	GL
11/28/21	Email from KB re conf	0.1	GL
11/28/21	Email from KB re costs/LS	0.1	GL
11/30/21	Emails from CC/KB re conf re settlement docs	0.1	GL
12/2/2021	Emails f/t SP/KB re costs/lodestar + calc	0.3	GL
GL Total =		30.7	\$23,025.00
KTB Total =		118.30	\$92,667.00

EXHIBIT 3

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11 Attorneys for Plaintiffs ROSA CANTU and
12 SANDRA CHU

13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES
15

16 ROSA CANTU AND SANDRA CHU,
17 individually and on behalf of others similarly
situated,

18 Plaintiffs,

19 vs.

20 PACIFIC BELL TELEPHONE COMPANY
d/b/a AT&T CALIFORNIA, and Does 1 through
21 100, inclusive,

22 Defendants.
23
24
25
26
27
28

Case No.: BC441237

CLASS ACTION [Code Civ. Proc. § 382]

REPRESENTATIVE ACTION
[Labor Code § 2698, *et seq.*]

**DECLARATION OF RICHARD M. PEARL
IN SUPPORT OF PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND AN AWARD
OF REASONABLE ATTORNEYS' FEES
AND COSTS**

Date: February 4, 2011
Time: 9:00 a.m.
Dept: 324
Judge: Emilie H. Elias

1 I, Richard M. Pearl, declare:

2 1. I make this Declaration of my own personal knowledge, and if called to testify, I could
3 and would testify competently to the matters stated herein.

4 **A. Background**

5 2. I am a member in good standing of the California State Bar. I am in private practice as
6 the principal of my own law firm, the Law Offices of Richard M. Pearl. I specialize in issues related to
7 court-awarded attorneys' fees, including the representation of parties in fee litigation and appeals,
8 serving as an expert witness, and serving as a mediator and arbitrator in disputes concerning attorneys'
9 fees and related issues. In this case, I have been asked by Plaintiffs' counsel to express my expert
10 opinion regarding their claim for reasonable attorneys' fees.

11 3. Briefly summarized, my background is as follows: I am a 1969 graduate of Boalt Hall
12 School of Law, University of California, Berkeley, California. After graduation, I spent fourteen years
13 in federally-funded legal services programs before going into private practice in 1982. From 1977 to
14 1982, I was Director of Litigation for California Rural Legal Assistance, Inc., a statewide legal services
15 program with more than fifty attorneys. Since April 1987, I have been a sole practitioner in the San
16 Francisco Bay Area. Martindale Hubbell rates my law firm "AV." I also have been selected as a
17 Northern California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, and 2010. A copy
18 of my Resume is attached hereto as Exhibit A.

19 4. Since 1982, my practice has been a general civil litigation and appellate practice, with an
20 emphasis on cases and appeals involving court-awarded attorneys' fees. I have lectured and written
21 extensively on court-awarded attorneys' fees. I have been a member of the California State Bar's
22 Attorneys Fees Task Force and have testified before the State Bar Board of Governors and the
23 California Legislature on attorneys' fee issues. I am the author of California Attorney Fee Awards, (3d
24 ed Cal. CEB 2010). I also was the author of California Attorney Fee Awards, 2d Ed. (Calif. Cont. Ed.
25 of Bar 1994), and its 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
26 and 2008 Supplements. This treatise has been cited by the California appellate courts on more than 35
27 occasions. I also authored the 1984, 1985, 1987, 1988, 1990, 1991, 1992, and 1993 Supplements to its
28 predecessor, CEB's California Attorney's Fees Award Practice. In addition, I authored a federal

1 manual on attorneys' fees entitled Attorneys' Fees: A Legal Services Practice Manual, published by the
2 Legal Services Corporation. I also co-authored the chapter on "Attorney Fees" in Volume 2 of CEB's
3 Wrongful Employment Termination Practice, 2d Ed. (1997).

4 5. More than 90% of my practice is devoted to issues involving court-awarded attorney's
5 fees. I have been counsel in over 140 attorneys' fee applications in state and federal courts, primarily
6 representing other attorneys. I also have briefed and argued more than 40 appeals, at least 25 of which
7 have involved attorneys' fees issues. In the past ten or so years, I have successfully handled four cases
8 in the California Supreme Court involving court-awarded attorneys' fees: (1) *Delaney v. Baker* (1999)
9 20 Cal. 4th 23, which held that heightened remedies, including attorneys' fees, are available in suits
10 against nursing homes under California's Elder Abuse Act; (2) *Ketchum v. Moses* (2001) 24 Cal. 4th
11 1122, which held, inter alia, that contingent risk multipliers remain available under California attorney
12 fee law, despite the United States Supreme Court's contrary ruling on federal law (note that in
13 *Ketchum*, I was primary appellate counsel in the Court of Appeal and "second chair" in the Supreme
14 Court); (3) *Flannery v. Prentice* (2001) 26 Cal. 4th 572, which held that in the absence of an agreement
15 to the contrary, statutory attorneys' fees belong to the attorney whose services they are based upon; and
16 (4) *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal. 4th 553, which I handled, along with trial counsel,
17 in both the Court of Appeal and Supreme Court. I also successfully represented the plaintiffs in a
18 previous attorneys' fee decision in the Supreme Court, *Maria P. v. Riles* (1987) 43 Cal. 3d 1281, and
19 represented amicus curiae, along with Richard Rothschild, in the Supreme Court's most recent fee
20 decision, *Vasquez v. State of California* (2009) 45 Cal. 4th 243. I also have handled several Ninth
21 Circuit attorneys' fees matters, including *Davis v. City & County of San Francisco* (9th Cir. 1992) 976
22 F.2d 1536, *Mangold v. CPUC* (9th Cir. 1995) 67 F.3d 1470, *Velez v. Wynne* (9th Cir. 2007) 2007 U.S.
23 App. LEXIS 2194, and *Camacho v. Bridgeport Financial, Inc.* (9th Cir. 2008) 523 F.3d 973. See
24 Exhibit A.

25 **B. Plaintiffs' Counsel's Rates**

26 6. I have been asked by Plaintiffs' counsel to submit this declaration in support of
27 Plaintiffs' Motion for Final Approval of Class Action Settlement and an Award of Reasonable
28 Attorneys' Fees and Costs. I submit this declaration to provide the Court information concerning

1 hourly rates for attorneys in the San Francisco Bay Area, and in particular to provide information
2 demonstrating that the hourly rates requested by Plaintiffs' counsel in this matter are within the range of
3 market rates being charged in the San Francisco Bay Area and the San Diego market for similar
4 services, i.e. handling and trying complex class actions on behalf of employees against large employers
5 like Pacific Bell Telephone Company in this case.

6 7. I understand that Plaintiffs' counsel are requesting an award of attorneys' fees at the
7 following rates:

8 a. Goldstein Demchak Baller Borgen & Dardarian, Oakland, CA

9

Name	Grad Year	Billing Rate
Roberta L. Steele	1993	\$600
Laura L. Ho	1994	\$600
Joseph E. Jaramillo	1995	\$550
Senior Paralegal		\$195
Paralegal		\$150

10
11
12

13 b. GraceHollis LLP, San Diego, CA

14

Name	Grad Year	Billing Rate
Graham S.P. Hollis	1985	\$600
Marta Manus	2008	\$375
Senior Paralegal		\$170

15
16

17 8. Through my writing and practice, I have become familiar with the non-contingent
18 market rates charged by attorneys in California and elsewhere. This familiarity has been obtained in
19 several ways: (1) by handling attorneys' fee litigation; (2) by discussing fees with other attorneys;
20 (3) by obtaining declarations regarding prevailing market rates in cases in which I represent attorneys
21 seeking fees; and (4) by reviewing attorneys' fee applications and awards in other cases, as well as
22 surveys and articles on attorney's fees in the legal newspapers and treatises.

23 9. The information I have gathered, some of which is summarized below, shows that the
24 rates requested by Plaintiffs' counsel in this case are well in line with the non-contingent market rates
25 charged by litigation attorneys of similar qualifications and experience in San Francisco, San Diego,
26 and similar markets.

27 ///

28 ///

c. Rates found reasonable in other cases.

Set forth below are rates that were awarded by the courts in the following cases:

2010 Rates

(1) *Savaglio, et al. v. WalMart*, Alameda County Superior Court No. C-835687-7, Order Granting Class Counsel's Motion for Attorneys' Fees, filed September 10, 2010, a wage and hour class action, in which the court found the following hourly rates reasonable (before applying a 2.36 multiplier):

Years of Experience	Rate
51	\$875
39	\$750
38	\$600
33	\$775
25	\$550
23	\$650
21	\$625
19	\$610
18	\$600
17	\$585
16	\$570
15	\$560
14	\$550
13	\$525
12	\$515
11	\$510
10	\$505
9	\$500
7	\$460
4	\$435
Law Clerks	\$125-\$260

2009 Rates

(1) *Center for Biological Diversity v. California Fish & Game Commission, San Francisco Superior Court* No. CPF-08-508759, Order Granting Petitioners' Motion for Attorneys' Fees, filed December 1, 2009, in which the court found reasonable the following hourly rates:

Years of Experience	Rate
25	\$650
8	\$375
4	\$250
Law Clerks	\$150

(2) *Kashmiri et al v. Regents of U.C.*, San Francisco Superior Court, Order Granting Plaintiffs' Motion for Common Fund Attorneys' Fees and Expenses, filed September 30, 2008, in which the court found the following rates reasonable, plus a 3.7 lodestar multiplier:

Years of Experience	Rate
40	\$750
22	\$690
14	\$590
7	\$420
4	\$345
2	\$295
Law Clerks	\$200
Paralegals	\$195

(4) *Environmental Law Foundation v. Laidlaw Transit, Inc.*, San Francisco Superior Court No. CGC-06-451832, Order Granting Motion for Court Approval of Parties Joint Stipulated Judgment, filed September 22, 2008, in which the court found the following hourly rates reasonable in a Proposition 65 action, plus a 1.25 multiplier:

Years of Experience	Rate
29	\$750
26	\$700
24	\$700
23	\$650
18	\$650
16	\$625
14	\$600
10	\$560
9	\$495-\$575
8	\$475
7	\$450
6	\$395
4	\$325
2	\$300
1	\$250
Paralegals	\$145-\$175
Interns	\$125

(5) *Gardner v. Schwarzenegger*, Alameda County Superior Court No. RG06-278911, Order After Hearing filed April 20, 2009, aff'd by unpublished opinion, 2010 Cal. App. Unpub. LEXIS 1240, in which the court found the following 2008 rates reasonable, plus a 1.75 multiplier:

Years of Experience	Rate
17	\$640
14	\$590
8	\$445
Paralegal	\$170

a. **Rate Information from Surveys and Other Cases.**

I have reviewed numerous declarations and depositions filed in other cases, as well as various surveys of legal rates. These include the Westlaw CourtExpress Legal Billing Reports for May, August, and December 2009 (attached hereto as Exhibit B). These sources show the hourly rates for litigation undertaken on a non-contingent basis by the following California law firms, listed in alphabetical order:

Altshuler Berzon LLP

2009 Rates:

Years Experience	Rate
32	\$775
15	\$625
8	\$475
Law Clerks	\$200
Paralegals	\$195

2007 Rates:

Years Experience	Rate
23	\$700
15	\$550
5	\$325
Paralegals	\$155-\$190

Cooley Godward Kronish LLP

2008 Rates:

Years Experience	Rate
Partners	\$525-\$980
Associates	\$285-\$570

2007 Rates:

Years Experience	Rate
Partners	\$470-\$875 (average \$673)
Associates	\$250-\$555 (average \$403)

Coughlin Stoia Geller Rudman & Robbins, LLP

2007 Rates:

Years Experience	Rate
42	\$700
19	\$650
14	\$650
14	\$600
13	\$585
11	\$510
6	\$460
5	\$285

Duane Morris LLP

2009 Rates:

Years Experience	Rate
Partners	\$325-\$795
Associates	\$225-\$450

Epstein Becker & Green LLP

2009 Rates:

Years Experience	Rate
Partners	\$350-\$855
Associates	\$180-\$475

Fenwick & West

2007 Rates:

Years Experience	Rate
Partners	\$500-\$775 (average \$590)
Associates	\$245-\$500 (average \$370)

Hadsell Stormer

2009 Rates:

Years Experience	Rate
35	\$775
20	\$575

Howard, Rice, Nemerovski, Canady, Falk & Rabkin

2008 Rates:

Years Experience	Rate
Partners	\$515-\$795
Associates	\$275-\$510

2007 Rates:

Years Experience	Rate
Partners	\$495-\$775
Associates	\$275-\$485

Litt, Estuar, Harrison & Kitson, LLP

2009 Rates:

Years Experience	Rate
39	\$800
16	\$550
3	\$320
2	\$285
Paralegals	\$125-\$235
Law Clerks	\$225

Loeb & Loeb

2009 Rates:

Years Experience	Rate
Partners	\$475-\$950
Associates	\$285-\$450

2008 Rates:

Years Experience	Rate
Partners	\$450-\$925
Associates	\$260-\$500

2007 Rates:

Years Experience	Rate
Partners	\$475-\$875 (average \$606)
Associates	\$240-\$500 (average \$400)

Manatt, Phelps & Philips

2009 Rates:

Years Experience	Rate
Partners	\$495-\$850
Associates	\$250-\$505

2008 Rates:

Years Experience	Rate
Partners	\$495-\$850
Associates	\$290-\$505

2007 Rates:

Years Experience	Rate
Partners	\$520-\$785 (average \$600)
Associates	\$265-\$480 (average \$395)

Morrison Foerster

2009 Rates:

Years Experience	Rate
24	\$750

2008 Rates:

Years Experience	Rate
45	\$675
36	\$725
33	\$785
14	\$650
12	\$600
9	\$560
7	\$535
5	\$485
1	\$520
Paralegals	\$185- \$230

2007 Rates:

Years Experience	Rate
44	\$675
11	\$550
8	\$520
6	\$475
3	\$250

O'Melveny & Myers

2009 Rates:

Years Experience	Rate
36-37	\$860-\$950
21	\$820
16-18	\$700-\$710
14	\$595-\$675
10	\$590
8	\$565
7	\$540-\$565
5-6	\$480-\$520
2-4	\$395-450
Paralegals	\$225-310

Reed Smith

2008 Rates:

Years Experience	Rate
Partners	\$375-\$900 (average \$626)
Associates	\$235-\$580 (average \$423)

2007 Rates:

Years Experience	Rate
Partners	\$350-\$825 (average \$558)
Associates	\$200-\$510 (average \$374)

Rudy, Exelrod & Zieff

2009 Rates:

Years Experience	Rate
Partners 31	\$700
Associates 3	\$305

2007 Rates:

Years Experience	Rate
Partners 29 12	\$700 \$500
Associates 10 8	\$400 \$330
Law Clerk	\$200
Paralegal	\$150

Schonbrun, DeSimone, Seplow, Harris & Hoffman

2009 Rates:

Years Experience	Rate
33	\$750
25	\$625
24	\$625
8	\$375
6	\$370
Paralegals	\$125

Sheppard, Mullin, Richter & Hampton

2008 Rates:

Years Experience	Rate
Partners	\$475-\$795
Associates	\$275-\$455

2007 Rates:

Years Experience	Rate
Partners	\$425-\$795
Associates	\$260-\$550

Townsend and Townsend and Crew

2009 Rates:

Years Experience	Rate
Partners	\$480-\$750
Associates	\$260-\$460

Winston & Strawn

2009 Rates:

Years Experience	Rate
Partners	\$400-\$995
Associates	\$210-\$670

10. The hourly rates set forth above pertain largely to law firms headquartered in the San Francisco Bay Area and Los Angeles. To the extent those law firms handle cases in other jurisdictions, like San Diego, they almost always charge the same rates that they do for litigation in the Bay Area. To the extent Plaintiffs' claim is based upon San Diego rates, however, I also am of the opinion that they are in line with the rates charged by lawyers of comparable skill, experience, and reputation for comparable work, *i.e.*, complex representative litigation in San Diego. I base that opinion on the following facts:

a. In a report filed with the California Public Utilities Commission (attached as Exhibit C), the San Diego Gas & Electric Co. reported that in 2003, it hired outside counsel at rates of from \$477-625 per hour for partners with 13 or more years experience, \$435 per hour for partners with 8-12 years of practice, and \$239-425 per hour for associate attorneys with up to 7 years of practice. Hourly rates have increased significantly since then.

b. San Diego law firm Luce, Forward, Hamilton & Scripps reports that in 2010, its partner rates ranged from \$350 to \$670 per hour, and its associate rates ranged from \$245 to \$445 per hour. In 2009, its partner rates ranged from \$360 to \$650 per hour, and its associate rates ranged from \$240 to \$540 per hour.

11. My research regarding attorneys' fees in California has indicated a consistent increase in fees over the last several years. Most firms increased their rates over these periods. Consistent with this market, I raised my rates in 2009 and 2010, and will raise it again in 2011, to reflect both the

1 demand for my services and inflation in costs and legal rates; my rate is still significantly less than
2 many attorneys with comparable experience, expertise, and skills at other firms.

3 12. The hourly rates set forth above are those charged where full payment is expected
4 promptly upon the rendition of the billing and without consideration of factors other than hours and
5 rates. If any substantial part of the payment were to be deferred for any substantial period of time, for
6 example, or if payment were to be contingent upon outcome or any other factor, the fee arrangement
7 would be adjusted accordingly to compensate the attorneys for those factors.

8 13. In my experience, fee awards are almost always determined based on current rates, i.e.,
9 the attorney's rate at the time a motion for fees is made, rather than the historical rate at the time the
10 work was performed. This is a common and accepted practice to compensate attorneys for the delay in
11 being paid.

12 **C. Plaintiffs' Counsel's Requested Percentage Fee**

13 14. I understand that Plaintiffs request an award of fees under the common fund doctrine as a
14 percentage of the fund recovered in this litigation sufficient to provide them with a reasonable fee. This
15 is an appropriate request because this is a fully-paid, non-reversionary settlement in which the value of
16 the class recovery is fully monetized at \$2,000,000, inclusive of fees, expenses, and settlement
17 administration costs. Under these circumstances, courts award fees as percentages of the common fund
18 where they are in line with the range of fees freely negotiated in the legal marketplace in comparable
19 litigation.

20 15. Based on the information I have gathered and my own experience and expertise, it is my
21 opinion that the 33 1/3% common fund fee recovery requested by Class Counsel is, in the
22 circumstances of this case, reasonable and consistent with awards approved by other California state
23 courts reviewing class action settlements, based on the factors discussed below.

24 16. My opinion is based in part on the fact that, as a common fund case with the fund
25 consisting of \$2 million, Plaintiffs' claimed fee of 33 1/3% is entirely consistent with the legal
26 marketplace for attorneys' services in contingency fee cases involving similar financial recoveries. In
27 the course of my practice, I have become familiar with the contingency fee percentages charged by law
28 firms to sophisticated institutional clients in large damage cases. Based on that knowledge and my

1 experience in the attorneys' fees field generally, it is my opinion that if competent and experienced
2 attorneys and a sophisticated client were to negotiate a contingency fee agreement under the
3 circumstances where (a) a high risk, complex case was being contemplated, (b) it is anticipated that the
4 opposition would be vigorous, and (c) the attorneys would not be paid unless and until they were able to
5 obtain significant relief for the client, the sophisticated client would be more than willing to enter into a
6 retainer agreement under which the client would pay only the litigation out-of-pocket costs, and the
7 attorneys could reasonably expect to recover 5% to 35% of the total value of any recovery as fees.

8 17. An award of 33 1/3% of the common fund requested by Class Counsel here is consistent
9 with legal marketplace for attorneys' services in contingency fee cases because of (a) the high risk
10 involved in litigating an incentive compensation plan case on behalf of nearly 100 California
11 employees; (b) the vigorous defense presented by the large defense firm that represents Defendant here;
12 (c) the relatively small size of the common fund, which weighs toward a higher percentage; and (d) the
13 fact that here, unlike in the paradigm market practices situation described in the previous paragraph,
14 Class Counsel were obligated to advance the substantial litigation costs on a contingent basis with risk
15 of delay in repayment as well as possible non-repayment, and to represent Plaintiffs through appeal of
16 any judgment in this case. This award would also be appropriate to encourage settlement, reward
17 counsel for maximizing their clients' recoveries, and promote the private enforcement of the wage and
18 hour laws Plaintiffs allege were violated.

19 **D. Plaintiffs' Counsel's Lodestar Multiplier**

20 18. Courts often cross-check a percentage-based fee against a lodestar based fee to determine
21 if it is reasonable. I understand that Plaintiffs' lodestar here is \$332,383.88 on non-fees work. The
22 \$666,667 fee award requested represents a 2 multiplier on the non-fees lodestar.

23 19. The expense and risk of public interest litigation has not diminished over the years; to
24 the contrary, these cases are in many ways more difficult than ever. As a result, fewer and fewer
25 attorneys and firms are willing to take on such litigation, and the few who are willing to do so can only
26 continue if their fee awards reflect true market value. Attorneys who litigate on a wholly or partially
27 contingent basis expect to receive significantly higher effective hourly rates in cases where
28 compensation is contingent on success. As the case law recognizes, this does not result in any

1 "windfall" or undue "bonus." In the legal marketplace, a lawyer who assumes a significant financial
2 risk on behalf of a client rightfully expects that his or her compensation will be significantly greater
3 than if no risk was involved (i.e., if the client paid the bill on a monthly basis), and that the greater the
4 risk, the greater the "enhancement." Adjusting court-awarded fees upward in contingent fee cases to
5 reflect the risk of recovering no compensation whatsoever for hundreds of hours of labor simply makes
6 them competitive in the legal marketplace, helping to ensure that meritorious cases will be brought to
7 enforce important public interest policies and that clients who have meritorious claims will be more
8 likely to obtain qualified counsel.

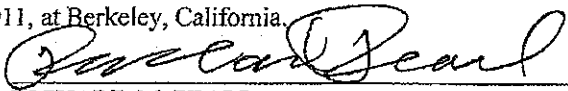
9 20. In my experience, lodestar multipliers of 2 to 4 are typical for class actions such as this
10 case. Plaintiffs' requested fee falls well within this range.

11 **E. Plaintiffs' Counsel's Out-of-Pocket Expenses.**

12 21. I have reviewed the billing practices of hundreds of attorneys in California. Based on
13 my experience and knowledge of these billing practices, I am aware that it is a common practice for
14 firms to bill their clients for out-of-pocket expenses incurred in litigation on a monthly basis as they are
15 incurred. Such expenses include, but are not limited to, charges incurred for copying, long-distance
16 telephone calls, postage, messengers, travel, deposition and hearing transcripts, legal and non-legal
17 computer research services, mediation services, and expert witnesses. I am informed that Plaintiffs
18 expended \$16,258.08 in out-of-pocket litigation expenses in this case, including \$8,000 for the services
19 of an experienced and skilled mediator, David Rotman, who brokered the settlement in this case. Based
20 on my knowledge and experience of such costs and billing practices, it is my opinion that these
21 expenses are reasonable given the complex nature of this case.

22 If called as a witness, I could and would competently testify from my personal knowledge to the
23 facts stated herein. I declare under penalty of perjury under the laws of the state of California the
24 foregoing is true and correct.

25 Executed this 4th day of January, 2011, at Berkeley, California.

26 
27 RICHARD M. PEARL