

KINGSLEY & KINGSLEY, APC
ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleykingsley.com
LIANE KATZENSTEIN LY, Esq., (SBN 259230)
liane@kingsleykingsley.com
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
Tel: (818) 990-8300, Fax (818) 990-2903

Attorneys for Plaintiff and the Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF TULARE

LUIS SANTOS, an individual, on behalf of
the State of California, as a private attorney
general,

PLAINTIFF,

v.

REPLANET PACKAGING, LLC; and
DOES 1 thru 50, inclusive,

DEFENDANTS.

Case No. VCU285878

[Case Assigned for All Purposes to Hon. David
Mathias in Dept. 1]

**DECLARATION OF LIANE
KATZENSTEIN LY IN SUPPORT OF
MOTION FOR APPROVAL OF
REPRESENTATIVE ACTION
SETTLEMENT**

Date: November 30, 2023

Time: 8:30 a.m.

Dept.: 1

Complaint Filed: February 5, 2021

Trial Date: None Set

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I, Liane Katzenstein Ly, declare as follows:

1. I am an attorney admitted before all courts of the State of California and a partner in the law firm of Kingsley & Kingsley, APC, counsel of record for Plaintiff in this action. I am completely familiar with the present litigation, including the pleadings, discovery, and filings submitted in this matter. I make this Declaration from my own personal knowledge, and, if called upon, I could and would competently testify to the following am an attorney licensed to practice before all of the courts of the State of California.

2. I make this declaration in support of Plaintiff's Motion for Approval of Representative Action in the above-captioned case.

3. I graduated from Florida State University in 2005 with a degree in English. I graduated from University of California, Davis School of Law in 2008. I am admitted to practice before the following Courts: United States District Court, Northern, Southern, Eastern, and Central of California; all of California State Courts.

4. I have been involved in all of the settlement discussions leading to the present settlement as embodied in the PAGA Settlement Agreement (“Agreement”). A true and correct copy of the Settlement Agreement is attached hereto as Exhibit “1”.

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5. On February 4, 2021, and in compliance with Labor Code § 2699.3(a)(1), Plaintiff gave written notice to Defendant and the Labor and Workforce Development Agency (“LWDA”) regarding his intent to seek civil penalties under PAGA for violation of Labor Code § 201, 202, 203, 226.7, and 512.

6. On February 5, 2021, Plaintiff commenced this Action by filing a Class Action Complaint alleging causes of action for: (1) Failure to provide meal period; (2) waiting time penalties; and (3) unfair business competition. Subsequently, on April 12, 2021, Plaintiff amended his Class Action Complaint to be a Representative Action pursuant to PAGA against Defendant for penalties pursuant to Labor Code §§ 201-203, 226.7, and 512. (Hereafter, the “Action”).

7. Pursuant to Labor Code § 2699.3(a)(2)(A), the sixty-five-day waiting period to

commence a civil action as though the LWDA has chosen not to investigate lapsed on April 12, 2021, allowing Plaintiff to file his representative action complaint.

THE DISCOVERY PROCESS AND MEDIATION

8. The Parties engaged in extensive pre-mediation discovery. This included discovery pertinent to the aggrieved employees and individual discovery.

9. Based on Defendant's records, the data reveals that the number of Aggrieved Employees is no more than 134 (including Plaintiff) and there are a total of 6,619 Covered PAGA Pay Periods at issue.

10. On August 16, 2023, the Parties participated in an all-day mediation presided over by respected wage-and-hour mediator Hon. David R. Lampe (Ret.), which led to this formal PAGA Settlement Agreement that is subject to approval of the Court.

11. The Parties negotiated the terms and conditions of the Settlement and now present the agreed-upon Settlement to the Court for Approval.

12. The Parties also settled Plaintiff's individual claims in a separate settlement that is not contingent on the outcome of this Action.

THE SETTLEMENT

13. Defendant will pay the total sum of \$250,000.00 in full and final settlement of the PAGA claims.

14. Per the Agreement, the amount is allocated as follows:

Gross Settlement Amount:	\$250,000.00
PAGA Counsel Fees Payment (1/3):	\$83,333.33
PAGA Counsel Litigation Expenses Payment:	\$11,362.54
Administrator Expenses Payment:	\$4,500.00
PAGA Penalties:	\$135,666.67 (\$101,750.00 to the LWDA; \$49,054.12 to Aggrieved Employees)

15. Each Aggrieved Employee shall receive a pro-rata portion of employees' share of PAGA penalties based on the number of PAGA Pay Periods worked by all Aggrieved Employees for Defendant during the Covered Period.

1 16. The PAGA Period or Covered Period means the period from April 12, 2020 through
2 June 30, 2021.

3 17. For settlement purposes, the Aggrieved Employees are defined as “all persons who
4 are employed or have been employed as an hourly employee by REPLANET PACKAGING, LLC,
5 in the State of California who worked one or more pay periods during the Covered Period.”

6 **RISKS AND EVALUATION OF THE SETTLEMENT**

7 18. To help the Court evaluate the fairness of the Settlement, a discussion of the risk
8 evaluation and discount taken follows.

9 19. Plaintiff believed that Defendant may persuasively argue that the Court should
10 exercise its discretion under PAGA to significantly reduce any penalties.

11 20. PAGA Counsel anticipated that, at trial, Counsel for Defendant would argue: (1) all
12 Aggrieved Employees were provided with the opportunity to take meal breaks in compliance with
13 California law; (2) until this Action was filed, no employees had complained about any alleged
14 failure to provide meal breaks; (3) none of Defendant’s employees suffered any harm from or actual
15 damage as a result of the conduct that forms the basis for Plaintiff’s allegations.

16 21. While Plaintiff disagrees that this analysis is legally correct or persuasive, PAGA
17 Counsel had to consider the foregoing facts and arguments and how they might impact any judgment
18 ultimately awarded to Aggrieved Employees if the Court were persuaded by them.

19 22. In light of all these significant risks and the fact that PAGA gives the Court broad
20 discretion to reduce any penalties ultimately awarded, PAGA Counsel determined that the Gross
21 Settlement Amount of \$250,000.00 was fair and reasonable.

22 **ATTORNEY COMPETENCE**

23 23. Kingsley & Kingsley is extremely experienced in prosecuting employment litigation,
24 and since 2000 we have focused our practice on complex wage, hour, and working condition
25 violations. My firm is very well versed in class action litigation and has diligently and aggressively
26 pursued this action. Kingsley & Kingsley currently serves as PAGA Counsel for several dozens of
27 pending class action lawsuits in Northern, Central, Eastern, and Southern California in both State
28 and Federal Court. Below is a small, but representative sampling of wage and hour cases handled

1 by my firm:

- 2 a. *Goodman v. Crystal Ventures, Inc.* (No. BC245561, L.A. Super. Ct.) In January
3 2002, Hon. Anthony Mohr granted final approval of settlement in the gross amount
4 of \$255,000 and the court approved the attorneys' fee request of 33 1/3%.
- 5 b. *Johnston v. The Cheesecake Factory* (No. BC316180, L.A. Super. Ct.) In
6 December 2005, Honorable Rita Miller granted final approval of Settlement in the
7 gross amount of \$4,000,000 and the court granted attorneys' fees request of 30%.
- 8 c. *Tumino v. HOB Entertainment* (No. BC327962, L.A. Super. Ct.) In May 2006, the
9 Honorable Conrad R. Aragon granted final approval of Settlement in the gross
10 amount of \$1,000,000 and the court granted attorneys' fees request of 30%.
- 11 d. *Ryan v. Hilton Hotels Corporation*, (No. BC364260, L.A. Super. Ct.) In March
12 2008, the Honorable Mary Thornton House granted final approval of Settlement in
13 the gross amount of \$1,675,000.00 and the court granted attorneys' fees request of
14 33 1/3%.
- 15 e. *Gerritson v. Styles For Less, Inc.*, (No. BC402921, L.A. Super. Ct.) In September
16 2010, the Hon. Kenneth R. Freeman granted final approval of Settlement in the
17 gross amount of \$2,000,000.00, and the court granted attorneys' fees request of
18 33.3%.
- 19 f. *Lewis v. Collabrus, Inc., et al.*, (No. 109CV-142927, Santa Clara Super. Ct.) In
20 March 2012, the Honorable James P. Kleinberg granted final approval of Settlement
21 in the gross amount of \$2,000,000.00, and the court granted attorneys' fees request
22 of 33.3%.
- 23 g. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (No.
24 BC402739, L.A. Super. Ct.) In June 2013, the Honorable Lee Smally Edmund
25 granted final approval of Settlement in the gross amount of \$4,700,000.00, and the
26 court granted attorneys' fees request of 38%.
- 27 h. *Anderson v. Total Renal Care, Inc.*, (No. BC388335, L.A. Super. Ct.) In January
28 2014, the Honorable William F. Highberger granted final approval of Settlement in

the gross amount of \$1,500,000.00 and the court granted attorneys' fees request of 33.33%.

i. *Rojas, et al. v. Sunview Vineyards of California, Inc.*, Eastern District (1:09-cv-00705 AWIJLT). This certified class action was approved for final settlement by the Honorable Anthony W. Ishii in October 2015, in the gross amount of \$4,550,000.00, with attorneys' fees approved in the amount of \$1,137,500.00.

j. *Westbrook v. International Surfacing Systems*, (No. RG10510015, Alameda Super. Ct.) In August 2015, the Hon. Wynne Carvill granted final approval of Settlement in the gross amount of \$995,000.00, and the court granted attorney's fees request of 33.33%.

k. *Kane et al. v. Valley Slurry Seal*, (No. CV08-2483, Yolo Super. Ct.) In March 2016 after a class trial with a verdict in the class's favor, the Honorable Daniel P. Maguire, awarded Kingsley & Kingsley and co-counsel \$996,232.72 in attorney's fees.

l. *Aparacio v. Abercrombie & Fitch Stores, Inc.*, (No. BC499281, L.A. Super. Ct.) In June 2016, the Hon. Kenneth Freeman granted final approval of Settlement in the gross amount of \$2,000,000.00, and the court granted attorney's fees request of 33.33%.

m. *Isaguirre v. Guess?, Inc., Los Angeles Superior Court (BC357631)*. The matter was proposed for final settlement by the Honorable Richard L. Fruin on February 19, 2016, in the gross amount of \$5,250,000.

n. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (BC402739). The matter was approved for final settlement by the Honorable Lee Smally Edmund in June 2013, in the gross amount of \$4,700,000.00, with attorney's fees request of 38%.

o. *Munoz, et al. v. Giumarra Vineyards Corporation*, United States District Court for the Eastern District of California (Case No.: 1:09-cv-00703 - AWI – JLT). The matter was approved for final settlement by the Honorable Anthony W. Ishii in

November 2017, in the gross amount of \$6,100,000.00, plus interest, with attorney's fees benchmark award of \$1,525,000.

p. *Pineda, et al. v. Grimmway Enterprises, Inc.*, Kern County Superior Court (BCV-15-101333). The matter was approved for final settlement before the Hon. Stephen D. Schuett, Dept. 10, in January 2018, in the gross amount of \$9,000,000 with attorneys' fees request of 33.33%.

24. Kingsley & Kingsley, APC filed its first class certification motion in the year 2000 and since that time has been appointed PAGA Counsel on dozens of wage and hour class actions that have been approved for class certification. Since 2012, Kingsley & Kingsley, APC has moved for class certification in 17 matters and has successfully obtained class certification in 15 of those cases. A brief sampling of which includes:

- a. *Lewis v. Collabrus, Inc.*, Santa Clara County Superior Court (109CV-142927), approved for Class Certification in 2011.
- b. *Melendrez v. JK Communications*, No. BC497692, (L.A. Super. Ct., filed December 19, 2012) (court granted contested class certification and appointed Kingsley & Kingsley as PAGA Counsel).
- c. *Amaro, et al v. Gerawan Farming, Inc.*, No. 1:14-cv-00147-DAD-SAB (E.D. Cal., filed February 3, 2014) (court granted contested class certification and appointed Kingsley & Kingsley as PAGA Counsel).
- d. *Suarez v. Mazatlan, Inc.*, No. 37-2015-00002978-CU-OE-CTL (S.D. Super. Ct., filed January 27, 2015) (court granted contested class certification and appointed Kingsley & Kingsley as PAGA Counsel).
- e. *Ruiz v. Daniel C. Salas Harvesting, Inc.*, Kings County Superior Court (16 C 0214), contested class certification granted in June 2020.
- f. *Weldon v. Geo Corrections & Detentions, LLC*, Kern County Superior Court (BCV-16-102833), contested class certification granted in 2018.
- g. *Patton v. Skyler Electric*, Nevada County Superior Court, (CU17-082544), contested class certification granted in June 2020.

1 h. *Hameister v. Jaco Oil Company*, Kern County Superior Court (BCV-17-102876),
2 contested class certification granted in August 2020

3 25. After factoring in the risks explained above, I believe that the proposed settlement is
4 fair and reasonable. I am not aware of any other pending matter or action asserting claims that will
5 be extinguished or adversely affected by this Settlement.

6 **REQUESTS FOR ATTORNEYS' FEES AND COSTS**

7 26. As detailed fully in the Agreement, the Settlement provides for Defendant to create
8 a Gross Settlement Amount of \$250,000.00. From that fund, Plaintiff requests an award of attorneys'
9 fees for PAGA Counsel in the amount of \$83,333.33, or 33.33% of the Gross Settlement Amount,
10 and \$11,362.54 in reimbursement for litigation costs.

11 27. In addition to the complexity of this case, PAGA Counsel has borne the entire risk
12 and costs of this litigation during the entire time that it has been pending, all on a pure contingency
13 basis. Through the investment of substantial effort and resources, PAGA Counsel has secured an
14 outstanding Settlement of behalf of the Aggrieved Employees. Defendant vigorously contested
15 liability, the amount of claimed damages, and the propriety of class certification. It is this kind of
16 situation, involving complex issues, that has been recognized as justifying a substantial attorney fee
17 award.

18 28. I am very familiar with the contingent fee market throughout California and in the
19 Tulare area, particularly as it pertains to complex employment, wage and hour, and class action
20 litigation. On behalf of my firm, I have negotiated numerous contingency fee agreements with
21 plaintiffs, both as individuals and as representatives in class action suits. Many of those agreements
22 provided that counsel will receive a fee that is between 33% and 40% of any recovery that is obtained,
23 and, in addition, that counsel be reimbursed for the costs they incurred out of the recovery amount.
24 The named Plaintiff in this action signed a contingency fee agreement that stated that counsel would
25 be able to make a fee of up to 40% of any recovery if the case settles. These are typical and standard
26 percentages in employment-related contingency agreements throughout California. Indeed, in my
27 opinion, the Aggrieved Employees in this complex wage and hour case could not have retained
28 competent counsel in California, particularly with the considerable skill and expertise of my firm,

1 for any amount significantly less than the contingency fee percentage provided in this retainer
2 agreement. PAGA Counsel has never been paid any money for attorneys' fees in this case and has
3 advanced all costs.

4 29. There are always risks attendant to billing cases on a contingency basis. Those risks
5 are even higher in the current economic climate. Kingsley & Kingsley bills the vast majority of its
6 cases on contingency, and has been affected by recent bankruptcy filings. In three separate cases,
7 *Lozoya v. Shore House Café, Inc.*, No. 30-2008-00082103-CU-OE-CJC (Orange Super. Ct. filed
8 Mar. 7, 2008) and *Davis v. Crossfire Marketing Group, LLC*, No. CIVRS1207797 (San Bernardino
9 Super. Ct. filed October 5, 2012), the defendants both filed for bankruptcy protection in June 2011
10 and January 2015 after years of litigation. My firm advanced costs and incurred thousands of dollars
11 in fees that will never be recovered.

12 30. Additionally, there are cases where PAGA Counsel takes on the extreme risk of
13 attempting to certify a class case, often times turning down class or individual settlement offers that
14 PAGA Counsel feels are not in the best interest of the Aggrieved Employees, only to lose class
15 certification and the costs and fees associated with the litigation. *See e.g., Prosad v. Del Taco*
16 *Restaurant Services, Inc.*, No. BC426538 (L.A. Super. Ct. filed Nov. 2009); *Perez v. Safelite Group,*
17 *Inc.*, CV-10-8653-RGK(FFMx) (C.D. Cal. filed October 5, 2010).

18 31. When PAGA Counsel's motions for class certification are denied, PAGA Counsel
19 often appeals the orders. Sometimes, these denials are overturned (*Perez v. Safelite Group, Inc.*, 553
20 Fed.Appx. 667 (9th Cir. 2015); *Anderson v. Total Renal Care, Inc.*, No. B236207 (Cal. Ct. App.
21 2012)) and other times PAGA Counsel is unsuccessful (*Prosad v. Del Taco Restaurant Services,*
22 *Inc.*, No. B238605 (CA. Ct. App. 2012)).

23 32. In addition to appealing class certification denials, Kingsley & Kingsley has been
24 involved in numerous lengthy and protracted appeals process before the California Court of Appeal,
25 the Ninth Circuit, the Seventh Circuit, and the United States Supreme Court. Our firm specifically
26 has taken and lost some issues on appeal that required the write-off of significant legal fees. Also,
27 our firm has been successful on appeal and overturned unfavorable lower court rulings or
28 successfully fought to have successful rulings affirmed. Below is just a sample of some of these

1 appeals:

- 2 a. *D'Este v. Bayer Corp.*, 565 F.3d 1119 (9th Cir. 2009) (lower court ruling that
3 pharmaceutical sales representatives are exempt employees affirmed);
- 4 b. *Budrow v. Dave & Buster's of California, Inc.*, 171 Cal. App. 4th 875 (2009) (lower
5 court ruling in employer's favor that certain employees can share in mandatory tip
6 pool affirmed);
- 7 c. *Etheridge v. Reins Int'l California, Inc.*, 172 Cal. App. 4th 908 (2009) (lower court
8 ruling in employer's favor that certain employees can share in mandatory tip pool
9 affirmed);
- 10 d. *Areso v. CarMax, Inc.*, 195 Cal. App. 4th 996 (2011) (lower court ruling in
11 employer's favor approving employer's commission pay plan affirmed) ;
- 12 e. *Christopher v. SmithKline Beecham Corp.*, 132 S. Ct. 2156, 183 L. Ed. 2d 153
13 (2012) (lower court ruling that pharmaceutical sales representatives are exempt
14 employees affirmed);
- 15 f. *Schaefer-LaRose v. Eli Lilly & Co.*, 679 F.3d 560 (7th Cir. 2012) (lower court ruling
16 that pharmaceutical sales representatives are exempt employees affirmed);
- 17 g. *Fowler v. Carmax, Inc.*, No. B238426, 2013 WL 1208111 (Cal. Ct. App. Mar. 26,
18 2013), cert. granted, judgment vacated sub nom. *CarMax Auto Superstores*
19 *California, LLC v. Fowler*, 134 S. Ct. 1277, 188 L. Ed. 2d 290 (2014) (lower court
20 granted employer's motion to compel arbitration, Court of Appeal reversed, U.S.
21 Supreme Court affirmed lower court);
- 22 h. *Salazar v. Apple Am. Grp., LLC*, No. E059562, 2015 WL 314703 (Cal. Ct. App.
23 Jan. 26, 2015), review denied (Apr. 22, 2015), cert. denied, 136 S. Ct. 688, 193 L.
24 Ed. 2d 519 (2015) (lower court ruling in employee's favor on motion to compel
25 arbitration affirmed);
- 26 i. *Anaya v. J's Maint. Serv., Inc.*, No. B261662, 2016 WL 519867 (Cal. Ct. App. Feb.
27 9, 2016) (lower court ruling in employee's favor on motion to compel arbitration
28 affirmed);

- 1 j. *Cortez v. Doty Bros. Equipment Company, Inc.* (2017) 15 Cal.App.5th 1 (reversing
2 in part and affirming in part trial courts order compelling arbitration);
- 3 k. *Lopez v. Friant & Associates, L.L.C.* (2017) 15 Cal.App.5th 773 (reversing
4 summary judgement in favor of employer on wage statement claim);
- 5 l. *Kane v. Valley Slurry Seal Company*, Case No. C079558, Cal. Ct. App. May 8,
6 2018) (affirming judgement for employees after bench trial);
- 7 m. *Kim v. Reins International California*, Case No. S246911. Oral argument was held
8 before the California Supreme Court on January 6, 2020 and a decision was
9 published in March 2020.

10 33. Unlike plaintiffs' firms, which bear the risk of loss on contingency cases, defense
11 firms are able to bill their clients for time spent on a case. As verified by a survey conducted by the
12 National Law Journal nearly a decade ago, six California firms provided their hourly billing rates
13 and of the six firms, five regularly charged in excess of \$500 for their partners. In fact, four of these
14 firms charged as high as \$600, \$620, \$650 and up to \$850 per hour. These firms are located in Orange
15 County, Los Angeles County, San Francisco County, and San Diego County. This survey is attached
16 hereto as Exhibit 2.

17 34. While plaintiff's firms strive to take on cases that are meritorious (for ethical as
18 well as monetary reasons), as this Court knows, many of these cases hinge on the decision of class
19 certification. Recently, there has been a renewed effort by defense counsel and/or their clients to
20 challenge these cases and to push back, especially on certification motions. In addition, many
21 novel legal issues have gone up on appeal, which has complicated the landscape for settlement.

22 **PAGA COUNSEL'S HOURS AND HOURLY RATES ARE REASONABLE**

23 35. Here, a lodestar cross-check confirms that the percentage requested is reasonable.
24 PAGA Counsel's aggregate lodestar amounts to \$70,391.00 (with future hours)¹, which represents
25 about 101.40 hours of attorney work on this litigation incurred from its inception through the filing
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27 ¹ Class Counsel will certainly continue to spend time working on this matter for tasks such as
28 preparing for and attending the final approval hearing, overseeing the administration process,
and communicating with Class Members. Therefore, Plaintiff's Counsel is requesting
approval of ten future hours.

1 of Plaintiff's Motion for Approval.

2 36. PAGA Counsel also anticipates an additional ten hours of future time through the
3 hearing and the administration process.

4 37. As such, PAGA Counsel is asking for a multiplier of 1.18.

5 38. The amount of time spent on this case (101.40 hours), which culminated in a very
6 favorable proposed Settlement for the Aggrieved Employees, is reasonable given the complexity and
7 novelty of the issues involved, the vigorous defense, the length and intensity of the litigation, and the
8 exceptional results obtained.

9 39. PAGA Counsel litigated this action with great efficiency in light of the amount of
10 work required to achieve the Settlement.

11 40. The requested hourly rates in this case range from \$415.00 per hour to \$990.00.

12 41. PAGA Counsel's hourly rates are fully supported by their experience and reputation
13 in handling complex employment litigation, including wage and hour class actions.

14 42. Mr. Kingsley is a 24-year attorney with expertise in wage and hour class action
15 lawsuits.

16 43. He has litigated several hundred such cases, including at the appellate level at the
17 U.S. Supreme Court, California Supreme Court, the Ninth Circuit, and the California Court of
18 Appeal.

19 44. He is also a prolific speaker at various seminars on employment law and has
20 contributed to legal publications on employment topics.

21 45. In light of the impending increase of experienced lawyers in specialized practice, I
22 believe that the hourly rates charged by my firm are fair and reasonable and are comparable to or
23 less than those charged by my colleagues in California and the national market for prosecuting or
24 defending class actions.

25 46. My office billed for the following six attorneys for work performed on this case: Eric
26 Kingsley, Jessica Adlouni, Jessica Bulaon, and me.

27 47. I, a partner at Kingsley & Kingsley, APC, have a billing rate of \$715 per hour. I am
28 an honors graduate of Florida State University, and received my JD from the University of California

1 Davis School of Law in 2008, where I was an editor of the Environmental Law Journal and a board
2 member of the King Hall Negotiations Team.

3 48. Jessica Adlouni is an Associate Attorney at Kingsley & Kingsley, APC. She is billed
4 at \$400 per hour. Ms. Adlouni obtained her Bachelor of Arts from UCLA and her juris doctor from
5 UCLA School of Law in May 2019.

6 49. Jessica Bulaon is an Associate Attorney at Kingsley & Kingsley, APC. She is billed
7 at \$415 per hour. Ms. Bulaon obtained her Bachelor of Arts from UCLA and her juris doctor from
8 UCLA School of Law in 2021.

9 50. An article in the Wall Street Journal on February 9, 2016 titled *Legal Hours Cross*
10 *New Mark: \$1,500 an Hour* states that “a review of filings over the past three months in about two
11 dozen bankruptcy cases shows that senior partners routinely charge between \$1,200 and \$1,300 an
12 hour, with top rates at several large law firms exceeding \$1,400.” The article also explains that
13 “despite low inflation and weak demand for legal services, rates at large corporate law firms have
14 risen by 3% to 4% a year since the economic downturn.” Finally, the article notes that “the average
15 highest rate paid for law-firm partners was \$875 an hour in 2015.” This article is attached hereto as
16 Exhibit 3.

17 51. PAGA Counsel’s charged rates are commensurate with the prevailing market rates
18 in Tulare County for attorneys of comparable experience and skill handling complex litigation.

19 52. Furthermore, PAGA Counsel’s rates in calculating the lodestar are the same rates
20 charged to non-contingent hourly clients and thus necessarily reflect the current market value of
21 counsel’s legal services.²

22 53. PAGA Counsel has made all reasonable attempts to avoid duplication of assignments
23 and to assign tasks to timekeepers at the appropriate billing rates.

24 54. Finally, PAGA Counsel’s rates are in line with the 2023-2024 Laffey Matrix, which
25 is a fee scale that courts often consult in determining the reasonableness of hourly rates. Under the
26

27 ² The Court should also note that other California courts approved many of these same rates over
28 15 years ago. (See, e.g., *Bihun v. AT&T Info. Sys., Inc.* (1993) 13 Cal.App.4th 976, 997,
disapproved on other grounds, 6 Cal.4th 644, 664 [\$450 hourly rate was a reasonable fee based
on counsel’s knowledge, skill, experience and reputation].)

adjusted Laffey Matrix, a reasonable rate for an attorney with 20+ years of experience, such as Mr. Kingsley, is \$1057, a reasonable rate for an attorney with 12 years of experience, such as myself, is \$878, a reasonable rate for an attorney with 4 years of experience, such as Ms. Adlouni is \$538, a reasonable rate for an attorney with 3 or less years of experience, such as Ms. Bulaon is \$437. A true and correct copy of the 2023-2024 Adjusted Laffey Matrix is attached hereto as Exhibit 4.

55. Kingsley & Kingsley's attorneys' fees in the present case are broken down as follows:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTALS</u>
Eric B. Kingsley	11.30	\$990.00	\$11,187.00
Liane Katzenstein Ly	72.40 ³	\$715.00	\$51,766.00
Jessica Adlouni	3.70	\$440.00	\$1,628.00
Jessica Bulaon	14.00	\$415.00	\$5,810.00
KINGSLEY TOTAL ATTORNEYS' FEES	101.40		\$70,391.00

66. Kingsley & Kingsley, APC has spent significant time extensively investigating, researching, and litigating this matter, including but not limited to the following:

- a. intake and interviewing Plaintiff and witnesses and flushing out facts and issues;
- b. researching employer and related causes of action;
- c. researching other pending and former matters against Defendant;
- d. fact development and investigating Defendant's ownership structure;
- e. researching and analyzing relevant claims under B&P 17200;
- f. investigation and discussion regarding job functions, duties, compensation, policies, and procedures, etc.;
- g. regular meetings and or communicating with the named Plaintiff;
- h. drafting pleadings (Complaints, Motion for Preliminary Approval, various documents related to Preliminary Approval, etc.);

³ PAGA Counsel's current hours are 62.40. However, PAGA Counsel also anticipates an additional ten hours of future time through the hearing and the administration process. As such, PAGA Counsel is reporting a total of 72.40 hours.

- i. researching private right of action and various impact on class actions;
- j. preparing for and attending mediation;
- k. discussing issues related to damage model calculations;
- l. preparing and analyzing damage models;
- m. negotiating the terms of the settlement;
- n. reviewing and making changes to the Settlement Agreement;
- o. drafting and editing all documents for Settlement Approval;
- p. coordinating and overseeing all aspects of the administration of the Settlement (review documentation, approve form and content, etc.); and multiple communications with defense counsel.

56. Based on the aggregate lodestar, PAGA Counsel is requesting a multiplier of 1.18.

FACTORS THAT SUPPORT THE APPROVAL OF A MULTIPLIER

57. This case dealt with difficult legal and factual questions. Significantly, the risk attendant to the underlying claims in this matter was great considering Defendant's defenses as discussed in detail above. Were this case to proceed, Defendant would have a strong incentive to litigate tenaciously. There are genuine issues in dispute.

58. Furthermore, PAGA Counsel was able to obtain close to the full value for this case.

59. As discussed above, PAGA Counsel are skilled wage and hour practitioners with decades of experience who diligently prepared and litigated this matter.

60. To achieve the ultimate result in this case, my firm had to incur substantial risk and expense, and were precluded from taking other fee generating employment for over 100 hours of attorney time.

61. This matter had been handled purely on a contingency fee basis and my firm has advanced many thousands of dollars in costs while deferring all payment of fees, with no guarantee that any of the fees incurred or costs advanced would ever be recovered, and diverting significant firm resources to prosecution of this matter.

62. PAGA Counsel believe this is an exceptional result that has been well received by the Aggrieved Employees.

**THE COURT SHOULD APPROVE THE REQUEST FOR REIMBURSEMENT OF
COSTS**

63. In addition to their request for fees, PAGA Counsel further request reimbursement of the reasonable out-of-pocket expenses advanced and/or incurred by them in connection with this litigation, in the amount of \$11,362.54.

64. To date, Kingsley and Kingsley has incurred \$11,103.54 in costs.

65. PAGA Counsel anticipates incurring an additional \$259.00 in costs to file and serve this motion.

66. As such, counsel is requesting a cost reimbursement of 11,362.54.

67. All of the requested costs are reasonable in amount and were necessarily incurred by Class Counsel in prosecuting this litigation. Attached hereto as Exhibit "5" is a true and correct copy of PAGA Counsel's cost ledger.

68. All of these costs have been incurred in the course of this litigation, and all costs advanced have already been paid by PAGA Counsel, with the exception of the anticipated cost of filing the present motion.

69. Accordingly, the requested reimbursement of the reasonable out-of-pocket expenses advanced and/or incurred is appropriate and justified as part of the overall settlement and the Court should approve the request for reimbursement in the amount of \$11,362.54.

EXHIBITS

70. Attached hereto as Exhibit "1" is a true and correct copy of the fully-executed PAGA Settlement Agreement.

71. Attached hereto as Exhibit "2" is a true and correct copy of the ALM Research 2007 NLJ Billing Survey.

72. Attached hereto as Exhibit "3" is a true and correct copy of Wall Street Journal on February 9, 2016 titled *Legal Hours Cross New Mark: \$1,500 an Hour*.

73. Attached hereto as Exhibit "4" is a true and correct copy of the 2023-2024 Adjusted Laffey Matrix.

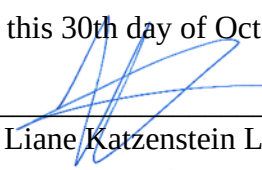
74. Attached hereto as Exhibit "5" is a true and correct copy of the Kingsley & Kingsley,

1 APC costs ledger reflecting costs incurred in this matter.

2 75. Attached hereto as Exhibit "6" is a true and correct copy of the Administrator's,
3 Xpand Legal, bid.

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

6 This declaration was executed this 30th day of October, 2023, in Los Angeles, California.

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EXHIBIT "1"

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement ("Agreement") is made by and between plaintiff LUIS SANTOS ("Plaintiff") and defendant PolymerPak fka REPLANET PACKAGING, LLC. ("Defendant"). The Agreement refers to Plaintiff and Defendant collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

- 1.1. "Action" means the Plaintiff's Representative PAGA lawsuit alleging wage and hour violations against Defendant captioned LUIS SANTOS, an individual, on behalf of the State of California, as a private attorney general, PLAINTIFF, v. REPLANET PACKAGING, LLC.; and DOES 1 thru 50, inclusive, DEFENDANT in the Tulare County Superior Court, Case No. 285878 initiated on February 5, 2021 and pending in Superior Court of the State of California, County of Tulare.
- 1.2. "Administrator" means Xpand Legal, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with approval of this Settlement.
- 1.4. "Aggrieved Employee" means all persons who are employed or have been employed as an hourly employee by REPLANET PACKAGING, LLC, in the State of California who worked one or more pay periods during the Covered Period.
- 1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in Defendant's possession including the Aggrieved Employee's name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. "Aggrieved Employee Address Search" means the Administrator's investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. "Covered Period" for purposes of this Agreement means April 12, 2020 to June 30, 2021.
- 1.8. "Court" means the Superior Court of California, County of Tulare
- 1.9. "Defense Counsel" means HERR PEDERSEN & BERGLUND LLP.

- 1.10. "Effective Date" means the date by when both of the following have occurred:
(a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment.
- 1.11. "Gross Settlement Amount" means \$250,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.
- 1.12. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.13. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.14. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.15. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.16. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.17. "PAGA Counsel" means KINGSLEY & KINGSLEY, APC, the attorneys representing the Plaintiff in the Action.
- 1.18. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.
- 1.19. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
April 12, 2020 to June 30, 2021
- 1.20. "PAGA Period" means the period from ~~February 4, 2020 to August 16, 2023~~ ^{Replanet}
- 1.21. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.22. "PAGA Notice" means Plaintiff's April 12, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

- 1.23. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (\$135,666.67), allocated 25% to the Aggrieved Employees (\$33,916.67) and the 75% to LWDA (\$101,750.00) in settlement of PAGA claims.
- 1.24. "Plaintiff" means LUIS SANTOS, the named plaintiff in the Action.
- 1.25. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.26. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.27. "Released Parties" means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.28. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.29. Defendant" means named Defendant REPLANET PACKAGING, LLC.

2. RECITALS.

- 2.1. On February 5, 2021, Plaintiff commenced this Action by filing a Class Action Complaint alleging a cause of action for: (1) Failure to provide meal periods; (2) waiting time penalties; and (3) unfair business competition. Subsequently, the Class Action Complaint was amended to be a Representative Action pursuant to Labor Code § 2699, et seq., the Private Attorneys General Act ("PAGA") against Defendant for penalties pursuant to Labor Code §§ 201, 202, 203, 226.7, and 512. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint.") Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged. The Action has been stayed pending arbitration of Plaintiff's individual claims.
- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. On August 16, 2023, the Parties participated in an all-day mediation presided over by Hon. David R. Lampe (Ret.), which led to this Agreement to settle the Action and Plaintiff's claims sent to Individual Arbitration.

- 2.4. Prior to mediation, Plaintiff obtained, through formal discovery, Plaintiff's personnel records, time data for Plaintiff and the aggrieved employees, policy documents for all aggrieved employees, and pay data for all aggrieved employees.
- 2.5. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$250,000.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33-1/3% which is currently estimated to be \$83,333.33 and PAGA Counsel Litigation Expenses Payment of not more than \$15,000.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2. To the Administrator: An Administrator Expenses Payment not to exceed \$11,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$11,000.00 the Administrator will retain the remainder in the Net Settlement Amount.

3.2.3. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$135,666.67 to be paid from the Gross Settlement Amount, with 75% (\$101,750.00) allocated to the LWDA PAGA Payment and 25% (\$33,916.67) allocated to the Individual PAGA Payments.

3.2.3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$33,916.67) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.3.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant engaged a third-party who estimates there are 134 Aggrieved Employees who worked a total of 6,619 Covered PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within 15 days of the Effective Date, Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the

PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

- 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.
- 4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.
- 4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

- 5.1 **Plaintiff's Release.** Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to,

the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.2 Release by Aggrieved Employees:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

5.3 Release by PAGA Counsel:

PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator.

6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

- 6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected Xpand Legal to serve as the Administrator and verified that, as a condition of appointment, Xpand Legal agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE.

Based on its records, Defendant engaged a third-party who estimates that, in and for the Covered Period there are 134 Aggrieved Employees who worked 6,619 Pay Periods during the PAGA Period.

- 8.1 This representation is a material term of this PAGA Settlement Agreement. To the extent that any of the forgoing estimates, as represented by Defendant, increases by more than 10%, Defendant will increase the Gross Settlement amount proportionately. For example, if the number of pay periods increases by 17% then Defendant shall increase the GSA by 17%. Likewise, for example, if the number of aggrieved employees increases by 17% then Defendant shall increase the GSA by 17%.

9. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing

settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS.

10.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the

Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

- 10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 10.12 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.13 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.14 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes

of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.15 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties will stipulate to lift the Stay in the Action and permit Plaintiff to file the Motion for Approval of the PAGA Settlement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Plaintiff

Dated: August 16, 2023

Executed by:

LUIS SANTOS

Defendant

Dated: 8/16/2023


POLYMER PAK, LLC FKA REPLANET
PACKAGING, LLC

Dated: 8/16/2023

KINGSLEY & KINGSLEY, APC

By: 
Eric B. Kingsley
Liane Katzenstein Ly
Attorneys for Plaintiff and all aggrieved employees

Dated: 8/16/2023

HERR PEDERSEN & BERGLUND LLP

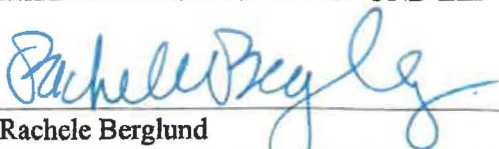
By: 
Rachele Berglund
Attorneys for Defendant POLYMERPAK LLC FKA
REPLANET PACKAGING, LLC.

EXHIBIT "2"

	A	C	D	E	F	G	H	I	J	K	L
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3											
4											
5											
6	Firm Name	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med	Firmwide Billing Rate Med
7	Adams and Reese	\$500	\$225	\$255	\$165	\$198	\$305	\$278	\$197	\$300	\$275
8	Andrews Kurth	\$795	\$400	\$460	\$210						
9	Arent Fox	\$675	\$395	\$440	\$240						
10	Armstrong Teasdale	\$450	\$295	\$295	\$165						
11	Baker, Donelson, Bearman, Caldwell & Berkowitz	\$525	\$230	\$315	\$160	\$205	\$325	\$280	\$200	\$320	\$270
12	Barnes & Thornburg	\$485	\$265	\$295	\$180	\$225	\$350	\$302	\$220	\$355	\$310
13	Bass, Berry & Sims PLC	\$575	\$300	\$285	\$180						
14	Best Best & Krieger	\$495	\$290	\$350	\$160	\$203	\$275	\$212	\$235	\$390	\$265
15	Bond, Schoeneck & King	\$435	\$200	\$250	\$140	\$179	\$294	\$253	\$175	\$295	\$300
16	Bradley Arant Rose & White	\$520	\$240	\$280	\$180	\$211	\$335	\$258	\$205	\$330	\$260
17	Briggs and Morgan	\$500	\$250	\$325	\$195	\$233	\$391	\$344	\$230	\$395	\$350
18	Brinks Hofer Gilson & Lione	\$650	\$300	\$410	\$180	\$273	\$479	\$365	\$250	\$485	\$350
19	Broad and Cassel	\$450	\$250	\$310	\$165	\$232	\$361	\$294	\$225	\$360	\$275
20	Brownstein Hyatt Farber Schreck	\$675	\$260	\$270	\$170	\$219	\$373	\$308	\$218	\$390	\$325
21	Bryan Cave	\$695	\$320	\$495	\$165	\$295	\$493	\$394	\$295	\$490	\$375
22	Buchanan Ingersoll & Rooney	\$750	\$320	\$460	\$150						
23	Bullivant Houser Bailey	\$500	\$225	\$350	\$150	\$240	\$285	\$260	\$220	\$275	\$250
24	Burr & Forman	\$470	\$250	\$305	\$175	\$235	\$340				
25	Butzel Long	\$575	\$210	\$350	\$155						
26	Carlton Fields	\$600	\$280	\$375	\$190	\$243	\$406	\$312	\$245	\$405	\$300
27	Cooley Godward Kronish	\$875	\$470	\$555	\$250						
28	Covington & Burling	\$800	\$510	\$525	\$240						
29	Cozen O'Connor	\$750	\$230	\$530	\$155	\$283	\$420	\$350	\$280	\$425	\$340
30	Curtis, Mallet-Prevost, Colt & Mosle	\$735	\$635	\$560	\$280	\$361	\$666	\$396	\$360	\$685	\$480
31	Davis Wright Tremaine	\$695	\$300	\$390	\$170	\$257	\$430	\$375	\$250	\$423	\$375
32	Day Pitney	\$650	\$350	\$525	\$210	\$306	\$472	\$374	\$310	\$465	\$375
33	Dickinson Wright	\$530	\$260	\$275	\$170						
34	Dickstein Shapiro Morin & Oshinsky	\$825	\$425	\$440	\$225	\$336	\$552	\$438	\$360	\$550	\$425
35	Dinsmore & Shohl	\$475	\$235	\$285	\$155	\$199	\$342	\$275	\$190	\$340	\$250
36	Dorsey & Whitney	\$750	\$220	\$470	\$145	\$274	\$463	\$375	\$260	\$463	\$365
37	Duane Morris	\$705	\$315	\$465	\$150	\$310	\$475	\$416	\$305	\$470	\$415
38	Dykema Gossett	\$625	\$245	\$390	\$185	\$272	\$403				
39	Edwards Angell Palmer & Dodge	\$700	\$350	\$450	\$170	\$293	\$515	\$407	\$280	\$513	\$400
40	Epstein Becker & Green	\$675	\$280	\$440	\$155	\$290	\$471	\$380	\$280	\$475	\$395
41	Fenwick & West	\$775	\$500	\$500	\$245	\$360	\$590	\$395	\$370	\$600	\$410
42	Foley & Lardner	\$855			\$185	\$387	\$550	\$476	\$375	\$550	\$475
43	Ford & Harrison	\$560	\$325	\$395	\$210						
44	Fowler White Boggs Banker	\$500	\$230	\$325	\$150	\$217	\$345	\$303	\$210	\$340	\$300
45	Fox Rothschild	\$595	\$240	\$440	\$190						

	A	C	D	E	F	G	H	I	J	K	L
	Firm Name	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med	Firmwide Billing Rate Med
46											
47	Frost Brown Todd	\$455	\$225	\$255	\$145	\$180	\$303	\$256	\$170	\$295	\$255
48	Gardere Wynne Sewell	\$715	\$350	\$425	\$220	\$292	\$472	\$405	\$265	\$475	\$405
49	GrayRobinson, PA	\$500	\$175	\$250	\$250	\$198	\$319	\$224			
50	Greenberg Traurig, PA	\$850	\$300	\$505	\$175	\$311	\$490	\$407	\$310	\$500	\$415
51	Harris Beach	\$475	\$250	\$275	\$140						
52	Hiscock & Barclay LLP	\$375	\$220	\$250	\$160	\$185	\$278	\$245	\$180	\$280	\$250
53	Hodgson Russ	\$645	\$215	\$395	\$155	\$219	\$337	\$254	\$205	\$350	\$250
54	Hogan & Hartson	\$850	\$300	\$525	\$150	\$385	\$600	\$490	\$370	\$590	
55	Holland & Hart	\$585	\$275	\$345	\$165	\$269	\$388	\$335	\$275	\$385	\$335
56	Holme Roberts & Owen	\$635	\$285	\$420	\$195	\$284	\$412	\$353	\$265	\$410	\$345
57	Howard, Rice, Nemerovski, Canady, Falk & Rabkin	\$775	\$495	\$485	\$275						
58	Hughes Hubbard & Reed	\$825	\$595	\$560	\$240						
59	Husch & Eppenberger	\$425	\$190	\$260	\$130	\$179	\$297	\$248	\$175	\$295	\$245
60	Jackson Lewis	\$575	\$235	\$450	\$210						
61	Jenner & Block LLP	\$900	\$450	\$425	\$275	\$327	\$562		\$325	\$525	
62	Jones, Walker, Waechter, Poitevent, Carrere & Denegre	\$600	\$210	\$225	\$150						
63	Kelley Drye & Warren	\$800	\$400	\$500	\$255						
64	Knobbe, Martens, Olson & Bear	\$645	\$340	\$420	\$215						
65	Lane Powell Moss & Miller	\$515	\$300	\$300	\$205	\$255	\$370	\$345	\$255	\$370	\$345
66	Lathrop & Gage	\$450	\$225	\$300	\$140	\$185	\$300	\$215	\$185	\$300	\$260
67	Leonard, Street and Deinard	\$500	\$300	\$300	\$185						
68	Lewis, Rice & Fingersh	\$425	\$240	\$295	\$130						
69	Lindquist & Vennum	\$500	\$260	\$260	\$165						
70	Locke, Lord, Bissell & Liddell	\$900	\$375	\$390	\$190	\$281	\$488	\$399	\$280	\$490	\$425
71	Loeb & Loeb	\$875	\$425	\$500	\$240	\$384	\$606	\$505	\$400	\$600	\$500
72	Lord, Bissell & Brook	\$690	\$335	\$410	\$200	\$299	\$473	\$410	\$300	\$475	\$415
73	Lowenstein Sandler	\$725	\$380	\$395	\$205						
74	Luce, Forward, Hamilton & Scripps	\$725	\$325	\$450	\$220	\$281	\$465	\$381	\$280	\$475	\$395
75	Manatt, Phelps & Phillips	\$785	\$520	\$480	\$265	\$395	\$600	\$518	\$415	\$590	\$550
76	Marshall, Dennehey, Warner, Coleman & Goggin	\$400	\$135	\$300	\$120						
77	McCarter & English LLP	\$650	\$325	\$395	\$205						
78	McElroy Deutsch, Mulvaney & Carpenter	\$450	\$295	\$225	\$135	\$180	\$250	\$195	\$165	\$235	\$215
79	McKee Nelson	\$920	\$635	\$595	\$375	\$446	\$760	\$489	\$455	\$755	\$475
80	Michael Best & Friedrich	\$550	\$225	\$300	\$185	\$234	\$363	\$321	\$235	\$350	\$325
81	Miles & Stockbridge	\$535	\$315	\$405	\$205	\$260	\$397				
82	Miller & Martin	\$580	\$230	\$295	\$160	\$201	\$338	\$306	\$195	\$340	\$320
83	Miller, Canfield, Paddock and Stone, PLC	\$595	\$265	\$340	\$160	\$225	\$400	\$285	\$220	\$400	\$335
84	Montgomery, McCracken, Walker & Rhoads	\$575	\$320	\$320	\$195	\$260	\$419	\$360			
85	Moore & Van Allen	\$765	\$265	\$330	\$175						
86	Morgan, Lewis & Bockius	\$850	\$375	\$575	\$200						
87	Morris, Manning & Martin	\$625	\$350	\$400	\$180	\$285	\$436	\$380	\$310	\$395	\$440
88	Nexsen Pruet Jacobs & Pollard	\$420	\$220	\$250	\$150						
89	Ogletree, Deakins, Nash, Smoak & Stewart	\$575	\$270	\$360	\$200	\$256	\$348	\$312			
90	Patton Boggs	\$920	\$320	\$520	\$205	\$375	\$536	\$456	\$385	\$525	\$455
91	Pepper Hamilton	\$750	\$335	\$425	\$200						
92	Perkins Coie	\$805	\$205	\$500	\$145						

	A	C	D	E	F	G	H	I	J	K	L
	Firm Name	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med	Firmwide Billing Rate Med
93											
94	Phelps Dunbar	\$450	\$170	\$205	\$130	\$174	\$243	\$184	\$175		
95	Phillips Lytle	\$435	\$245	\$300	\$140	\$205	\$309	\$223	\$205	\$300	\$215
96	Polsinelli Shalton Welte Suelthaus	\$600	\$250	\$250	\$175						
97	Quarles & Brady	\$575	\$260	\$335	\$185	\$233	\$377	\$319	\$235	\$375	\$325
98	Reed Smith	\$825	\$350	\$510	\$200	\$374	\$558	\$395	\$350	\$525	\$385
99	Robinson & Cole	\$575	\$340	\$325	\$200	\$295	\$424	\$328	\$280	\$420	\$330
100	Roetzel & Andress	\$460	\$210	\$275	\$110	\$198	\$302	\$264	\$200	\$300	\$260
101	Rutan & Tucker	\$600	\$335	\$350	\$210						
102	Saul Ewing	\$750	\$315	\$485	\$180	\$273	\$426	\$357	\$255	\$415	\$365
103	Schnader Harrison Segal & Lewis	\$750	\$240	\$385	\$175						
104	Schulte Roth & Zabel	\$850	\$650	\$585	\$235	\$435	\$724		\$440	\$745	
105	Sheppard, Mullin, Richter & Hampton	\$795	\$425	\$550	\$260						
106	Shughart Thomson & Kilroy	\$475	\$235	\$225	\$160						
107	Shumaker, Loop & Kendrick	\$465	\$200	\$360	\$180	\$221	\$311	\$289	\$220	\$305	\$300
108	Sills Cummis Epstein & Gross	\$650	\$350	\$375	\$195						
109	Smith, Gambrell & Russell	\$575	\$250	\$345	\$175						
110	Snell & Wilmer	\$675	\$275	\$390	\$170	\$248	\$390				
111	Steptoe & Johnson PLLC	\$325	\$200	\$250	\$170						
112	Stinson Morrison Hecker	\$600	\$230	\$250	\$175	\$207	\$333	\$295	\$225	\$365	\$285
113	Stoel Rives	\$500	\$275	\$350	\$160	\$231	\$379	\$324	\$230	\$375	\$330
114	Strasburger & Price	\$560	\$225	\$395	\$200	\$234	\$367	\$326	\$223	\$363	\$322
115	Sullivan & Worcester	\$700	\$415	\$420	\$245	\$309	\$550	\$438	\$290	\$540	\$440
116	Sutherland Asbill & Brennan	\$715	\$375	\$415	\$215	\$292	\$511	\$335	\$280	\$500	\$305
117	Thacher Proffitt & Wood	\$785	\$525	\$495	\$275	\$353	\$674	\$428	\$365	\$700	\$395
118	Thompson & Knight	\$730	\$370	\$370	\$205	\$295	\$496	\$415	\$310	\$485	\$400
119	Thompson Coburn	\$580	\$265	\$370	\$170						
120	Ulmer & Berne	\$470	\$240	\$290	\$165	\$212	\$343	\$280			
121	Vedder, Price, Kaufman & Kammholz	\$650	\$335	\$410	\$205	\$281	\$430	\$372	\$370	\$425	\$365
122	Wiggin and Dana	\$590	\$295	\$350	\$195						
123	Williams Mullen	\$600	\$300	\$425	\$205						
124	Wilmer Cutler Pickering Hale and Dorr	\$1,000	\$475	\$495	\$215						
125	Winstead Sechrest & Minick	\$620	\$345	\$360	\$180						
126	Winston & Strawn	\$845	\$400	\$590	\$200	\$365	\$608	\$455	\$395	\$640	\$523
127	Womble Carlyle Sandridge & Rice	\$575	\$290	\$370	\$195	\$268	\$426	\$355	\$265	\$425	\$360

EXHIBIT "3"

THE WALL STREET JOURNAL.

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<http://www.wsj.com/articles/legal-fees-reach-new-pinnacle-1-500-an-hour-1454960708>

BUSINESS | LAW

Legal Fees Cross New Mark: \$1,500 an Hour

Billing rates for partners at elite corporate law firms keep rising, despite low inflation, weak demand



Documents filed in chapter 11 bankruptcy cases offer a rare public glimpse at the mounting hourly fees of law partners at elite corporate law firms. Above, the U.S. Bankruptcy Court in New York. *PHOTO: BRENDAN MCDERMID/REUTERS*

By **SARA RANDAZZO** and **JACQUELINE PALANK**

Updated Feb. 9, 2016 10:11 a.m. ET

The day of the \$1,500-an-hour lawyer has arrived.

Partners at some of the nation's top law firms are approaching—and, in a few cases, surpassing—that watershed billing rate, making the \$1,000-an-hour legal fees that once seemed so steep look quaint by comparison.

Despite low inflation and weak demand for legal services, rates at large corporate law firms have risen by 3% to 4% a year since the economic downturn, according to Citi Private Bank's Law Firm Group.

“We just raise them every year,” said John Altorelli, a finance lawyer at DLA Piper LLP in New York, who says the firm has set his rate at more than \$1,500 an hour. Mr. Altorelli, who filed for personal bankruptcy in 2014 to halt a legal battle with the estate of his former law firm, Dewey & LeBoeuf LLP, cracked the \$1,000-an-hour mark a decade ago. His fees have risen steadily ever since.

To soften the blow to clients, Mr. Altorelli does more than half his work on some kind of fixed-fee basis. “Using hourly rates is really anachronistic, but we still do it,” he said.

Raising rates ensures that law firms keep up with the competition and helps them wrest more money from clients, who routinely demand discounts for all but the most sensitive work.

“If you think of the rules of supply and demand, how in the world can they keep raising their rates?” said Jeff Carr, a former general counsel of oil-and-gas services and equipment company FMC Technologies who for years has been an outspoken opponent of hourly legal rates.

The rate creep has boosted law firms’ revenue at a time when many of them are under pressure from lower-cost legal-service providers and corporate clients that are keeping more legal work in-house. Revenue at law firms rose 4% last year, according to Wells Fargo Private Bank’s Legal Specialty Group, though demand rose just 0.5%.

“Lots of law firms will charge whatever the market can bear,” said the head of one of the nation’s 200 largest law firms.

Documents filed in chapter 11 bankruptcy cases offer a rare public glimpse at mounting fees. These court filings show the rates of partners specializing in corporate restructuring, as well as those with specialties like tax, litigation and corporate law.

A review of filings over the past three months in about two dozen bankruptcy cases shows that senior partners routinely charge between \$1,200 and \$1,300 an hour, with top rates at several large law firms exceeding \$1,400.

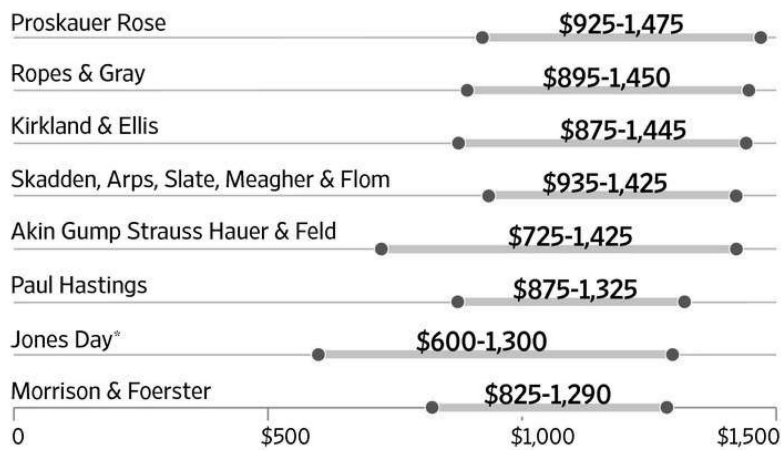
Proskauer Rose LLP’s hourly partner billing rate has climbed as high as \$1,475, while Ropes & Gray LLP’s tops out at \$1,450, court papers show.

Kirkland & Ellis LLP’s top hourly billing rate is now \$1,445. And rates at two firms—Akin Gump Strauss Hauer & Feld LLP and Skadden, Arps, Slate, Meagher & Flom LLP—peak at \$1,425 an hour.

Representatives of the law firms declined to comment.

Top Billers

Hourly rates of partners at top U.S. law firms now approach \$1,500.



*Includes partners and of counsel

Source: Bankruptcy court filings

THE WALL STREET JOURNAL.

Martin Bienenstock, who leads Proskauer's restructuring practice, called the \$1,225 an hour he billed clients last year "a market rate similar to my peers at other firms," and said he charges the same rate for nonbankruptcy work.

"The clients have kept coming back and growing during my 38-year career," he

said in an email, adding that clients generally prefer dealing directly with senior lawyers versus younger associates with lower rates.

In disclosing their firmwide rate increases, many firms tell the courts it is a standard way of keeping pace with "economic and other conditions." These include rising fixed costs, such as real estate and salaries.

In theory, a law-firm partner's pay rises and falls with the success of the firm. But, as competition for top talent increases, many firms feel the need to guarantee salaries or ensure a partner's pay doesn't fall, even in down years.

Still, only elite lawyers can charge \$1,400 an hour or more. Such rates are found almost exclusively in New York and other major markets, and only in the least price-sensitive fields like mergers and acquisitions, restructuring, tax, antitrust and high-stakes litigation and appeals.

For lawyers at the very top of those fields, hourly rates can hit \$1,800 or even \$1,950.

"You have a very few people at the very top where price is almost no object," said legal consultant Bruce MacEwen, who likens it to the way celebrities, sports stars and best-selling authors are paid. "It is a talent market."

Most lawyers in the U.S. fall well below those high marks. In a survey of in-house legal departments by BTI Consulting Group, the average highest rate paid for

law-firm partners was \$875 an hour in 2015, up more than 27% from three years earlier. Of the respondents, 38% had paid more than \$1,000 an hour for a lawyer, and the highest rate those in the survey paid was \$1,600 an hour.

For many firms, the stated rate is simply a starting point in discussions with corporate law departments. As a result, said legal consultant Ward Bower of Altman Weil, “sophisticated” law firms tend to implement annual rate increases to offset clients’ requests for discounts.

Such discounts are becoming more commonplace. A decade ago, law firms could typically get clients to pay around 92% of their stated rates, according to Thomson Reuters Peer Monitor. Last year, that fell to less than 83%.

Smaller companies can get squeezed the most on fees, because they don’t send enough work to any one law firm to get the best deals.

Companies with \$4 billion or more in annual revenue were twice as likely as those with less than \$100 million in revenue to use some form of alternative fee, according to a survey from industry trade group the Association of Corporate Counsel.

Some industry watchers view the raise-and-discount approach with skepticism.

“If clients are pushing back on rates, the answer isn’t to raise them” and then ask for a discount, Mr. MacEwen said. “The answer is to provide better total value.”

Write to Sara Randazzo at sara.randazzo@wsj.com and Jacqueline Palank at jacqueline.palank@wsj.com

EXHIBIT "4"

LAFFEY MATRIX

[History](#)
[Case Law](#)
[See the Matrix](#)
[Contact us](#)
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			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/23- 5/31/24	1.059295	\$239	\$437	\$538	\$777	\$878	\$1057
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375

6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363
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The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* $i_{\frac{1}{2}}$ Years Out of Law School $i_{\frac{1}{2}}$ is calculated from June 1 of each year, when most law students graduate. $i_{\frac{1}{2}}1-3$ " includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). $i_{\frac{1}{2}}4-7$ " applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier $i_{\frac{1}{2}}1-3$ " from June 1, 1996 until May 31, 1999, would move into tier $i_{\frac{1}{2}}4-7$ " on June 1, 1999, and tier $i_{\frac{1}{2}}8-10$ " on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT "5"

Replanet Packaging, LLC adv. Santos, Luis

Luis Santos • [REDACTED] • [REDACTED]

Historic Cost

\$11,103.54

Postage Cost

\$7.91

Created: 2/4/2021 at 4:17 PM

Trialworks TaskCode

February postage

Postage Cost

\$0.71

Created: 5/20/2021 at 2:04 PM

Trialworks TaskCode

May Postage

Filing Fee

\$75.00

Created: 2/4/2021 at 9:48 AM

Trialworks TaskCode

filing fee

Date Incurred

2/4/2021

Payee

LWDA

Description

LWDA PAGA Filing fee

Notes

State of California - Department of Industrial Relations Customer Receipt
_ Purchase Confirmation

Docs

PDF

State of California - Department of Industrial Relations Custo...

▼

Filing Fee

\$1,589.86

Created: 2/23/2021 at 11:52 AM

Trialworks TaskCode

One Legal Filing

Date Incurred

2/17/2021

Payee

One Legal

Description

OLINV#03114627 Replanet 2.17.21

Docs

PDF

OLINV#03114627 Replanet 2.17.21.pdf

▼

Process Server Fee

\$93.70

Created: 3/9/2021 at 1:17 PM

Trialworks TaskCode

On Call Filing

Date Incurred

3/3/2021

Payee OnCall	Docs  OCINV#198882 Replanet 3.3.21.pdf ▾
Description OCINV#198882 Replanet 3.3.21	

Filing Fee

\$145.75

Created: 3/17/2021 at 1:00 PM

Trialworks TaskCode One Legal Filing	Description OLINV#03156028 Replanet 3.9.21
Date Incurred 3/9/2021	Docs  OLINV#03156028 Replanet 3.9.21.pdf ▾
Payee One Legal	

Filing Fee

\$145.50

Created: 3/17/2021 at 1:04 PM

Trialworks TaskCode One Legal Filing	Description OLINV#03156034 Replanet 3.9.21
Date Incurred 3/9/2021	Docs  OLINV#03156034 Replanet 3.9.21.pdf ▾
Payee One Legal	

Filing Fee

\$176.04

Created: 6/8/2021 at 2:51 PM

Trialworks TaskCode filing fee	Description OLINV#03268453 Replanet 5.4.21
Date Incurred 5/4/2021	Docs  OLINV#03268453 Replanet 5.4.21.pdf ▾
Payee One Legal	

Court Cost

\$94.00

Created: 6/8/2021 at 10:55 AM

Trialworks TaskCode costs	Payee Courtcall
Date Incurred 5/20/2021	Notes HD: 6/8/21

Filing Fee

\$151.08

Created: 7/27/2021 at 11:43 AM

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Trialworks TaskCode Filing Fee	Description OLINV#03333968 Replanet 6.7.21
Date Incurred 6/7/2021	Docs  OLINV#03333968 Replanet 6.7.21.pdf ▼
Payee One Legal	

Filing Fee

\$153.65

Created: 7/27/2021 at 11:47 AM

Trialworks TaskCode Filing Fee	Description OLINV#03333992 Replanet 6.7.21
Date Incurred 6/7/2021	Docs  OLINV#03333992 Replanet 6.7.21.pdf ▼
Payee One Legal	

Filing Fee

\$153.14

Created: 8/3/2021 at 12:09 PM

Trialworks TaskCode Filing Fee	Description OLINV#03373848 Replanet 6.25.21
Date Incurred 6/25/2021	Docs  OLINV#03373848 Replanet 6.25.21.pdf ▼
Payee One Legal	

Court Cost

\$94.00

Created: 8/25/2021 at 11:43 AM

Trialworks TaskCode Costs	Description Courtcall
Date Incurred 7/16/2021	Notes HD: 8/10/21
Payee Courtcall	

Court Cost

\$94.00

Created: 9/7/2021 at 11:24 AM

Trialworks TaskCode Costs	Description Courtcall
Date Incurred 7/16/2021	Notes HD: 8/10/21
Payee Courtcall	

Filing Fee

\$153.91

Created: 8/31/2021 at 1:44 PM

Trialworks TaskCode
Filing Fee

Date Incurred
8/3/2021

Payee
One Legal

Description
OLINV#03450988 Replanet 8.3.21

Docs
 OLINV#03450988 Replanet 8.3.21.pdf ▼

Research Cost

\$7.30

Created: 10/22/2021 at 1:55 PM

Trialworks TaskCode
Research

Date Incurred
10/22/2021

Payee
Thomson Reuters

Description
billing period of 8/1/21-8/31/21

Filing Fee

\$150.82

Created: 12/2/2021 at 3:14 PM

Trialworks TaskCode
Filing Fee

Date Incurred
11/5/2021

Payee
One Legal

Description
OLINV#03649328 R 11.5.21

Research Cost

\$741.00

Created: 12/7/2021 at 11:35 AM

Trialworks TaskCode
Costs

Date Incurred
12/7/2021

Payee
EconOne

Description
EconOne#20978 Replanet 12.7.21

Docs
 EconOne#20978 Replanet 12.7.21.pdf ▼

Postage Cost

\$5.80

Created: 12/10/2021 at 11:30 AM

Trialworks TaskCode
Postage Cost

Date Incurred
12/10/2021

Payee
DocuSign

Research Cost

\$2,318.95

Created: 1/7/2022 at 12:50 PM

Trialworks TaskCode
costs

Date Incurred
1/6/2022

Payee
EconOne

Description
EconOneINV#21089 Replanet

Docs
 EconOneINV#21089 Replanet.pdf ▾

Court Cost

\$94.00

Created: 9/21/2022 at 4:19 PM

Trialworks TaskCode
costs

Date Incurred
8/30/2022

Payee
Courtcall

Description
Courtcall

Notes
HD: 9/13/22

Filing Fee

\$20.02

Created: 9/27/2022 at 3:12 PM

Trialworks TaskCode
filing fee

Date Incurred
9/1/2022

Payee
One Legal

Description
OLINV#04338894 Replanet 9.1.22

Docs
 OLINV#04338894 Replanet 9.1.22.pdf ▾

Filing Fee

\$83.90

Created: 9/28/2022 at 4:40 PM

Trialworks TaskCode
filing fee

Date Incurred
9/2/2022

Payee
One Legal

Description
OLINV#04345314 Replanet 9.2.22

Docs
 OLINV#04345314 Replanet 9.2.22.pdf ▾

Filing Fee

\$18.99

Created: 11/4/2022 at 11:14 AM

Trialworks TaskCode
filing fee

Date Incurred
10/19/2022

Payee One Legal	Docs  OLINV#04461860 Replanet 10.19.22.pdf ▾
Description OLINV#04461860 Replanet 10.19.22	

Filing Fee

\$21.05

Created: 11/7/2022 at 1:50 PM

Trialworks TaskCode filing fee	Description OLINV#04477002 Replanet 10.25.22
Date Incurred 10/25/2022	Docs  OLINV#04477002 Replanet 10.25.22.pdf ▾

Replanet Packaging, LLC adv. Santos, Luis

Luis Santos • •

Historic Cost

Filing Fee		\$90.34
Created: 11/7/2022 at 2:25 PM		
Trialworks TaskCode filing fee Date Incurred 10/25/2022		Description OLINV#04478937 Replanet 10.25.22 Docs PDF OLINV#04478937 Replanet 10.25.22.pdf ▾
Filing Fee		\$83.90
Created: 11/7/2022 at 2:27 PM		
Trialworks TaskCode filing fee Date Incurred 10/25/2022 Payee One Legal		Description OLINV#04478977 Replanet 10.25.22 Docs PDF OLINV#04478977 Replanet 10.25.22.pdf ▾
Research Cost		\$225.28
Created: 12/15/2022 at 12:49 PM		
Trialworks TaskCode costs Date Incurred 12/15/2022		Payee Thomson Reuters Description billing period of 10.1.22-10.31.22
Postage Cost		\$9.89
Created: 12/21/2022 at 4:08 PM		
Trialworks TaskCode Postage Cost Date Incurred 12/21/2022		Notes Demand for Arb before AAA to Def via cert mailing
		\$3.30
Created: 12/21/2022 at 4:08 PM		
Trialworks TaskCode Copies		Date Incurred 12/21/2022

Payee Paper Cut	Notes Copy of Demand for Arb before AAA to mail to Def
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Filing Fee	\$83.13
<i>Created: 5/4/2023 at 10:16 AM</i>	

Trialworks TaskCode filing fee	Description OLINV#04912894 Replanet 4.14.23
Date Incurred 4/14/2023	Docs  OLINV#04912894 Replanet 4.14.23.pdf ▾
Payee One Legal	

Filing Fee	\$19.46
<i>Created: 5/4/2023 at 10:23 AM</i>	

Trialworks TaskCode filing fee	Description OLINV#04913550 Replanet 4.17.23
Date Incurred 4/17/2023	Docs  OLINV#04913550 Replanet 4.17.23.pdf ▾
Payee One Legal	

Filing Fee	\$20.49
<i>Created: 5/4/2023 at 1:31 PM</i>	

Trialworks TaskCode filing fee	Description OLINV#04921378 Replanet 4.19.23
Date Incurred 4/19/2023	Docs  OLINV#04921378 Replanet 4.19.23.pdf ▾
Payee One Legal	

Mediation Cost	\$3,750.00
<i>Created: 6/26/2023 at 11:23 AM</i>	

Trialworks TaskCode costs	Description Common Ground Resolutions re Replanet Mediation - K&K paid 6.26.23
Date Incurred 6/26/2023	Docs  Replanet Mediation - K&K paid 6.26.23.pdf ▾
Payee Common Ground Resolutions	

Postage Cost	\$5.80
<i>Created: 7/5/2023 at 3:03 PM</i>	

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Trialworks TaskCode Postage Cost	Payee DocuSign
Date Incurred 6/27/2023	

Postage Cost

\$5.80

Created: 9/5/2023 at 7:35 PM

Trialworks TaskCode Postage Cost	Payee DocuSign
Date Incurred 8/16/2023	Notes MOU to client

Postage Cost

\$5.80

Created: 9/5/2023 at 7:35 PM

Trialworks TaskCode Postage Cost	Payee DocuSign
Date Incurred 8/16/2023	Notes PAGA SA to client

Research Cost

\$86.18

Created: 9/28/2023 at 1:31 PM

Trialworks TaskCode costs	Payee Thomson Reuters
Date Incurred 8/31/2023	Description billing period of 8/1/23-8/31/23

Postage Cost

\$5.80

Created: 9/13/2023 at 3:07 PM

Trialworks TaskCode Postage Cost	Payee DocuSign
Date Incurred 9/13/2023	Notes updated 9-13-23 PAGA SA to client to initial

Filing Fee

\$41.08

Created: 10/12/2023 at 4:10 PM

Trialworks TaskCode filing fee	Payee One Legal
Date Incurred 10/6/2023	Description OLINV#05382471 Replanet 10.6.23

Docs PDF OLINV#05382471 Replanet 10.6.23.pdf ▼

Filing Fee Created: 10/12/2023 at 4:24 PM	\$77.21
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Trialworks TaskCode filing fee Date Incurred 10/9/2023 Payee One Legal Description OLINV#05387100 Replanet 10.9.23 Docs PDF OLINV#05387100 Replanet 10.9.23.pdf ▼
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EXHIBIT "6"

XPAND

Case Name:

Replanet PAGA Settlement

Date:

September 7, 2023

Client Name:

Liane Katzenstein Ly

Client Email:

liane@kingsleykingsley.com

Xpand Contact:

Jonathan Paul

Xpand Contact Email Address:

jonathan@xpandlegal.com

Xpand Contact Phone Number:

310.948.7117

**Cost Estimate for Legal Administration Services*

**Pricing Good for 90 Days*

**Assumes Scope Within - Additional Services Priced Accordingly*

Key Assumptions Used for Pricing

Class Size	134
Undeliverable Mail (estimated %)	10%
Forwarded Mail (estimated %)	5%
Toll Free Telephone Support	Yes
Website	No
Spanish Translation	Yes
National Change of Address (NCOA)	Yes
Wage Tax Reporting	No
Number of States for Tax Reporting	N/A
Number of Payment Distributions	1
Tax Reporting Years	1
Remaining Funds After Distribution	Cy Pres

Case Setup

Service	Type	Cost Per Piece	Volume	Total
Project Manager - Case Setup, Document Review & Timeline	Hourly	\$125.00	2	\$250.00
Data Analyst - Data Analysis, Formatting, Uploading to Database*	Hourly	\$125.00	1	\$125.00
NCOA (Includes CASS & LACS)	Flat Fee	\$250.00	1	\$250.00
Spanish Translation	Flat Fee	\$250.00	1	\$250.00
Toll Free Telephone Support	Flat Fee	\$230.04	1	\$230.04
Static Website	Flat Fee	\$0.00	0	\$0.00

**Xpand assumes mailing data will be provided in Microsoft Excel or other usable format and will not require substantial manipulation. Additional formatting and manipulation will be billed at \$125/hour.*

Total \$1,105.04

Project Management

Service	Type	Cost Per Piece	Volume	Total
Project Manager - Client Inquiries, General Oversight & Management	Hourly	\$125.00	2	\$250.00
Status Reporting (Ongoing & Final)	Hourly	\$150.00	2	\$300.00
Executive Oversight	Hourly	\$200.00	1	Waived

Total \$550.00

Distribution

Service	Type	Cost Per Piece	Volume	Total
Project Manager - Setup & Preparation	Hourly	\$125.00	2	\$250.00
Data Analyst - Payment File Production & Quality Review	Hourly	\$125.00	1	\$125.00
Print & Mail Payments	Per Piece	\$2.25	134	\$301.50
USPS First Class Mail - 1oz	Per Piece	\$0.61	134	\$81.74
Undeliverable Payment Processing	Per Piece	\$15.00	13	\$201.00
Remail Payments (Undeliverable & Forwards)	Per Piece	\$7.00	17	\$121.94
Tax ID Setup & Shutdown	Flat Fee	\$150.00	1	\$150.00
Qualified Settlement Fund (QSF) Creation & Closure	Flat Fee	\$713.78	1	\$713.78
QSF Monthly Fees & Account Reconciliation	Per Piece	\$250.00	3	\$750.00
Process Remaining Funds to Cy Pres	Flat Fee	\$150.00	1	\$150.00

Total \$2,844.96

Total Case Cost - Flat Fee: \$4,500.00

All services to be provided by Xpand Legal (hereinafter, "Xpand") to Client shall be subject to the following terms and conditions:

- **Services:** Subject to the terms hereof, Xpand agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are referenced. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not include any services not referenced in the request for proposal. These services do not constitute legal services or advice. Xpand is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.
- **Charges for Services:** Charges to the Client for services shall be on a time and materials basis at our prevailing rates and are subject to change. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to Xpand. Actual fees charged by Xpand to Client may be greater or less than the estimate, and Client shall be responsible for the payment of all charges and expenses in accordance with Section 5 below. Charges incurred related to 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 Client to the extent that funds are received from the taxing authorities offset these charges. Xpand may derive financial benefits from financial institutions in connection with the deposit and investment of funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.
- **Payment of Charges:** Xpand agrees to defer payment of fees for up to 48 months or until settlement is reached, whichever is earlier. Xpand invoices are due upon receipt unless otherwise negotiated and agreed to with the Client. The entire remaining balance is due and payable at the time the Account is funded by. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement or case status, do not affect the Client's liability to Xpand for payment of services. Services are not provided on a contingency fee basis.
- **Indemnification:** Client will indemnify and hold Xpand (and the officers, employees, affiliates and agents harmless against any Losses incurred by Xpand, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any aspect of the project by Xpand in accordance with Client's instructions.
- **Confidentiality:** Xpand maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to Xpand by Client. Should Xpand 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 Client, Xpand will notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse Xpand 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 Xpand 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, Xpand will not be liable for breach of said obligation.
- **Data Rights:** Xpand does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by Xpand in the ordinary course of business in the performance of this Agreement.
- **Document Retention:** Unless directed otherwise in writing by Client, Xpand will maintain documents 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.
- **Limitation of damages:** Xpand is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of Xpand to the Client shall not exceed the total amount billed to the Client for the services that give rise to any loss.
- **Termination:** The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to Xpand. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. Xpand may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.
- **Notice:** Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of Xpand or the Client, 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.
- **Force Majeure:** To the extent performance by Xpand of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond Xpand's reasonable control, then such performance shall be excused and this Agreement, at Xpand's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.
- **Waiver of Rights:** No failure or delay on the part of either party in exercising any right will operate as a waiver of, or impair, any 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 writing.
- **Jurisdiction:** The parties hereto 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 waive any objection to the laying of venue of any such suit, action or proceeding in the Court.
- **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.

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On October 30, 2023, I served all interested parties in this action the following documents described as: **DECLARATION OF LIANE KATZENSTEIN LY IN SUPPORT OF MOTION FOR APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

HERR PEDERSON & BERGLUND LLP

Rachele Berglund
rberglund@hpblaw.net
100 Willow Plaza, Suite 300
Visalia, CA 93291

[XX] BY ELECTRONIC SERVICE: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] (BY ELECTRONIC MAIL TRANSMISSION): I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 30, 2023, at Woodland Hills, California.



Michelle Tanzer