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Attorneys for Plaintiffs Denise Droesch,
Kyonna Harrison, Janisha Lee Price,
and other individuals similarly situated

[Additional counsel listed on next page]

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

DENISE DROESCH; KYONNA
HARRISON; and JANISHA LEE PRICE
as individuals and on behalf of other
aggrieved employees,

Plaintiffs,

vs.

WELLS FARGO BANK, N.A., a United
States Corporation, and DOES 1 – 10,
inclusive

Defendants.

CASE NO. 34-2021-00292066-CU-OE-GDS

**DECLARATION OF ERIC BISHOP FOR
RUST CONSULTING, INC., OF PLAINTIFFS'
UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND PROVISIONAL CLASS
CERTIFICATION**

[Filed and served concurrently with Notice of
Motion; Memorandum of Points and Authorities;
Declarations of Attorneys Christina A. Humphrey;
Marcus J. Bradley; of Plaintiffs Denise Droesch;
Kyonna Harrison; Janisha Lee Price; of Settlement
Administrator; and [Proposed] Order]

Date: November 1, 2024

Time: 9:00 a.m.

Reservation #: A-292066-001

Dept.: 23

Judge: Jill H. Talley

Complaint filed: January 7, 2021

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8 Kyonna Harrison, Janisha Lee Price,
9 and other individuals similarly situated
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DECLARATION OF ERIC BISHOP FOR RUST CONSULTING, INC., IN SUPPORT OF
PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL

I, Eric Bishop, declare as follows:

1. I am a Senior Vice President for Rust Consulting, Inc. (“Rust”). My business address is 920 2nd Ave S, Suite 400, Minneapolis, MN 55402. My telephone number is (612) 359-2988. I am over twenty-one years of age and am authorized to make this declaration on behalf of Rust and myself. I have firsthand knowledge of the facts set forth in this declaration and, if called to do so, could testify competently to them.

2. Rust has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities fraud, property damage, employment discrimination, employment wage and hour, product liability, insurance and consumer issues. We have provided notification and/or claims administration services in more than 7,500 projects. Of these, approximately 4,000 were Labor & Employment cases.

3. Rust’s internal data security practices meet or exceed today’s exacting industry standards. Our enterprise-class data security measures are founded on standard business processes including a vigorous employee screening program, ongoing employee security training and a hardened production data center hosted at a Tier 1 network carrier, all designed for ensuring data integrity and security.

4. Rust has sufficient insurance coverage in the event of a data breach or mishandling of settlement funds.

5. A summary of Rust’s Qualifications is attached as Exhibit A.

6. Rust is being engaged by Counsel to provide settlement administration services in the case Droesch v Wells Fargo (“Settlement”). Duties will include: a) preparing, printing, and mailing of the Notice of Class Action Settlement (“Class Notice”); b) tracking of requests for exclusion; c) drafting, mailing, and tax reporting for Settlement Award checks to Class Members; and for such other tasks as the Parties mutually agree or the Court orders Rust to perform.

7. Rust will establish a mailing address to receive requests for exclusion,

1 undeliverable Class Notices, and other communications from Class Members.

2 8. Rust will set up a phone number and will staff with live Customer Services
3 Representatives to be available for Class Members to call with questions regarding the
4 Settlement and to provide address updates. Spanish speaking representatives will be available as
5 needed.

6 9. Rust expects to receive text for the Class Notice from Counsel shortly after
7 preliminary approval of the Settlement is granted.

8 10. Rust expects that Counsel for Defendant will provide Rust with a mailing list (
9 “Class List”) containing the Class Members’ names, last known addresses, Social Security
10 Numbers, and any other pertinent information necessary to carry out Rust’s duties.

11 11. Rust will mail the Class Notice prepared by the parties and approved by the
12 Court.

13 12. The mailing addresses contained in the Class List will be processed and updated
14 utilizing the National Change of Address Database (“NCOA”) maintained by the U.S. Postal
15 Service. The NCOA contains requested changes of address filed with the U.S. Postal Service.
16 In the event that any individual has filed a U.S. Postal Service change of address request, the
17 address listed with the NCOA will be utilized in connection with the mailing of the Class Notice.

18 13. For any Class Notices that are returned to Rust as undeliverable, Rust will
19 perform address traces in an attempt to find an updated address. The address trace will utilize
20 the Class Member’s name, previous address and Social Security Number. In the event an
21 updated address is obtained, the Class Notice documents will be promptly re-mailed to those
22 Class Members via First Class mail. For Class Notice documents that are returned by the Post
23 Office with forwarding addresses attached, these Class Notice documents will be promptly re-
24 mailed to those Class Members at the forwarding address via First Class mail.

25 14. Rust will be responsible for receiving and validating all requests for exclusions
26 and objections to the Settlement.

27 15. Rust will create a page on its website which will contain static information and
28 documents about the case. The URL will be: www.rustconsulting.com/cases/droesch-v-

1 wellsfargo.

2 16. Rust will be responsible for calculating award amounts and tax withholdings,
3 printing and mailing payments including tax documents, establishing a Qualified Settlement
4 Fund ("QSF"), setting up a bank account, and preparing annual tax filings on behalf of the QSF.
5 Rust will establish and set up a QSF in this case, as it does in all the cases that it serves as the
6 settlement administrator, based upon applicable laws and requirements.

7 17. Rust will be the fiduciary of the QSF and responsible for all payments and tax
8 reporting from the QSF. The QSF will obtain its own tax ID and report taxes under that tax ID.

9 18. Rust will provide Project Management and Technical Consulting staff to manage
10 all aspects of the administration and be available to Counsel.

11 19. The total cost for the administration of this Settlement is capped at \$23,850 unless
12 the actual class size (approx. 4,178) provided by counsel is materially different as that is the
13 basis on which much of the estimate is provided. The costs are comprised of the combination of
14 the transactional costs for print, postage, banking activities, etc., as well as the hourly fees to
15 carry out the administrative duties. The cost quote is included as Exhibit B.

16 20. None of the parties or attorneys in this matter have a relationship (financial or
17 otherwise) with Rust.
18

19 I declare under penalty of perjury under the laws of the State of California and the
20 United States that the above is true and correct to the best of my knowledge and that this
21 Declaration was executed this 4th day of October 2024, at Minneapolis, MN.

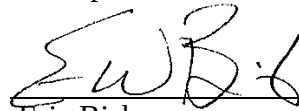
22 
23 Eric Bishop

EXHIBIT A

Qualifications Summary

This document outlines Rust Consulting's qualifications to serve as the administrator for class action, mass tort, and regulatory settlements, as well as to perform other similar, complex and time-sensitive matters such as remediation programs, data breach responses, and product recalls. It includes summary information categorized as follows:

- Firm Overview
- Practice Area Organization
- Personnel
- Services
- Representative Case Experience
- Data and System Security

Firm Overview

Rust, an Exela Technologies brand, is an industry-leading consulting and administration firm that provides public and private sector clients a full complement of services required to administer legal settlements and similar programs. These services include consulting; project management; data management; notification; contact center and websites; claims processing; and fund management, distribution, and tax reporting.

Rust grew out of the litigation support firm the Rust Consulting Group, which was founded in 1976. In 1988, the Group administered its first class action settlement, eventually leading in 1995 to the formation of Rust Consulting, Inc. as a separate entity focused on legal settlement administration. Since then, Rust has administered 8,000 settlements and projects.

Headquartered in Minneapolis, Rust also has an office in Faribault, Minnesota. Our subsidiary Kinsella Media maintains a Washington, D.C., location. Rust and Kinsella are wholly owned subsidiaries of Exela Technologies, Inc. (NASDAQ: XELA, XELAW and XELAU), one of the largest global providers of transaction processing solutions and enterprise information management.

Practice Area Organization

Rust administers programs spanning diverse subject matter. The depth and breadth of our legal settlement administration experience spans all prominent practice areas, such as antitrust, consumer, finance, insurance and healthcare, labor and employment, product liability, and securities matters on behalf of private sector clients and governmental agencies at all levels. Our services also lend themselves to our clients' non-settlement needs, including data breach responses, recalls, and remediation programs.

Our leadership and certain operations and client services personnel focus on specific practice areas relevant to our clients, deepening their subject matter expertise and directly relevant experience.

Personnel

Our permanent staff of approximately 200 includes professionals with backgrounds and disciplines including project management, information technology, finance, law, and operations. This cross-functional, innovative team includes experts in their respective disciplines, such as CPAs, Ph.D.s, attorneys, and PMPs.

Rust's team includes some of the most experienced practitioners in the industry, with much of that experience Rust-specific. Our senior vice presidents average over 17 years of Rust experience and our functional directors average over 22 years.

Services

The Rust team provides high quality administrative services for matters of any size and scope. Specific approaches may vary depending upon the requirements of each individual matter; however, the below services are typical of our engagements.

Preliminary Consulting

Rust consults with clients prior to settlement to help set expectations based on our experience with similar matters and to anticipate otherwise identified issues that may arise in administration based on a settlement or program's characteristics.

Project Management

Our project management personnel prepare plans of notice and administration, create or customize project tracking tools and reports, and oversee the creation of project-specific databases designed to house and capture appropriate information for use in claims administration. Throughout the administration process, project management personnel coordinate all activities between the parties, vendors, and internal Rust departments to ensure work is completed accurately and according to any service level agreements, internal standards, settlement documents, etc. We provide regular and on-demand reports and statistics to the appropriate parties and raise potential issues requiring their attention, as necessary. Upon completion of each major phase of administration, or as required, we prepare declarations or affidavits attesting to the scope and results of our work.

Data Management

The secure and efficient handling of data underlies all aspects of claims administration; Rust creates and customizes data management processes, databases, applications to meet the unique needs of each settlement or project. Tasks associated with data management throughout administration may include:

- Intaking original client data.
- Normalizing data for cross-platform usability, such as meeting mailing or other outreach requirements.
- Consolidating and deduplicating data from multiple sources.
- Extracting data for standard or customized trace services.
- Extracting data for mailing or other outreach.
- Calculating awards.



Notification

Rust disseminates hundreds of millions of notices annually by mail and email. We also work with our subsidiary Kinsella Media, the leading provider of notice to unidentified audiences and the only firm in the nation with qualified, court-recognized notice expertise, to develop and implement notice plans.

With respect to legal settlements, these notice programs notify class members or other affected individuals of their legal rights and options. With respect to data breach responses, recalls, or remediation, these programs inform affected individuals about the situations and any options those affected individuals may have.

Among our notification-related services are:

- Designing notice programs (through Kinsella Media).
- Drafting plain language materials (through Kinsella Media).
- Designing and proofreading notice materials.
- Locating unidentified individuals and updated addresses.
- Printing and mailing.
- Processing and forwarding undeliverable mail.
- Opining about notice program adequacy (through Kinsella Media).

Contact Center

Rust supports the programs we administer through an assortment of contact center services including call center, websites, and email support up to 24/7 and for class members and other affected individuals worldwide.

Our call center services include inbound and outbound calls in our own domestic, in-house call center. The call center is located in our Minneapolis headquarters and is readily expandable to meet the needs of specific programs of any size.

All customer service representatives (CSRs)—permanent or temporary—undergo background checks and training on Rust’s policies and technology, customer service fundamentals, and project-specific information. Typical engagements include English- and Spanish-speaking CSRs, while we provide support in additional languages, as required. In one case, Rust CSRs took live inbound calls in 10 languages.

In lieu of or in conjunction with live customer service, Rust builds and maintains automated Interactive Voice Response (IVR) systems that provide 24/7 service to toll-free numbers and include menus of prerecorded options such as program overviews, frequently asked questions and answers, and options for requesting forms or filing claims. Rust’s IVR systems regularly support English- and Spanish-language speakers and can be programmed to support other languages, as required. In one case, Rust managed IVR support including translations of information pre-recorded by native speakers in 67 languages.



Claims Processing

Rust develops or executes claims processing or adjudication programs as required by the diverse terms of our engagements. We use several proprietary software applications and tested, streamlined processes to provide the most appropriate solutions for each engagement's needs, whether for paper or online claims. Our systems automate the claims administration process:

- Receipt.
- Link to class member database record.
- Data capture.
- Review of supporting documentation.
- Initial adjudication.
- Deficiency processing.
- Final adjudication.
- Rejection letters.
- Reporting/affidavits.

To meet the needs of each engagement, our systems can be configured to give clients or authorized parties secure online access to claimant data and reporting, or to class members to facilitate online claims filing.

Fund Management, Distribution, and Tax Reporting

Rust annually distributes billions of dollars associated with settlements and similar programs. Our Bank and Tax group is responsible for day-to-day banking and tax reporting functions for all settlement funds.

Banking Services	Tax Reporting Services
▪ Account setup. ▪ Online bank reporting. ▪ Escrow, investment and distribution accounts. ▪ Escrow agent services. ▪ Positive Pay – all claimant checks are issued with Positive Pay verification. ▪ Check images. ▪ Wire transfers. ▪ Account reconciliation (daily, weekly or monthly). ▪ Balance inquiry and reporting.	▪ Tax identification numbers (federal and state). ▪ Qualified Settlement Fund (QSF) determination. ▪ Claimant award taxability and reporting. ▪ W-9 review. ▪ Annual 1120 SF tax returns and quarterly tax deposits. ▪ IRS and state 1099 and 1042S reporting and transmission. ▪ Backup withholding deposits and 945 annual reporting. ▪ Employment payroll taxes: 941, 940, SUTA, SIT, and local income taxes.



Representative Case Experience

Having administered 8,000 projects, a complete listing of our experience is voluminous. However, the below tables demonstrate the scope of our experience and capacity.

Note: All numbers are rounded

Notices	Case
183 million	<i>In re Domestic Airline Travel Antitrust Litigation</i> , MDL 2656 (D.D.C.).
83 million	<i>In re Target Corporation Customer Data Security Breach Litigation</i> , MDL 2522 (D. Minn.).
31 million	<i>In re Lawnmower Engine Horsepower Marketing and Sales Practices Litigation</i> , No. 2:08-md-01999 (E.D. Wis.).
24 million	<i>Microsoft I-V Cases</i> , J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County).
15.7 million	<i>Blessing v. Sirius XM Radio</i> , No. 09-cv-10035 (S.D.N.Y.).

Distributed	Case
\$3.6 billion	Independent Foreclosure Review
\$1.5 billion	National Mortgage Settlement
\$800 million	<i>Naef v. Masonite Corp.</i> , No. CV 944033 (Ala. Cir. Ct. Mobile County).
\$800 million	<i>Microsoft I-V Cases</i> , J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County).
\$762 million	<i>In re American International Group, Inc. Securities Litigation</i> , No. 04 Civ. 8141 (S.D.N.Y.). (PwC, Company, Starr, and Gen Re Settlements)

Claims	Case
3.5 million	<i>In re Compact Disc Minimum Advertised Price Antitrust Litigation</i> , MDL No. 1361 (D. Me.).
3.2 million	<i>In re American International Group, Inc. Securities Litigation</i> , No. 04-cv-8141 (S.D.N.Y.) (Company, PwC, Starr, and Gen Re settlements).
3 million	Abbott Infant Formula Settlements
2.8 million	<i>Fogel v. Farmers Group, Inc.</i> , No. BC300142 (Cal. Super. Ct. Los Angeles County).
1.2 million	National Mortgage Settlement

Calls	Case
3.6 million	Independent Foreclosure Review
1.5 million	<i>Dyson v. Flagstar</i> , No. DKC93-1503 (D. Md.).
1.4 million	National Mortgage Settlement
1.3 million	Abbott Infant Formula Settlements
1 million	<i>Naef v. Masonite</i> , No. CV 94-4033 (Ala. Cir. Ct. Mobile County).



Data and System Security

The security of systems and applications and confidentiality of data are of utmost importance to Rust, our clients, the parties to engagements we administer, and members of the public impacted by our operations. Thus Rust actively protects its systems and mitigates potential threats by adhering to a comprehensive assortment of security best practices, certifications, and audits that we refer to collectively as our “unified compliance posture.”

As part of our unified compliance posture, Rust:

- Has received from three federal agencies (CFPB, FTC, and SEC) an Authority to Utilize Controlled Unclassified Information under the guidelines of FISMA and NIST 800-171.
- Undergoes an annual SSAE18 SOC 2 Type II Report audit of our data and system security controls and protocols.
- Complies with applicable laws, such as the Sarbanes-Oxley Act (SOX), Gramm-Leach-Bliley Act (GLBA) and the Health Insurance Portability and Accountability Act (HIPAA).
- Continues to adhere to the (now invalidated) controls formerly known as the U.S.-E.U. Privacy Shield Framework.
- Adheres to documented and audited processes.
- Maintains a business continuity plan to ensure uninterrupted, secure service.
- Has implemented controls to prevent unauthorized access or disclosure, maintain data accuracy, and ensure the appropriate use and confidentiality of information, either for its own purposes or on behalf of our clients.
- Has put in place appropriate physical, electronic, and managerial procedures to safeguard and secure the information we process.
- Processes personal information only in ways compatible with the purpose for which it was collected or subsequently authorized to do.



EXHIBIT B



Settlement Administration Estimate
WF Actions
October 4, 2024

Prepared by:
Andrew Meyer
Business Development Consultant
612-594-4992
ameyer@rustconsulting.com

EXPERIENCE

With experience on approximately 3,800 labor and employment cases, we are the nation's largest labor and employment settlement administrator. We have managed employment settlements with class sizes ranging from dozens to multi-million class members. In fact, we've been trusted to administer many of the nation's largest settlements, including the nation's top wage-and-hour cases in recent years.

DATA SECURITY

Our internal data security practices meet or exceed today's exacting industry standards. Our enterprise-class data security measures are founded on standard business processes including a vigorous employee screening program, ongoing employee security training and a hardened production data center hosted at a Tier 1 network carrier, all designed for ensuring data integrity and security.

DEDICATED SPECIALISTS

Our labor and employment case team is strictly dedicated to managing settlement administration for cases involving matters such as wage-and-hour, FLSA, discrimination and ERISA. They're specialists, not generalists, with an industry reputation for responsiveness and expertise in relevant areas such as the applicable banking and tax regulations. We are confident that Rust is the best choice for the administration of your settlement.

Project Summary

Estimated Class Size	4,178
<u>Project Cost</u>	
Mailed Notice	\$ 6,901
Telephone Support	\$ 2,626
Website, Processing and Administration	\$ 440
Fund Distribution & Tax Reporting	\$ 7,858
Project Management	\$ 8,345
Other Out-of-pocket Expenses	\$ 350
Total Project Cost	\$ 26,520
	\$ (2,750)
Client Discount	\$ 23,770
Total Project Cost w/ Discount	\$ 23,770
Total Not to Exceed (assumes scope within)	\$23,850.00

Key Assumptions

Notice Mailing only
Telephone support is included
Static Page on Rust Website Included
Single Distribution (CA), with 180 payment void date
W2/1099 payments
Uncashed to Cy Pres or CA unclaimed property fund

*Reflects July 2024 postage rate increases

Not Included: Email Inbox, Translation, Claims

Thank you for considering Rust Consulting, Inc. as your administrator -- we appreciate the opportunity to submit this estimate.



Settlement Administration Estimate
WF Actions
October 4, 2024

Prepared by:
Andrew Meyer
Business Development Consultant
612-594-4992
ameyer@rustconsulting.com

Key Assumptions Used to Prepare this Estimate

Class Size	4,178	
Initial Mailed Notice:		
Mailed Notice	4,178	100.0%
Forwarded Notices	104	2.5%
Undeliverable Notices	627	15.0%
Re-Mailed Notices after Trace	501	80.0%
Telephone Support:		
Number of Telephone Contacts	627	15.0%
Connect Minutes per Call - CSRs	5.0	
Claimant Communications:		
Exclusions Received	21	0.5%
Payments	4,157	100.0%

Standard Hourly Rates*

SVP	\$175-\$275
Program Manager	\$160-\$180
Project Manager	\$100-\$140
Technical Consultant	\$110-\$180
Call Center Manager	\$125
CSR	\$ 43-\$ 50
Processor	\$ 43-\$ 50
Other	\$ 43-\$125

**Subject to change*

Additional Administration Assumptions Used to Prepare this Estimate:

Database Development: Receive and Process Database assumes that the data provided is complete with respect to the data components needed to mail and calculate settlement payments. Data that includes multiple records for individuals or work history that needs to be accumulated and totaled by individual generally requires additional efforts to bring to a point where it is final settlement data. These additional efforts can take a significant amount of time and should be considered when setting key settlement dates, especially the mailed notice deadline. Data must be provided in a complete, consistent, standardized electronic format. Rust's standard format is ASCII fixed width complete with field layout. Other formats may be accepted at Rust's discretion. Resources used to enhance or further develop non-standardized data will be billed on a time and materials basis according to Rust's Current Standard Hourly Rates.

CASS/NCOA/LACS: CASS - Coding Accuracy Support System; NCOA - National Change of Address; LACS - Locatable Address Conversion System.

Notice Package: Print and Mail per unit price is estimated. Actual prices will be provided after form is finalized prior to mailing. Notice package includes notice and exclusion form.

Telephone Support IS included.

Processing & Administration: Receipt and Process Forms includes open, date stamp, label and data capture a 1-page form with up to five fields.

Project Management: Project Management fees are estimated and will be billed on actual time expended based on the rates found in the Current Standard Hourly Rates section above. The rates included in the estimate are a blended estimate of the rates listed above.

Out of Pocket Expenses: Includes post office box rental, overnight shipments, postage, labels, travel, long distance and other miscellaneous charges and expenses.

Pricing good for 90 days.



Settlement Administration Estimate

WF Actions

October 4, 2024

Prepared by:
Andrew Meyer
 Business Development Consultant
 612-594-4992
 ameyer@rustconsulting.com

Administrative Task	Estimated Quantity	Per Unit	Task Amount	Total
Database Development				
Receive and Process Database	4 Hours @	\$ 175.00	\$ 700	\$ 700
Additional Efforts to Finalize Settlement Data			<i>As Incurred</i>	
Initial Mailed Notice				
CASS / NCOA / LACS Processing			\$ 300	
Print and Mail Notice Package	4,178 Notices @	\$ 0.40	\$ 1,671	
Postage - 1 Ounce First Class	4,178 Notices @	\$ 0.69	\$ 2,887	\$ 4,858
Follow-up to Initial Notice				
Receive Undeliverable Notices and Update Database	627 Notices @	\$ 0.35	\$ 219	
Address Trace	627 Traces @	\$ 0.40	\$ 251	
Remail Notice Package	606 Notices @	\$ 0.75	\$ 454	
Remail Postage - 1 Ounce First Class	606 Notices @	\$ 0.69	\$ 419	\$ 1,343
Telephone Support				
Telephone Support	9 Months @	\$ 250	\$ 2,250	
800# Charges	3,134 Minutes @	\$ 0.12	\$ 376	\$ 2,626
Processing and Administration				
Receipt, Process, and Validate Forms	8 Hours @	\$ 55.00	\$ 440	\$ 440
Additional Administrative Services Requested by Client				<i>As Incurred</i>
Static Website				
Set-up/create Static Page on Rust Website	2 Hours @	\$ 185.00	Waived	
Monthly Hosting and Maintenance	8 Months @	\$ 75.00	Waived	\$ -
Fund Distribution				
Print and Mail (1st Distribution)	4,157 Payments @	\$ 0.45	\$ 1,871	
Postage - 1 Ounce First Class	4,157 Payments @	\$ 0.69	\$ 2,873	
Check Processing	4,157 Payments @	\$ 0.22	\$ 915	
FDIC Charges			\$ 675	
Monthly Bank Account Fee (open -> Cy Pres)	7 Months @	\$ 75	\$ 525	\$ 6,858
Tax Reporting				
Annual Fee -Qualified Settlement Fund / Tax Reporting (W2/1099)	1 Year @	\$ 1,000	\$ 1,000	\$ 1,000
Project Management				
Senior Vice President	2 Hours @	\$ 225	<i>waived</i>	
Project Management	35 Hours @	\$ 175	\$ 6,125	
Technical Consulting	12 Hours @	\$ 185	\$ 2,220	\$ 8,345
Other Charges and Out-of-pocket Costs				
				\$ 350
Total Settlement Administration Estimate				\$ 26,520



Settlement Administration Estimate

WF Actions

October 4, 2024

Prepared by:
Andrew Meyer
Business Development Consultant
612-594-4992
ameyer@rustconsulting.com

Terms and Conditions

All claims administration services to be provided by Rust Consulting to Customer shall be subject to the following terms and conditions:

1. **Services.** Subject to the terms hereof, Rust Consulting agrees to provide the Customer with claims administration services (hereinafter, "Claims Services") as specified in the Proposal provided to Customer to which these Terms and Conditions are attached.
2. **Term.** The terms of this agreement will remain in effect until completion of the Claims Services, unless earlier terminated in accordance with Section 10 hereof.
3. **Charges for Services.** Charges to the Customer for Claims Services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Customer to Rust Consulting. Actual fees charged by Rust Consulting to Customer may be greater or less than such estimate, and Customer shall be responsible for the payment of all such charges and expenses in accordance with Section 4 hereof. Furthermore, Customer will be responsible for payment of all state and local sales and use taxes, if any, levied upon the charges payable by the Customer hereunder. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Customer to the extent that funds are received from the taxing authorities offset these charges. Rust Consulting may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.
4. **Payment of Charges.** Payment by Customer of Rust Consulting's monthly invoices shall be due upon receipt thereof. Amounts unpaid after thirty (30) days are subject to a service charge at the rate of 1.5% per month or, if less, the highest rate permitted by law. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Customer's liability to Rust Consulting for payment of Claims Services. Claims Services are not provided on a contingency fee basis.
5. **Confidentiality.** Rust Consulting agrees to implement and maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Customer data provided to Rust Consulting by Customer in connection herewith. Should Rust Consulting ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Customer, Rust Consulting will promptly notify the Customer, unless prohibited by applicable law. The Customer shall have the option to (1) provide legal representation at the Customer's expense to avoid such access or (2) promptly reimburse Rust Consulting for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If Rust Consulting is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, Rust Consulting will not be liable for breach of said obligation.
6. **Standard Banking Procedures.** In accordance with Rust Consulting's standard banking procedures, Rust Consulting will establish a demand deposit checking account (i.e. non-interest bearing) for funds received related to a distribution, unless directed otherwise in writing by the parties or unless the settlement agreement stipulates otherwise. When directed to invest funds in an interest bearing or investment accounts, Rust Consulting intends to invest all funds in U.S. government backed securities, unless directed by the parties in writing or the settlement agreement or distribution plan to invest in other types of securities; however, even in cases where funds are temporarily placed in interest bearing or investment accounts, funds will eventually be migrated to a demand deposit checking account prior to a fund distribution.
7. **Rights in Data.** Rust Consulting does not convey nor does the Customer obtain any right in the programs, system data, or materials utilized or provided by Rust Consulting in the ordinary course of business in the performance of this Agreement.
8. **Document Retention.** Unless directed otherwise in writing by Customer, Rust Consulting will destroy undeliverable notice mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. Rust will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later. Rust Consulting will retain all bank and tax documents for such period of time as it determines is required to maintain compliance with various federal and state requirements.
9. **Limitation of Liability: Disclaimer of Warranty.** Rust Consulting warrants that our services will be performed with reasonable care in a diligent and competent matter. Our sole obligation will be to correct any non-conformance with this warranty. Rust Consulting shall not be liable, whether under theories of contract, negligence or other tort, statutory duty or other theories of liability in an amount exceeding the total charges to the Customer for the specific work affected by the error or omission. Rust Consulting will not be liable for any incidental, special, indirect, consequential or exemplary damages of any kind; or for any lost profits, lost opportunities, business interruption or for any liability incurred by the Customer or others to any third party. THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR USE FOR PARTICULAR PURPOSE.
10. **Termination.** The Claims Services to be provided under this Agreement may be terminated, at will by the Customer upon at least 30 calendar days' prior written notice to Rust Consulting. The Customer's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. Rust Consulting may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Customer is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Customer.
11. **Notice.** Any notice required or permitted hereunder shall be in writing and shall be delivered personally, by, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of Rust Consulting or the Customer, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.
12. **Force Majeure.** To the extent performance by Rust Consulting of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond Rust Consulting's reasonable control, then such performance shall be excused and this Agreement, at Rust Consulting's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.
13. **Nonwaiver of Rights.** No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.
14. **Jurisdiction.** The parties hereto irrevocably and unconditionally submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby irrevocably and unconditionally waive any objection to the laying of venue of any such suit, action or proceeding in the Court.
15. **Survival.** All accrued payment obligations hereunder, any remedies for breach of this Agreement, this Section and the following Sections will survive any expiration or termination of this Agreement: Section 7 (Rights in Data); Section 5 (Confidentiality); Section 9 (Limitation of Liability; Disclaimer of Warranty); and Section 14 (Jurisdiction).
16. **Entire Agreement.** These Terms and Conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.