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5 Attorneys for Plaintiff LELAND LAWSON,
on behalf of himself and all others similarly situated
6 and on behalf of the general public

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **IN AND FOR THE COUNTY OF KERN**

10
11 LELAND LAWSON, on behalf of himself
and all others similarly situated, and on
12 behalf of the general public,

13 Plaintiff,

14 v.

15 COMNET COMMUNICATIONS, LLC;
AND DOES 1 THROUGH 100,

16 Defendants.
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Case No. BCV-21-102757

**DECLARATION OF DAVID MARA,
ESQ., IN SUPPORT OF PLAINTIFF'S
AMENDED MOTION FOR APPROVAL
OF PAGA SETTLEMENT**

Date: April 24, 2024

Time: 8:30 a.m.

Dept.: 17

1 I, DAVID MARA, declare the following:

- 2 1. I am President of Mara Law Firm, PC, and counsel of record for the Class in this matter.
3 I am duly admitted to practice before all the courts of the state of California. The following
4 facts are within my personal knowledge and, if called to testify, I could and would
5 competently testify thereto.
- 6 2. I graduated from California Western School of Law and was admitted to practice law in
7 California in May 2004.
- 8 3. I extensively handle employment cases which involve violations of the California Labor
9 Code and Industrial Welfare Commission Wage Orders, such as wage and hour class
10 actions and cases alleging violations of the Private Attorneys General Act of 2004
11 (“PAGA”). I have litigated over three hundred and fifty (350) class action and PAGA
12 lawsuits over the course of nearly 20 years.
- 13 4. I was co-class counsel in *Hohnbaum v. Brinker Restaurant Corp.* (San Diego County
14 Superior Court, Case No. GIC834348) which was the underlying case in the California
15 Supreme Court’s landmark decision in *Brinker Restaurant Corp. v. Superior Court* (2012)
16 53 Cal.4th 1004, in which the California Supreme Court delineated the scope of employer
17 obligations to provide, and employee rights to receive, meal and rest periods under
18 California law.
- 19 5. I am frequently called upon to author Amicus Curiae briefs on behalf of Consumer
20 Attorneys of California (“CAOC”). For example, I authored the Amicus Curiae briefs on
21 behalf of CAOC in *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, (The
22 California Supreme Court ruling that, like meal periods, employers must relieve
23 employees of all duty and relinquish all control to satisfactorily discharge its obligation to
24 authorize and permit rest periods.); *Frlekin v. Apple, Inc.* (2020) 8 Cal.5th 1038 (The
25 California Supreme Court ruling that the time spent on the employer’s premises waiting
26 for, and undergoing, required exit searches of packages, bags, or personal technology
27 devices voluntarily brought to work is compensable hours worked within the meaning of
28 the Wage Orders.); *Oliver v. Superior Court* (2021) California Court of Appeal Case No.

1 H049185 (A brief asking the California Court of Appeal for the Sixth Appellate District
2 to determine whether mandatory drive time of personal vehicles should be considered
3 hours worked within the meaning of the Wage Orders' suffered or permitted test.).
4 *Davidson v. O'Reilly Auto Enterprises, LLC* (9th Cir., 2020; Docket No. 18-56188) (a
5 brief seeking Review *En Banc* of an order denying class certification in a wage and hour
6 matter). I am also a member of CAOC's Amicus Committee that determines the cases in
7 which the organization will agree to provide amicus support.

- 8 6. My firm has been named as class counsel in a number of wage and hour class actions in
9 which the Court granted the plaintiff's motion for class certification. For example, my
10 firm has been named class counsel: *Mario Norona v. B&G Delivery System, Inc.*
11 (Sacramento County Superior Court, Case No. 34-2015-00186826-CU-OE-GDS); *Jerald*
12 *Schroeder v. YRC, Inc.; et al.* (Central District of California, Case No. 12-cv-01374-TJH);
13 *John Martin v. Sysco Corporation, et al.* (Eastern District of California, Case No. 1:16-
14 cv-00990-DAD-SAB); *William Smith v. Werner Enterprises, Inc. d/b/a C.L. Werner, Inc.*
15 (District of Nebraska, Case No. 8:15-cv-287); *Thomas Perez v. City of San Diego* (San
16 Diego County Superior Court, Case No. 37-2014-00016621-CU-OE-CTL); *Eric Mendez*
17 *v. M&N Consulting, Inc. dba A-Line Messenger Service* (San Bernardino County Superior
18 Court, Case No. CIVDS1923624); *Denson Sales v. Professional Auto Transport, Inc. et*
19 *al.* (San Bernardino County Superior Court, Case No. CIVDS2010153); *Sonny Williams*
20 *v. Hansen and Adkins Auto Transport, Inc.; et al.* (San Bernardino County Superior Court,
21 Case No. CIVDS2020832); *Bobby Williams v. Mohsen Transport, Inc.* (San Diego County
22 Superior Court, Case No. 37-2019-00063361-CU-OE-CTL); and *Ashton Harden vs.*
23 *Mushiana Transport Inc.* (Sacramento County Superior Court, Case No. 34-2021-
24 00301950-CU-OE-GDS).
- 25 7. My firm has also been named as class counsel in numerous cases during the settlement
26 process. Here is a non-exhaustive list of cases where my firm has been named as class
27 counsel in cases during the settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo
28 County Superior Court, Case No. CV-18-100); *Brian Davidson v. A&B Trucking Services,*

1 *Inc.* (Kern County Superior Court Case No. BCV-16-102985); *Alex Vega, et al. v.*
2 *Advance Beverage Co., Inc.* (Kern County Superior Court, Case No. BCV-16-100848);
3 *Jaime Ruiz v. Altura Centers for Health* (Kern County Superior Court, Case No. BCV-19-
4 101577); *George Zamudio v. AmeriPride Service, Inc.* (Alameda County Superior Court,
5 Case No. RG1809666); *Richard Hendricks v. Antonini Freight Express, Inc.* (San Joaquin
6 County Superior Court, Case No. STK-CV-UOE-2016-6999); *Alton Davis v. Apria*
7 *Healthcare Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-00004724-
8 CU-OE-CTL); *Alan Atchison v. Ashley Furniture Industries, Inc., et al.* (Central District
9 of California, Case No. 17-cv-00528-JAK-SP); *Bernard Payton v. Atech Logistics, Inc.*
10 (Sonoma County Superior Court, Case No. SCV 258595); *Ramon Jenkins v. Compass*
11 *Group USA, Inc., et al.* (Yolo County Superior Court, Case No. CVCV-18-747); *Timothy*
12 *Spikes, et al. v. Bear Trucking, Inc., et al.* (San Bernardino County Superior Court, Case
13 No. CIVDS1715151); *Joshua Turpen v. Benjamin's Transfer Inc.* (Solano County
14 Superior Court, Case No. FCS048845); *Cesar Mendoza v. Bi-Rite Food Service, Inc.* (San
15 Mateo County Superior Court, Case No. 17CIV02044); *Terrance Bailey v. Blue Apron,*
16 *LLC; et al.* (Northern District of California, Case No. 18-cv-07000-VC); *Jeffrey Weast v.*
17 *California Aseptic Beverages, LLC* (San Bernardino County Superior Court, Case No.
18 CIVDS1825256); *Michael Valentich v. Hub Construction Specialties, Inc.* (San
19 Bernardino County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega*
20 *Velazquez v. Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case
21 No. CIVDS1928062); *Adrian Diaz v. Keystone Automotive Operations, Inc.* (Riverside
22 County Superior Court, Case No. RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba*
23 *NCI Building Systems* (Eastern District of California, Case No. 18-cv-00948-AWI-SKO);
24 *Larry Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case
25 No. 30-2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San
26 Bernardino County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw*
27 *Industries, Inc.; et al.* (San Bernardino County Superior Court, Case No.
28 CIVSB2024674); *Joshua Rael v. Intercontinental Hotels Group Resources, Inc.* (Los

Angeles County Superior Court, Case No. 19STCV16010); and *Aaron Romero v. Vitro Flat Glass, LLC* (Kern County Superior Court, Case No. BCV-21-101357).

8. I have also lectured as a panelist for California Employment Lawyers Association regarding a host of wage and hour issues.

9. Matthew Crawford is a senior associate at Mara Law Firm, PC. He solely handles wage and hour class actions and PAGA actions. Mr. Crawford graduated from Pepperdine University Rick J. Caruso School of Law and was admitted to practice law in California in June 2016 and received his undergraduate degree from University of California, San Diego in 2011. Mr. Crawford has been litigating wage and hour class actions for over seven (7) years and has handled over one hundred (100) class action and PAGA lawsuits.

10. Mr. Crawford has been named as class counsel in the following certified cases as a result of the court granting a motion for class certification: *John Martin v. Sysco Corporation; Sysco Central California, Inc.* (Eastern District of California, Case No. 1:16-cv-00990-DAD-SAB); *Eric Mendez v. M & N Consulting, Inc. dba A-Line Messenger Service* (San Bernardino County Superior Court, Case No. CIVDS1923624); and *Denson M. Sales v. Professional Auto Transport, Inc., et al.* (San Bernardino County Superior Court, Case No. CIVDS2010153).

11. Mr. Crawford has also been named as class counsel in numerous cases during the settlement process. Here is a non-exhaustive list of cases where Mr. Crawford has been named as class counsel in cases during the settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo County Superior Court, Case No. CV-18-100); *Brian Davidson v. A&B Trucking Services, Inc.* (Kern County Superior Court Case No. BCV-16-102985); *Timothy Spikes, et al. v. Bear Trucking, Inc., et al.* (San Bernardino County Superior Court, Case No. CIVDS1715151); *Michael Valentich v. Hub Construction Specialties, Inc.* (San Bernardino County Superior Court, Case No. JCCPDS4893); *Adrian Diaz v. Keystone Automotive Operations, Inc.* (Riverside County Superior Court, Case No. RIC1817450); *Jaime Ruiz v. Altura Centers for Health* (Kern County Superior Court, Case No. BCV-19-101577); *Alicia Juarez, et al. v. Florexpco, LLC, et al.* (San Diego Superior Court, Case

No. 37-2020-00015644-CU-OE-CTL); *Rick Frieri v. Sysco Corporation, et al.* (Southern District of California, Case No. 16-cv-1432-JLS-NLS); *Francisco Mejia Calderon, et al. v. Tapia Enterprises, Inc., et al.* (Los Angeles County Superior Court, Case No. BC709635); *Jeremiah Villarreal, et al. v. Wildwood Express* (Fresno County Superior Court, Case No. 18CECG00417); *Kenbron Fryer v. Transforce, Inc.* (Alameda County Superior Court, Case No. RG20071048); *Toiyagaduh Stone v. Sysco Corporation, et al.* (Inyo County Superior Court, Case No. SICVCV1659516); and *Scott Allen v. J.S. West Hardister, LLC, et al* (Stanislaus County Superior Court, Case No. 9000289).

12. Plaintiff sent his Notice of Labor Code Violations Pursuant to Labor Code § 2699.3 on September 16, 2021. In the notice, Plaintiff, a former hourly, non-exempt employee who worked in California for Defendant or through a staffing agency, apprised the LWDA of his claims against Defendant. His notice alleged that Defendant violated the California Labor Code by failing to pay all straight time wages, failing to pay minimum wages, failing to pay all overtime wages, failing to provide lawful meal and rest periods, failing to provide accurate itemized wage statements, failing to pay all wages owed at termination, and failing to pay wages twice per month.

13. Plaintiff then filed this action against Defendant in the Kern County Superior Court on November 22, 2021, alleging causes of action on behalf of Plaintiff and those similarly situated aggrieved employees under the PAGA for the wage and hour violations detailed in the notice sent to the LWDA.

14. Through discovery, Plaintiff sought numerous documents and substantial amounts of data that were needed to evaluate the case. These documents included requests for time and wage records for the Aggrieved Employees, employee handbooks in place during the class period, any policies regarding meal breaks, rest breaks, the payment of wages, and employee training in place during the PAGA Period. Plaintiff also requested data surrounding the number of current and former employees, as well as the number of shifts, workweeks, and pay periods worked by employees during the relevant time period.

15. This discovery, in conjunction with the Parties' meet and confer efforts, resulted in the

1 production of over one thousand documents, including the handbooks and policies at
2 issue, as well as a sampling of the wage and time records for the Aggrieved Employees.
3 Using the time and wage records produced by Defendant, and the data surrounding the
4 number of current and former employees, Plaintiff was able to determine numerous data
5 points used in establishing a potential exposure model in preparation for mediation.

6 16. The Parties attended mediation with respected wage and hour mediator Steven Mehta on
7 December 5, 2022. Shortly after the mediation, the mediator issued a mediator's proposal
8 that was ultimately accepted by the Parties. Since then, the Parties have met and conferred
9 extensively regarding the terms of the settlement and finalized their agreement in the
10 Settlement the Parties now ask the Court to approve.

11 17. Plaintiff argues that although Defendant's meal period policy provides Aggrieved
12 Employees with a 30 minute meal period for every 5 consecutive hours worked,
13 Defendant's time records tell a different story. Nearly 35% of the shifts in the time records
14 provided by Defendant reflect a meal period that was either provided after the fifth hour
15 of work, or simply not at all. This resulted in every single pay period during the relevant
16 time period containing a presumed meal period violation under California law for all the
17 Aggrieved Employees.

18 18. Defendant asserts that employees are provided with meal periods in accordance with
19 California law. Defendant claims that the meal period policy in their handbook is facially
20 lawful, and that employees are provided with lawful duty-free meal periods in accordance
21 with the applicable timing requirements. Defendant is confident that it will be able to rebut
22 the presumption through its application of its facially lawful meal period policy, its
23 training procedures, and testimony from employees as evidence that employees had in fact
24 been provided compliant meal periods, but simply chose to take them late or not take them
25 at all due to any variety of other reasons. Once Defendant rebuts the presumption,
26 Defendant argues that Plaintiff would have to ask each employee whether they were
27 provided a lawful meal period on for every instance of a "violation" in the records,
28 rendering the matter entirely unmanageable.

1 19. Plaintiff contends that Defendant fails to permit employees to leave the premises for rest
2 periods and use the time effectively for their own purposes free from employer control.
3 Employees are thereby – as a matter of policy and practice – prevented from using all their
4 break time free of employer control for off-premises pursuits. For this reason, Defendant
5 does not relinquish all control over employees during their rest periods in violation of
6 California law.

7 20. Defendant denies that employees were prevented from leaving the premises, contends that
8 employees are not under Defendant’s control and command during rest periods, and
9 contends that employees are provided with duty-free breaks in which they can choose to
10 do whatever they want. Defendant points out that nothing in its written rest period policy
11 states that employees cannot leave their work location during rest breaks. Further,
12 Defendant also disagrees with Plaintiff’s interpretation of *Augustus*, claiming that the
13 California Supreme Court clearly states that employees will ordinarily have to remain on
14 site or nearby “during a rest period [because] an employee generally can travel at most
15 five minutes from a work post before returning to make it back on time,” and that such
16 a “constraint, which is of course common to all rest periods, is not sufficient to establish
17 employer control.” *Augustus*, 2 Cal.5th at 270.

18 21. Defendant requires employees to keep track of the time worked during their shifts through
19 handwritten time records. However, Defendant requires employees to be ready to work
20 immediately at the start of their shifts, but also does not permit employees to “clock in”
21 prior to the set start time of their shifts. As a result, Plaintiff claims that employees spend
22 several minutes under Defendant’s control waiting to “clock in” for the day prior to the
23 start of their shifts. Under California law, Plaintiff asserts that this is compensable time
24 that is not being paid to the employees each and every shift.

25 22. Defendant argues that beyond the limited accusations of Plaintiff, there is no evidence that
26 employees performed *any* work-related tasks for which they were not compensated, and
27 that Defendant has uniform practices and policies *forbidding* employees from working off
28 the clock. Further, Defendant contends that it requires all employees to accurately record

1 all time worked on their timesheets, regardless of when their shift is set to start, and
2 therefore indisputably pays employees for all time worked.

3 23. Plaintiff also pursued claims for failure to provide accurate itemized wage statements,
4 waiting time penalty claims, and failure to pay all wages owed twice per month. These
5 claims are derivative of Plaintiff's underlying meal and rest period claims, as well as his
6 unpaid wages claim. Should Plaintiff's underlying wages claim fail, these claims would
7 also fail.

8 24. Defendant also argues that should litigation continue, they will bring a motion challenging
9 the manageability of trial as Defendant does not believe that this case can be tried
10 manageably and will require the testimony of every individual aggrieved employee.
11 Furthermore, while Defendant does not concede that any of their wage and hour policies
12 are unlawful, Defendant claims that any challenges Plaintiff has posed to these policies
13 are easily refuted by how they are implemented in practice; as a result, no aggrieved
14 employee has suffered any damages.

15 25. Plaintiff claims that there are six (6) core violations under § 2699(f)(2) – failure to provide
16 lawful meal breaks or pay a premium, failure to provide lawful rest breaks or pay a
17 premium, failure to pay all wages, failure to pay for failure to provide accurate itemized
18 wage statements, failure to pay wages at the time of termination, and failure to pay wages
19 twice per month – of the Labor Code sections which give rise to PAGA penalties.

20 26. Each of Plaintiff's claims, with the exception of Plaintiff's claim for failure to pay wages
21 at the time of termination, occurred at least once in every pay period. Plaintiff's claim for
22 failure to pay wages at the time of termination only occurred in a maximum of 124 pay
23 periods. Thus, Defendants' *maximum* exposure under §2699(f)(2) is \$1,108,400:

24
$$\$100 \times 5 \text{ PAGA violations} \times 2,192 \text{ pay periods} = \$1,096,000$$

25
$$\$100 \times 1 \text{ PAGA violations} \times 124 \text{ pay periods} = \$12,400$$

26
$$\text{Maximum Exposure: } \$1,108,400$$

27 27. Here, PAGA Counsel applies for an award of attorneys' fees in the sum of \$62,833.33 (which
28 is one-third of the GSA). The requested fee falls in the mid-range of percentage class fee

1 awards, which commonly range from 20% to 50% of a common fund, and constitutes fair
2 compensation for undertaking complex, risky, expensive, and time-consuming litigation on a
3 contingent basis and compensates PAGA Counsel for their efforts, as well as the result
4 achieved for the benefit of the State of California and the Aggrieved Employees.

5 28. I devoted 81 hours to this case. The following is a summary of my tasks and activities
6 performed in the litigation of this matter: initial case intake; research into new case;
7 research into whether other cases are filed against potential new defendant; preparing
8 personnel file request; pre-filing investigation and legal research; reviewing and revising
9 PAGA notice; drafting and revising initial complaint and related documents; review
10 Defendant's answer; review and revise discovery propounded on Defendant; researching
11 and investigating legal issues throughout case; interoffice discussions throughout case;
12 investigating Defendant's pay-structures and policies for its employees; conferences with
13 Defendant's Counsel; discussions with Plaintiff throughout litigation and settlement;
14 reviewing proposed protective order; reviewing documents produced by Defendant
15 relating to its policies, pay-structures, and time keeping; analyzing employee records to
16 determine number of pay periods at issue and other metrics; drafting and revising mediation
17 brief and mediation damage and exposure model; preparing for and attending mediation;
18 extensively reviewing, revising, and negotiating the settlement agreement and the notice to
19 the aggrieved employees; reviewing and revising PAGA settlement approval motion and
20 supporting papers; drafting declaration in support of approval motion; and review
21 Settlement Administrator's declaration.

22 29. My hourly rate is \$800. Based on my hourly rate and the hours expended, 81, my fee is
23 \$64,800, which is reasonable and necessary to the successful litigation of this matter.

24 30. Mr. Crawford devoted 88 hours to this case. The following is a summary of his tasks and
25 activities performed in the litigation of this matter: draft notice filed with the LWDA;
26 review initial complaint and related documents; review Defendant's answer; interoffice
27 discussions throughout case; draft discovery propounded on Defendant; draft case
28 management statements; appear at case management conferences; review proposed

1 protective order; analyze documents and information produced by Defendant, including
2 records produced by Defendant relating to its policies, pay-structures, and time keeping;
3 create document summary; communications with Defendant's counsel; discussions with
4 Plaintiff throughout litigation and settlement; draft and revise stipulations for filing in case;
5 assist in drafting mediation brief and mediation damage and exposure model; prepare for
6 and attend mediation; participate in extensive post-mediation negotiations regarding the
7 terms of the settlement; draft settlement agreement; obtain bids from settlement
8 administrators; and review Settlement Administrator's declaration; and draft and revise
9 settlement approval motion and supporting paperwork.

10 31. Mr. Crawford's hourly rate is \$600. Based on his hourly rate and the hours expended, 88,
11 his fee is \$52,800 which is reasonable and necessary to the successful litigation of this
12 matter.

13 32. As PAGA Counsel's lodestar fee is in excess of their fee request, a multiplier on their
14 lodestar fee is not sought herein.

15 33. PAGA Counsel's hourly rates are between \$600 and \$800 and are in line with rates
16 typically approved in wage and hour class action and PAGA litigation and which rates have
17 been approved by Courts in California in the Los Angeles, Sacramento, San Francisco,
18 Alameda, Orange and San Diego County Superior Courts.

19 34. PAGA Counsel seeks reimbursement of the litigation costs and expenses of \$10,934.63.
20 These costs were all reasonable and necessary to the prosecution of this case and the results
21 achieved, and are fair, reasonable, and unopposed by Defendant.

22 35. The proposed settlement is the product of serious, informed, non-collusive negotiations,
23 has no obvious defects, does not improperly grant preferential treatment to any aggrieved
24 employee, and falls within the range of fair and reasonable settlements. I believe that this
25 non-reversionary settlement is in the best interests of the aggrieved employees and the State
26 of California as fair, reasonable, and adequate. Therefore, I recommend approval of the
27 settlement.

28 36. A true and correct copy of the PAGA Settlement Agreement is attached as **Exhibit 1**.

- 1 37. A true and correct copy of the Addendum to PAGA Settlement Agreement is attached as
2 **Exhibit 2.**
- 3 38. A true and correct copy of a Summary of Time and Costs is attached hereto as **Exhibit 3.**
- 4 39. A true and correct copy of the Westlaw Court's Express's Legal Billing Report, Volume
5 14, Number 3, California Region for December 2012 is attached as **Exhibit 4.**
- 6 40. A true and correct copy of the Declaration of Richard M. Pearl in *Hohnbaum v. Brinker*
7 *Restaurant Corp.* SDSC GIC834348 is attached as **Exhibit 5.**
- 8 41. A true and correct copy of the 2012 National Law Journal Survey of Hourly Billing Rates
9 for Partners and Associates is attached as **Exhibit 6.**
- 10 42. A true and correct copy of the filing receipt from the upload of this settlement motion to
11 the LWDA is attached hereto as **Exhibit 7.**
- 12 43. A true and correct copy of an email from the LWDA confirming that the upload of this
13 settlement motion was received is attached hereto as **Exhibit 8.**

14 I hereby declare under penalty of perjury under the laws of the State of California that the
15 foregoing is true and correct.

16 Dated: March 29, 2024

MARA LAW FIRM, PC

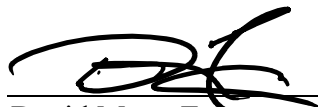
17 
18 _____
19 David Mara, Esq.
20 Attorneys for Plaintiffs
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Exhibit 1

JOINT STIPULATION AND SETTLEMENT AGREEMENT OF PAGA CLAIM

Leland Lawson v. ComNet Communications, LLC, et al.

Kern County Superior Court Case No. BCV-21-102757

Subject to approval by the Court, this Joint Stipulation and Settlement Agreement of PAGA Claim (“Agreement”) is between Leland Lawson (“Plaintiff”), on behalf of himself and all “aggrieved employees,” pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code section 2698 *et seq.*, on the one hand, and Defendant ComNet Communications, LLC (“Defendant”), on the other hand, in the above-captioned action (“PAGA Action”) currently pending in Kern County Superior Court (“Court”). Plaintiff and Defendant collectively are referred to in this Agreement as the “Parties.”

I. DEFINITIONS

In addition to the other terms defined in this Agreement, the terms below have the following meanings:

- A. **Action**: The lawsuit brought by Plaintiff on behalf of himself and Aggrieved Employees in Kern County Superior Court on November 22, 2021, entitled *Leland Lawson v. ComNet Communications, LLC, et al.* (Case No. BCV-21-102757).
- B. **Administration Costs**: The costs incurred by the Settlement Administrator to administer this settlement, which shall not exceed \$5,000.00. All Administration Costs shall be paid from the Gross Settlement Amount. Any amount not awarded by the Court or needed by the Settlement Administrator will become part of the Net Settlement Amount for distribution to Aggrieved Employees.
- C. **Aggrieved Employees**: All non-exempt, hourly employees who worked in California either directly for Defendant, or through staffing agencies and/or other third-party entities, during the PAGA Period. This definition of Aggrieved Employees does not include employees from Outsource, LLC who were assigned to work for Defendant in California during the PAGA Period.
- D. **Agreement, Settlement Agreement, or Settlement**: The settlement agreement reflected in this document, titled “Joint Stipulation and Settlement Agreement of PAGA Claim.”
- E. **Attorney Fee Award**: The amount, not to exceed one-third of the Gross Settlement Amount, or \$62,833.33, will be requested for approval by the Court to be awarded to Plaintiff’s Counsel. The Attorney Fee Award shall be paid from the Gross Settlement Amount and will not be opposed by Defendant. The Attorney Fee Award is subject to Court approval. If the Court awards less than

the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Aggrieved Employees.

- F. **Cost Award**: The amount that the Court orders Defendant to pay Plaintiff's Counsel for payment of actual litigation costs, which shall not exceed \$15,000.00. The Cost Award will be paid from the Gross Settlement Amount and will not be opposed by Defendant. The Cost Award is subject to Court approval. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Aggrieved Employees.
- G. **Counsel for Defendant**: Shannon R. Finley, Esq. and Jessica C. O'Malley, Esq. of Pettit Kohn Ingrassia Lutz & Dolin PC.
- H. **Defendant**: ComNet Communications, LLC.
- I. **Disbursement of the Settlement**: The dates on which the Settlement Administrator shall disburse the Gross and Net Settlement Amounts, as instructed herein.
- J. **Effective Final Settlement Date**: The effective date of this Agreement will be when the Court enters an order granting approval of the Settlement.
- K. **Funding of Settlement**: The Gross Settlement Amount will be wired by Defendant to the Settlement Administrator within thirty (30) days of the grant of settlement approval.
- L. **Final Judgment**: The final order entered by the Court approving this Settlement.
- M. **Gross Settlement Amount**: The total value of the Settlement is a non-reversionary One Hundred Eighty-Eight Thousand Five Hundred Dollars and Zero Cents (\$188,500.00). This is the maximum amount Defendant can be required to pay under this Agreement. The Gross Settlement Amount includes: (1) the Net Settlement Amount to be paid to Aggrieved Employees; (2) the Attorney Fee Award and Cost Award to be paid to Plaintiff's Counsel for attorneys' fees and costs, as approved by the Court; (3) the Administration Costs, as approved by the Court; and (4) the LWDA Payment to be paid to the LWDA, as approved by the Court. No portion of the Gross Settlement Amount will revert to Defendant for any reason.
- N. **Individual Settlement Share(s)**: The amount payable to each Aggrieved Employee under the terms of this Agreement.
- O. **LWDA**: California Labor and Workforce Development Agency.

- P. **LWDA Payment**: Seventy-five percent (75%) of the Net Settlement Amount that shall be paid to the LWDA.
- Q. **Net Settlement Amount**: The Net Settlement Amount is the total amount of money available for payout to Aggrieved Employees and the LWDA, which is the Gross Settlement Amount less the Attorney Fee Award, Cost Award, and Administration Costs.
- R. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code, §§ 2698, *et seq.*).
- S. **PAGA Notice(s)**: The Notice(s) of PAGA Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval, which will accompany each Individual Settlement Share check.
- T. **PAGA Period**: November 22, 2020 through February 6, 2023, which is sixty (60) days after the Parties' acceptance of the mediator's proposal.
- U. **Plaintiff**: Leland Lawson.
- V. **Plaintiff's Counsel**: David Mara and Matthew Crawford of Mara Law Firm, PC.
- W. **Qualified Settlement Fund**: The Parties agree that the Gross Settlement Amount is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations (§ 1.4168B-1, 26 C.F.R. § 1.468B-1 *et seq.*) and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the Qualified Settlement Fund as coming into existence on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.
- X. **Released Claims**: Each of the Aggrieved Employees, including Plaintiff, shall fully release and forever discharge all claims alleged, or could have been alleged, by Plaintiff and Aggrieved Employees in the operative complaint for any and all debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorneys' fees, damages, or interest based on any and all PAGA claims seeking civil penalties under California Labor Code sections 2698, *et seq.*, Wage Orders, regulations, and/or other provisions of law alleged or, based on the facts pled in the First Amended Complaint and notices to the LWDA, and could have been alleged to have been violated in the operative complaint with respect to the Aggrieved Employees, including, but not limited to, all claims for failure to provide meal periods, all claims for failure to authorize and permit rest breaks, all claims for failure to pay all wages, including overtime and premium wages, all claims for failure to provide compensation for all hours worked, all claims for failure to pay minimum wages, all claims for waiting

time penalties and/or late payment of wages at termination, all claims for failure to maintain and provide accurate itemized wage statements, and failure to pay all wages owed twice per month during the PAGA Period. Aggrieved Employees, other than Plaintiff, will not be deemed to have released any individual wage and hour claims by virtue of this Settlement.

- Y. Released Parties:** Defendant, including its past, present, and future divisions, affiliates, parents, subsidiaries, predecessors, successors, assigns, members, shareholders, owners, officers, directors, employees, agents, trustees, attorneys, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, privies, and partners (including, but not limited to SitePro Solutions, Inc. (“SitePro”); Rightech Corporation and RTI Services, Inc.; Verigent, LLC; TEKsystems, Inc.; Tekk Force, LLC; and Anistar Technologies, Inc. (“Defendant’s Partners”)). Outsource, LLC is not a Released Party under this Agreement.
- Z. Settlement Administration:** The Settlement Administrator will conduct a skip trace for the address of Aggrieved Employees and run the names of Aggrieved Employees through the National Change of Address (“NCOA”) database to determine any updated addresses. The Settlement Administrator will mail the Individual Settlement Share checks and PAGA Notices by first-class U.S. mail to Aggrieved Employees. The PAGA Notices will inform Aggrieved Employees of the resolution of the Action and their entitlement to the enclosed settlement payment.
- AA. Settlement Administrator:** The third-party administrator agreed upon by Parties to administer this Settlement is Phoenix Settlement Administrators (“Phoenix”).
- BB. Superior Court:** Kern County Superior Court.

II. RECITALS

- A.** Plaintiff sent his Notice of Labor Code Violations Pursuant to Labor Code § 2699.3 on September 16, 2021. In the notice, Plaintiff, a former non-exempt employee of SitePro, apprised the LWDA of his claims against Defendant. Plaintiff’s notice alleged that Defendant had violated the California Labor Code by failing to pay all straight time wages, failing to pay minimum wages, failing to pay all overtime wages, failing to provide lawful meal and rest periods, failing to provide accurate itemized wage statements, failing to pay all wages owed at termination, and failing to pay wages twice per month.
- B.** Plaintiff then filed a PAGA representative action in Kern County Superior Court on November 22, 2021. The complaint alleged causes of action on behalf of Plaintiff and similarly situated Aggrieved Employees under the PAGA for failure to pay straight time wages, failure to pay overtime, failure to provide

meal periods, failure to provide rest periods, failure to provide compliant wage statements, failure to pay all wages due at termination, and failure to pay wages twice per month.

- C. After filing, the Parties engaged in informal discovery. Defendant produced hundreds of pages of time and wage records for Aggrieved Employees, as well as the handbooks and employee policies in effect during the applicable time period.
- D. The Parties attended mediation with respected wage and hour mediator Steven G. Mehta, Esq. on December 5, 2022. Although the matter did not settle at mediation, a mediator's proposal was issued shortly thereafter, which was accepted by the Parties on December 9, 2022.
- E. **Benefits of Settlement to Aggrieved Employees.** Plaintiff and Plaintiff's Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and any possible appeals. Plaintiff and Plaintiff's Counsel also have taken into account the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiff's Counsel has conducted extensive settlement negotiations. Based on the foregoing, Plaintiff and Plaintiff's Counsel believe that the settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of Aggrieved Employees.
- F. **Defendant's Reasoning for Settlement.** Defendant contends that there is no basis for penalties to be assessed against it. However, Defendant also recognizes that the defense of the Action will be protracted and expensive. Substantial time, energy, and resources of Defendant have already been and, unless this settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. Given the risks inherent in litigation and in the spirit of compromise, Defendant, therefore, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.
- G. **Defendant's Denial of Wrongdoing.** Defendant and the Released Parties generally and specifically deny any and all liability or wrongdoing of any sort with regard to any of the claims alleged and make no concessions or admissions of liability of any sort. Defendant asserts a number of defenses to the claims and denies any wrongdoing or liability arising out of any of the alleged facts and/or conduct in the Action. Neither this Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. There has been no final

determination by any court as to the merits of the claims asserted by Plaintiff against Defendant.

- H. Plaintiff's Claims.** Plaintiff asserts that Defendant's defenses are without merit. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Plaintiff, Aggrieved Employees, or Plaintiff's Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Action. However, in the event that this Settlement is finally approved by the Court, Plaintiff, Aggrieved Employees, and Plaintiff's Counsel will not oppose Defendant's efforts to use this Agreement to prove that Plaintiff and Aggrieved Employees have resolved and are forever barred from re-litigating the Released Claims.

III. SETTLEMENT TERMS AND CONDITIONS

- A. Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendant is obligated to pay under this Settlement Agreement is One Hundred Eighty-Eight Thousand Five Hundred Dollars and Zero Cents (\$188,500.00).

1. Escalator Provision: Defendant makes the following representations:

- There were approximately 124 Aggrieved Employees from November 22, 2020 to February 6, 2023, including Plaintiff.
- There were approximately 2,192 pay periods worked by Aggrieved Employees from November 22, 2020 to February 6, 2023.

To the extent that either of the forgoing estimates, as represented by Defendant, increases by more than 10%, Defendant will have the option to increase the Gross Settlement Amount in proportion to the percentage beyond 10%. For example, if the number of pay periods increases by 12% then Defendant shall increase the Gross Settlement Amount by 2%. Likewise, if the number of Aggrieved Employees increases by 12% then Defendant shall increase the Gross Settlement Amount by 2%. If Defendant declines to do so, Plaintiff will have the option to terminate the Agreement in its entirety, and the Parties will have the option of ending the PAGA period on the date the 10% threshold for pay periods is met.

- B. Individual Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual Settlement Share from the Net Settlement Amount to Aggrieved Employees.

1. Calculation.

a. Individual Settlement Share Calculation. Aggrieved Employees will receive a proportionate share of the Net Settlement Amount that is equal to the number of pay periods they worked for Defendant in California during the PAGA Period, divided by the total number of pay periods worked by all Aggrieved Employees, which will then be multiplied by the Net Settlement Amount. One day worked in a given pay period will be credited as a pay period for purposes of this calculation. Therefore, the value of Aggrieved Employees' Individual Settlement Shares is tied directly to the amount of pay periods that they worked.

2. Tax Withholdings. Aggrieved Employees' settlement awards will be apportioned as 100% penalties and be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms.

C. Recipients of Disbursements from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the Settlement Administrator shall disburse the Gross Settlement Amount as directed later on herein to the following:

1. To Plaintiff's Counsel. Plaintiff's Counsel will apply to the Court, and Defendants agree not to oppose, for a total Attorney Fee Award not to exceed one third, or \$62,833.33, of the Gross Settlement Amount and a Cost Award, not to exceed \$15,000.00. The Settlement Administrator will pay the court-approved amounts for the Attorney Fee Award and Cost Award out of the Gross Settlement Amount. The Settlement Administrator may purchase an annuity to utilize U.S. treasuries and bonds or other attorney fee deferral vehicles for Plaintiff's Counsel. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. An IRS 1099 tax form will be issued to Plaintiff's Counsel with respect to the Attorney Fee Award. In the event that the Court does not approve the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Plaintiff's Counsel for the Attorney Fee Award and/or Cost Award, the difference shall become part of the Net Settlement Amount and be available for distribution to Aggrieved Employees.

2. To the Settlement Administrator. The Settlement Administrator will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed \$5,000.00. This will be paid out of the Gross Settlement Amount. If the actual amount of Administration Costs is less

than the amount estimated and/or requested, the difference shall become part of the Net Settlement Amount and be available for distribution to Aggrieved Employees.

3. **To the LWDA.** The Settlement Administrator will pay the LWDA Payment, equivalent to seventy-five percent (75%) of the Net Settlement Amount, to the LWDA.
4. **To Aggrieved Employees.** The Settlement Administrator will pay Aggrieved Employees according to the Individual Settlement Share calculations set forth above.

D. Appointment of the Settlement Administrator. Solely for the purposes of this Settlement, the Parties stipulate and agree to the appointment of the Settlement Administrator. The Settlement Administrator shall be responsible for performing skip traces and NCOA searches on Aggrieved Employees' addresses; preparing and mailing PAGA Notices and Individual Settlement Share checks to Aggrieved Employees; calculating Aggrieved Employees' Individual Settlement Shares; providing a declaration for submission to the Court prior to the Settlement Approval hearing; calculating and mailing the LWDA Payment to the LWDA; distributing the Attorney Fee Award and Cost Award to Plaintiff's Counsel; calculating and paying amounts owed, if any, to the appropriate tax authorities; printing and providing Aggrieved Employees with 1099 tax forms as required under this Agreement and applicable law; providing a due diligence/post-disbursement declaration for submission to the Court upon the completion of the Settlement; providing any funds remaining in the Qualified Settlement Fund as a result of uncashed checks to the California State Controller's Office for Unclaimed Property in the name of the Aggrieved Employee, in the amounts directed per this Agreement, including the administration of related tax reimbursements, if any; and for such other tasks as the Parties mutually agree. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

E. Procedure for Approving Settlement.

1. Motion for Settlement Approval.

- a. Plaintiff will move for an order granting approval of the Settlement.
- b. At the Settlement Approval hearing, the Parties will appear and support the granting of the motion, and Plaintiff will submit a proposed order granting approval of the Settlement.

- c. Effect of Denial of Settlement Approval.** Should the Court decline to approve all material aspects of the Settlement, the Agreement will be null and void, and the Parties will have no further obligations under it. Provided, however, that the amounts of the Attorney Fee Award, Cost Award, and Administration Costs shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement, and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement. Any order or proceeding relating to an application for the Attorney Fee Award, Cost Award, and Administration Costs shall not operate to terminate or cancel this Settlement Agreement. Nothing in this Agreement shall limit Plaintiff or Plaintiff's Counsel's ability to appeal any decision by the Court to award less than the requested Attorney Fee Award, Cost Award, and Administration Costs.
 - d. Proposed Order and Judgment.** Upon approval of the Settlement, the Parties shall present to the Court a proposed Approval Order, approving of the Settlement and entering Judgment in accordance therewith. After Entry of Judgment, the Court shall have continuing jurisdiction over the Action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters; and (3) addressing such post-Judgment matters as may be appropriate under Court rules and applicable law.
- 2. PAGA Notice and Disbursement to Aggrieved Employees.** After the Court enters its Approval Order, Aggrieved Employees will be provided with a PAGA Notice accompanying their Individual Settlement Share check in accordance with the following procedure:

 - a. Aggrieved Employees List.** Within thirty (30) days of the Effective Final Settlement Date, Defendant shall deliver to the Settlement Administrator specific information for Aggrieved Employees, including: (1) first and last name; (2) last known mailing address; (3) last known telephone number; (4) social security number; and (5) the total number of pay periods during which Aggrieved Employees performed work for Defendant in California during the PAGA Period. If any or all of this information is unavailable to Defendant, Defendant will so inform Plaintiff's Counsel, and the Parties will make their best efforts to reconstruct or otherwise agree upon how to deal with the unavailable information. The Settlement Administrator will conduct a skip trace for the addresses of Aggrieved Employees

and an NCOA search on all addresses. The Settlement Administrator shall maintain this information as private and confidential.

- b. Funding the Settlement:** Defendant shall wire the Gross Settlement Amount to the Settlement Administrator as set forth in Section I, Paragraph K, above.
- c. The Settlement Administrator's Disbursement Duties.** Subject to the Court approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court's Approval Order and Judgment. The Settlement Administrator shall keep Defendant's Counsel and Plaintiff's Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond promptly to questions from Defendant's Counsel and Plaintiff's Counsel.
- d. Disbursement:** The Settlement Administrator will disburse the Gross Settlement Amount within ten (10) days after funding, as instructed herein. The Settlement Administrator shall disburse: (1) the Individual Settlement Shares to Aggrieved Employees; (2) the Attorney Fee Award and Cost Award to Plaintiff's Counsel, as approved by the Court; (3) the Administration Costs, as approved by the Court; and (4) the LWDA Payment to the LWDA.
- e. Returned PAGA Notices and Checks.** If a PAGA Notice and Individual Settlement Share check are returned because of an incorrect address, within five (5) business days from receipt of the returned PAGA Notice and Individual Settlement Share check, the Settlement Administrator will conduct a search for a more current address and re-mail the PAGA Notice and Individual Settlement Share check. The Settlement Administrator will use the NCOA and skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of Aggrieved Employees for whom a PAGA Notice and Individual Settlement Share check are returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; calling Aggrieved Employees to determine an accurate mailing address if none can be found; and promptly re-mailing the PAGA Notice and Individual Settlement check to Aggrieved Employees for whom new addresses are found. If the PAGA Notice is re-mailed, the Settlement Administrator will note for its own records the date and address of each re-mailing.

3. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, the Parties and their respective counsel waive any and all rights to appeal from the Judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the Judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding.
4. **Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then this Agreement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not be limited to, any alteration of the Gross Settlement Amount, an alteration in the calculation of the Net Settlement Amount, and any change to the calculation of the Individual Settlement Shares.
5. **Final Report by Settlement Administrator.** Within ten (10) days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds.
6. **Cashing Checks.** Aggrieved Employees must cash or deposit their Individual Settlement Share checks within one hundred and eighty (180) calendar days after the checks are mailed to them.
 - a. **Reminder Postcard.** If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced.
 - b. **Uncashed Checks.** If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder postcard, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, cancel the checks. All funds associated with the Individual Settlement Share checks returned as undeliverable and funds associated with those checks remaining uncashed, shall be transmitted by the Settlement Administrator to the California State Controller's

Office for Unclaimed Property in the name of the Aggrieved Employees who failed to cash their Individual Settlement Share check prior to the void date.

- 7. Defendant's Legal Fees.** Defendant is responsible for paying for all of Defendant's own legal fees, costs, and expenses incurred in this Action outside of the Gross Settlement Amount.

F. Confidentiality / Public Statements. This Settlement and Agreement shall remain confidential in every respect until the Parties' Motion for Approval of the Settlement is filed with the Court. Plaintiffs and Plaintiffs' counsel will not (a) issue any press or other media release, (b) initiate any contact with the press, other media (including social media), or any third party, (c) respond to any inquiry from the press, or media, or (d) have any communication with the press or other media about the Actions, including, but not limited to the fact, amount, and/or terms of the Settlement, either before or after the Court approves this Agreement. Plaintiffs and Plaintiffs' counsel agree to keep the terms of the Settlement Agreement confidential, except as reasonably necessary to obtain judicial approval of the Settlement Agreement. To the extent limited public disclosures are required to effectuate the Settlement Agreement or to notify courts or parties, such limited and necessary details may be revealed with the consent of all Parties. However, any such disclosures shall not constitute a waiver of confidentiality with respect to any information not publicly disclosed.

G. Release of Claims. Upon the Effective Final Settlement Date, as defined above, the State of California and its agencies, and Aggrieved Employees, including Plaintiff, shall release the Released Claims, as defined above, against the Released Parties.

H. Miscellaneous Terms

- 1. No Admission of Liability.** Defendant and the Released Parties make no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserves the right to contest liability if the Settlement is not approved. Defendant denies that it engaged in any unlawful activity, failed to comply with the law in any respect, or has any liability to anyone under the claims asserted in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. This Settlement and Plaintiff's and Defendant's willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement).
- 2. No Effect on Employee Benefits.** The Individual Settlement Shares paid to Plaintiff and Aggrieved Employees shall not be deemed to be pensionable

earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacation, holiday pay, retirement plans, etc.) of Plaintiff or Aggrieved Employees. The Parties agree that any Individual Settlement Share paid to Plaintiff or Aggrieved Employees under the terms of this Agreement do not represent any modification of Plaintiff's or Aggrieved Employees' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

3. **Integrated Agreement.** After this Agreement is signed by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will be deemed that no oral representations, warranties, covenants, or inducements have been made to any of the Parties concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
4. **Authorization to Enter into Settlement Agreement.** Plaintiff's Counsel and Defendant's Counsel 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 under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event that the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or any supplemental provision(s) that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provision(s), and assistance of the Court will be consistent with this Agreement.
5. **Exhibits and Headings.** Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.
6. **Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Settlement Approval hearing to be conducted by the Court.
7. **Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.

- 8. Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.
- 9. No Prior Assignment.** Plaintiff hereby represents, covenants, and warrants that he has not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- 10. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
- 11. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
- 12. No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement; that Aggrieved Employees will assume any such tax obligations or consequences that may arise from this Agreement; and that Aggrieved Employees shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from Aggrieved Employees, they assume all responsibility for the payment of such taxes.
- 13. Jurisdiction of the Court.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.
- 14. Invalidity of Any Provision; Severability.** Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed severed, and

Leland Lawson v. ComNet Communications, LLC, et al.

the validity and enforceability of the remaining provisions shall not be affected thereby.

15. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any of the Parties on the basis that they were the drafter or participated in the drafting.

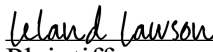
16. Execution in Counterpart. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties exchange between themselves the original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: 3/13/2024

LELAND LAWSON

DocuSigned by:


Plaintiff

Dated: _____

COMNET COMMUNICATIONS, LLC

Defendant

Name:

Title:

Dated: March 13, 2024

MARA LAW FIRM, PC



David Mara, Esq.

Matthew Crawford, Esq.

Attorneys for Plaintiff Leland Lawson

the validity and enforceability of the remaining provisions shall not be affected thereby.

15. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any of the Parties on the basis that they were the drafter or participated in the drafting.

16. Execution in Counterpart. This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties exchange between themselves the original signed counterparts. Facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: _____

LELAND LAWSON

Plaintiff

Dated: 3/17/24

COMNET COMMUNICATIONS, LLC

Paul Anderson, CFO

Defendant

Name: PAUL ANDERSON

Title: CFO

Dated: _____

MARA LAW FIRM, PC

David Mara, Esq.

Matthew Crawford, Esq.

Attorneys for Plaintiff Leland Lawson

Leland Lawson v. ComNet Communications, LLC, et al.

Dated: March 14, 2024

PETTIT KOHN INGRASSIA LUTZ & DOLIN

A handwritten signature in blue ink, appearing to read 'Shannon R. Finley', is written over a horizontal line.

Shannon R. Finley, Esq.

Jessica C. O'Malley, Esq.

Attorneys for Defendant ComNet Communications,
LLC

Exhibit A

NOTICE OF PAGA SETTLEMENT AND RELEASE

*This is not a solicitation.
This is not a lawsuit against you. You are not being sued.*

<Employee Name>
<Employee Address 1>
<Employee Address 2>
<City, State Zip Code>
XXX – XX - <Last 4 SSN>

CALIFORNIA SUPERIOR COURT, COUNTY OF KERN
Leland Lawson v. ComNet Communications, LLC
Case No. BCV-21-102757

The California Superior Court, County of Kern (the “Court”) has granted approval of a settlement in the above-captioned action. Because your rights are affected by this settlement, it is important that you read this Notice of PAGA Settlement and Release (“Notice”) carefully. The purpose of this Notice is to provide a brief description of the claims alleged in the action and the key terms of the settlement.

WHAT INFORMATION IS IN THIS NOTICE

- | | |
|---|--------|
| 1. Why Have I Received This Notice?..... | Page 1 |
| 2. What Is This Case About? | Page 1 |
| 3. Who Are the Attorneys Representing the Parties? | Page 2 |
| 4. How Does This Settlement Affect My Rights? What Are the Released Claims? | Page 2 |
| 5. How Much Can I Expect to Receive From This Settlement?..... | Page 3 |
| 6. How Can I Obtain Additional Information or Court Documents? | Page 3 |

1. Why Have I Received This Notice?

ComNet Communications, LLC’s (“ComNet”) records indicate that you worked for ComNet as a non-exempt, hourly employee, either directly for ComNet, or through a staffing agency and/or other third-party entity, in the State of California, at some time between September 16, 2020 through February 6, 2023 (“PAGA Period”).

A settlement hearing was held on [date]. The Court granted approval of the settlement. You are receiving this Notice to provide you with a brief description of the settlement and explain why you have received a settlement check.

2. What Is This Case About?

The action entitled *Leland Lawson v. ComNet Communications, LLC* was commenced by Plaintiff Leland Lawson (“Plaintiff”) in Kern County Superior Court (Case No. BCV-21-102757) on behalf of himself and all other similarly situated employees.

On September 16, 2021, Plaintiff provided notice to the California Labor and Workforce Development Agency (“LWDA”) of the Private Attorneys’ General Act of 2004 (“PAGA”) violations he alleged against ComNet. Plaintiff did not receive a response from the LWDA.

On November 22, 2021, Plaintiff filed a PAGA complaint against ComNet. Plaintiff alleges that ComNet violated the California Labor Code by failing to pay all straight time wages, failing to pay all overtime wages, failing to provide lawful meal periods and rest breaks, failing to provide accurate and itemized wage statements, failing to pay all wages owed at termination, and failing to pay wages two times per month.

The Court has not made any determination as to whether the claims advanced by Plaintiff have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or ComNet. Instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial. ComNet expressly denies that it did anything wrong or that it violated the law and further deny any liability whatsoever.

3. *Who Are the Attorneys Representing the Parties?*

Attorneys for Plaintiff Leland Lawson	Attorneys for ComNet Communications, LLC
MARA LAW FIRM, PC David Mara Matthew Crawford 2650 Camino Del Rio North, Suite 205 San Diego, CA 92108 Telephone: (619) 234-2833 Facsimile: (619) 234-4048	PETTIT KOHN INGRASSIA LUTZ & DOLIN Shannon R. Finley, Esq. Jessica C. O’Malley, Esq. 11622 El Camino Real, Suite 300 San Diego, CA 92130 Telephone: (858) 755-8500 Facsimile: (858) 755-8504

4. *How Does This Settlement Affect My Rights? What Are the Released Claims?*

All persons who were employed by ComNet as non-exempt, hourly employees, either directly for ComNet or through staffing agencies and/or other third-party entities, in the State of California at any time from September 16, 2020 through February 6, 2023 (the “Aggrieved Employees”) release the Released Parties from the Released Claims, as defined below.

Released Parties: ComNet, including its past, present, and future divisions, affiliates, parents, subsidiaries, predecessors, successors, assigns, members, shareholders, owners, officers, directors, employees, agents, trustees, attorneys, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, privies, and partners (including, but not limited to, SitePro Solutions, Inc. (“SitePro”); Rightech Corporation and RTI Services, Inc.; Verigent, LLC; TEKsystems, Inc.; Tekk Force, LLC; and Anistar Technologies, Inc. (“ComNet’s Partners”)). Outsource, LLC is not a Released Party under the settlement reached in this matter.

Released Claims: All claims for civil penalties pursuant to the PAGA, arising at any time during the PAGA Period alleged, or could have been alleged, in the operative complaint and notices submitted to the LWDA based on the facts pled.

5. *How Much Can I Expect to Receive From This Settlement?*

The total maximum amount that ComNet can be required to pay as part of this settlement shall be no more than \$188,500.00 (“Gross Settlement Amount”). The “Net Settlement Amount” is the portion of the Gross Settlement Amount after the deduction of settlement administration costs for the Settlement Administrator in the amount of \$5,000.00, payment to Plaintiff’s counsel in the amount of \$62,833.33 for attorneys’ fees, and \$15,000.00 for litigation costs. All of these payments were approved by the Court.

After deducting the above-referenced items, the remaining Net Settlement Amount will be divided as follows: 75% to the LWDA, pursuant to California Labor Code section 2699, subdivision (i), for enforcement of labor laws and education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes; and 25% to the Aggrieved Employees. Therefore, the LWDA will receive [INSERT], and [INSERT] will be left for distribution to the Aggrieved Employees.

Each Aggrieved Employee will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of pay periods they worked for ComNet in California during the PAGA Period, divided by (ii) the total number of pay periods worked by all Aggrieved Employees for ComNet in California during the PAGA Period, which is then multiplied by the Net Settlement Amount. One day worked in any given pay period will be credited as one pay period for purposes of this calculation. Therefore, the value of each Aggrieved Employee’s individual settlement share is tied directly to the amount of pay periods that they worked.

The check included with this Notice represents your settlement share based on the above formula. For purposes of computing taxes, 100% of the amount of money you received is considered to be a civil penalty and is not subjected to tax withholding but shall be reported by IRS Form 1099.

It is strongly recommended that, upon receipt of your check, you immediately cash it or cash it before the **180-day** void date shown on the check. Funds represented by settlement checks returned as undeliverable and settlement checks remaining uncashed for more than 180 days after issuance will be transmitted to the California State Controller’s Office for Unclaimed Property in the name of the Aggrieved Employee. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

6. *How Can I Obtain Additional Information or Court Documents?*

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Plaintiff’s Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement check.

PLEASE DO NOT CALL THE COURT OR COURT’S CLERK FOR INFORMATION ABOUT THIS NOTICE OR SETTLEMENT.

Exhibit 2

ADDENDUM TO JOINT STIPULATION AND SETTLEMENT AGREEMENT OF PAGA CLAIM

This Addendum to Joint Stipulation and Settlement Agreement of PAGA Claim (“Agreement”) is made and entered into by and between Plaintiff Leland Lawson (“Plaintiff”), on behalf of himself and all “aggrieved employees,” pursuant to the Private Attorneys General Act of 2004 (“PAGA”), and Defendant ComNet Communications, LLC (“Defendant”) (collectively referred to as the “Parties”). The Parties agree to revise the Agreement as described below. The terms defined in the Agreement shall have the same definition herein. No provisions of the Agreement, other than the ones described herein, shall be modified or added to the Parties’ agreement.

I. The Following Terms Shall be Modified in the Parties’ Joint Stipulation and Settlement Agreement:

- A. “Settlement Administrator” (Section I (AA) of the Agreement).** The third-party administrator agreed upon by Parties to administer this Settlement is Apex Class Action LLC (“Apex”).

II. EXECUTION BY COUNSEL

The Parties’ counsel execute this Addendum.

Dated: March 29, 2024

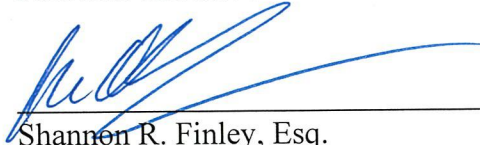
MARA LAW FIRM, PC



David Mara, Esq.
Matthew Crawford, Esq.
Attorneys for Plaintiff

Dated: March 28, 2024

PETTIT KOHN INGRASSIA LUTZ & DOLIN



Shannon R. Finley, Esq.
Jessica C. O’Malley, Esq.
Attorneys for Defendant

Exhibit 3

SUMMARY OF TIME AND COSTS

Leland Lawson v. ComNet Communications, LLC
Kern County Superior Court Case No. BCV-21-102757

Hours: 169
Lodestar Fees: \$ 117,600.00
Costs: \$ 10,934.63

As of 3/29/2024

FIRM/ ATTORNEYS	YEAR ADMITTED	HOURS	HOURLY RATE	TOTAL
MARA LAW FIRM, PC				
David Mara	2004 (19)	81	\$800	\$64,800.00
Matthew Crawford	2016 (7)	88	\$600	\$52,800.00
MARA LAW FIRM, PC TOTAL:		169		\$117,600.00

LITIGATION EXPENSES	
MARA LAW FIRM, PC	\$10,934.63
TOTAL COSTS	\$10,934.63

Leland Lawson v. ComNet Communications, LLC
Kern County Superior Court Case No. BCV-21-102757

Costs Summary

Attorney Service:	\$	416.00
Court Fees:	\$	1,758.31
Mediation:	\$	8,750.00
Postage:	\$	10.32

TOTAL COSTS	\$	10,934.63
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Exhibit 4

Westlaw Court Express

LEGAL BILLING REPORT

VOLUME 14, NUMBER 3

December 2012

CA REGION

BY REGION, BY FIRM

Table of Contents (Alphabetical by Firm Name)

<u>FIRM</u>	<u>PAGE</u>
Akin Gump Strauss Haver & Field LLP	3
DLA Piper LLP	3
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Kornfeld, Nyberg, Bendes & Kuttner, P.C.	4
Loeb & Loeb	4
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Paul Hastings LLP	5
Seyfarth Shaw LLP	5
Slidley Austin LLP	6
Torres LLP	7

California Report

FIRM		GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
Akin Gump Strauss Hauer & Feld LLP	Partner	1993	1993	CA	\$ 825.00	8.10	\$ 6,682.50
	David P. Simonds	1993	1993	CA	\$ 725.00	2.60	\$ 1,885.00
	Senior Counsel Edward P. Christian	1993	1993	CA	\$ 725.00	10.70	\$ 8,567.50
TOTAL							
DLA Piper LLP							
Partner	Nate McQuirk	1979	1979	CA	\$ 790.00	0.60	\$ 474.00
Partner	Richard Yankovich	1979	1979	CA	\$ 790.00	39.40	\$ 30,732.00
Partner	Ann Lawrence	1989	2000	CA	\$ 755.00	90.30	\$ 68,176.50
Partner	Heather Dunn	2000	2001	CA	\$ 705.00	1.30	\$ 916.50
Partner	Jeffrey D. Aaronson	1998	1998	CA	\$ 650.00	12.70	\$ 8,255.00
Of Counsel	Ben Gipson	2002	2002	CA	\$ 640.00	3.10	\$ 1,984.00
Associate	Bethand Pan	2004	2004	CA	\$ 630.00	170.00	\$ 107,100.00
Associate	Diana M. Melzer	2008	2008	CA	\$ 510.00	67.00	\$ 34,170.00
Associate	Natasha Heleth	2011	2011	CA	\$ 470.00	1.80	\$ 846.00
Associate	Thia Bhanthall	2000	2000	CA	\$ 400.00	4.10	\$ 1,640.00
TOTAL						390.30	\$ 254,254.00
Gibson Dunn & Crutcher, LLP							
Associate	Virginia Pitt	2010	2010	CA	\$ 445.00	18.20	\$ 8,544.00
Associate	Matthew Bouslog	2011	2011	CA	\$ 395.00	12.60	\$ 4,977.00
TOTAL						31.80	\$ 13,521.00

U.S.B.C New York Southern
Private Airline Corp (12-11343 REG)

From the fee application covering
July 1, 2012 through October 31, 2012

NLI Ranking: 40
Firm Size: 791

U.S.B.C Delaware
Trident Microsystems, Inc. (12-10083 CSS)

From the fee application covering
October 1, 2012 through October 31, 2012

NLI Ranking: 2
Firm Size: 3,348

U.S.B.C New York Southern
LightSquared, Inc (12-12080 SCC)

From the fee application covering
October 1, 2012 through October 31, 2012

NLI Ranking: 21
Firm Size: 1,039

California Report

FIRM

Kornfield, Nyberg, Bander & Kuhrner, P.C.,
Partner Eric A. Nyberg
Paraprofessional Nancy L. Nyberg

GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
1987	1987	CA	\$ 425.00	15.90	\$ 7,182.50
			90.00	0.30	24.00
				17.20	\$ 7,206.50
TOTAL					

U.S.B.C California Northern
Hawrey LLP(41-34376-DJ)
From the fee application covering
August 1, 2012 through August 31, 2012
NJ Ranking: n/a
Firm Size: 3

Loeb & Loeb

Partner	Lance N. Jurich	1987	CA	\$ 695.00	1.50	\$ 1,320.50
Partner	Christopher W. Campbell	1999	CA	550.00	46.20	30,030.00
Associate	Ryan M. Audin	2007	CA	550.00	122.30	67,255.00
Associate	Jeanne C. Wanless	1993	CA	435.00	18.20	7,917.00
Paraprofessional	S. Steadman			280.00	0.20	52.00
TOTAL					182.30	\$ 105,584.50

U.S.B.C California Central
American Medical Technologies(8-12-12339-MW)
From the fee application covering
July 1, 2012 to September 30, 2012
NJ Ranking: 144
Firm Size: 301

Pachtulski Stang Ziehl Young Jones & Weintraub

Of Counsel	James K. T. Hunter	1976	CA	\$ 745.00	0.10	\$ 74.50
Partner	Samuel R. Matzel	1985	CA	725.00	40.90	29,652.50
Of Counsel	Jeffrey Kandell	1984	CA	615.00	0.50	307.50
Partner	Mahar S. Pagay	1997	CA	615.00	1.80	1,107.00
Partner	Scotta McFarland	1980	CA	615.00	47.80	29,397.00
Of Counsel	Mary Lane	1976	CA	595.00	3.80	2,261.00
Partner	Nina Hong	1995	CA	595.00	0.50	297.50
Associate	Teddy M. Kapur	2006	CA	495.00	8.40	4,158.00
Library	Leslie A. Forrester			295.00	1.10	324.50
Paraprofessional	Felice Harrison			275.00	23.00	6,325.00
TOTAL					127.90	\$ 73,904.50

U.S.B.C California Central
American Medical Technologies(8-12-12339-MW)
From the fee application covering
July 1, 2012 to July 31, 2012
NJ Ranking: n/a
Firm Size: 55

California Report

FIRM

Pedraza & Stang Ziehl Young Jones & Weintraub

	GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
Partner	1979	1979	CA	\$ 975.00	0.80	\$ 780.00
Partner	1982	1983	CA	\$ 875.00	12.80	\$ 11,200.00
Of Counsel	1975	1976	CA	\$ 745.00	4.00	\$ 2,980.00
Partner	1983	1983	CA	\$ 745.00	50.80	\$ 37,845.00
Partner	1983	1984	CA	\$ 725.00	11.10	\$ 8,047.50
Of Counsel	1987	1987	CA	\$ 675.00	15.80	\$ 10,452.50
Of Counsel	1987	1987	CA	\$ 595.00	5.20	\$ 3,094.00
Of Counsel	1980	1980	CA	\$ 575.00	4.30	\$ 2,472.50
Associate	2004	2010	CA	\$ 525.00	31.00	\$ 16,275.00
Paraprofessional				265.00	2.50	\$ 862.50
Paraprofessional				265.00	7.70	\$ 2,040.50
Paraprofessional				265.00	1.00	\$ 265.00
Case Management				185.00	5.40	\$ 993.00
Case Management				185.00	0.40	\$ 74.00
TOTAL					152.50	\$ 57,198.50

Paul Hastings LLP

Partner	1976	1976	CA	\$ 840.00	15.80	\$ 13,272.00
Of Counsel	1983	1983	CA	\$ 785.00	132.40	\$ 115,062.00
Associate	2006	2006	CA	\$ 615.00	31.10	\$ 19,126.50
Associate	2007	2008	CA	\$ 575.00	181.70	\$ 104,477.50
Associate	2009	2009	CA	\$ 485.00	87.10	\$ 42,343.50
Associate	2010	2010	CA	\$ 385.00	57.00	\$ 37,345.00
Associate	2010	2010	CA	\$ 385.00	160.20	\$ 81,577.00
TOTAL					725.30	\$ 393,203.50

Seyfarth Shaw LLP

Counsel	1996	1996	CA	\$ 580.00	2.40	\$ 1,832.00
Partner	1985	1985	CA	\$ 620.00	1.50	\$ 930.00
Counsel	1997	1997	CA	\$ 540.00	55.60	\$ 30,564.00
TOTAL					60.50	\$ 33,416.00

U.S.B.C Delaware
Trident Microsystems, Inc. (12-10089 (CSS))

From the fee application covering
September 1, 2012 through September 30, 2012

N.J. Ranking: n/a
Firm Size: 55

U.S.B.C New York Southern
AMR Corporation (11-15463 (SHL))

From the fee application covering
July 1, 2012 through July 31, 2012

N.J. Ranking: 30
Firm Size: 851

U.S.B.C New York Southern
Grubb & Ellis Company (12-10085 (MG))

From the fee application covering
July 2, 2012 through October 31, 2012

N.J. Ranking: 50
Firm Size: 733

California Report

FIRM Sidley Austin LLP

	GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
Partner	1995	1995	CA	\$ 875.00	18.10	\$ 12,217.50
Associate	2010	2010	CA	450.00	117.50	53,063.00
Associate	2011	2011	CA	355.00	41.00	14,555.00
TOTAL					177.00	\$ 79,827.50

U.S.B.C Delaware
Tribune Company, et al. (08-13144 FJCJ)

From the fee application covering
September 1, 2012 through September 30, 2012

NLI Ranking: 10
Firm Size: 1,592

Tenys LLP

Partner	1983	1983	CA	\$ 995.00	5.50	\$ 5,472.50
Partner	1974	1974	CA	995.00	0.40	398.00
Partner	1977	1977	CA	810.00	0.50	405.00
Associate	2008	2008	CA	695.00	21.10	14,564.50
Associate	2007	2007	CA	565.00	110.00	62,150.00
Associate	2008	2008	CA	500.00	0.50	250.00
Library				355.00	0.80	284.00
Law Clerk				395.00	43.90	13,389.50
Paraprofessional				250.00	28.20	7,332.00
Paraprofessional					210.90	\$ 104,345.50
TOTAL						

U.S.B.C Delaware
Nettel Networks Inc. (09-10138)

From the fee application covering
August 1, 2012 through October 31, 2012

NLI Ranking: n/a
Firm Size: 236

Westlaw Court Express

LEGAL BILLING REPORT

VOLUME 14, NUMBER 3

December 2012

CA REGION

BY BILLING RATE

California Rate Report

PROFESSIONAL	FIRM	GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
Partner	John Cameron	1983	1983	CA	\$ 995.00	5.50	\$ 5,472.50
Partner	Shelia Block	1974	1974	CA	\$ 995.00	0.40	398.00
Partner	Richard M. Pachulski	1979	1979	CA	\$ 975.00	0.80	780.00
Partner	Ira D. Kharasch	1982	1982	CA	\$ 875.00	12.80	11,200.00
Partner	J. AL Latham Jr.	1978	1978	CA	\$ 840.00	15.80	13,272.00
Partner	David P. Stronids	1983	1983	CA	\$ 825.00	9.10	6,682.50
Partner	Michael Rotszala	1977	1977	CA	\$ 810.00	0.50	405.00
Partner	Nate McKittick	1989	1989	CA	\$ 780.00	0.60	474.00
Partner	Richard Yankeiwich	1979	1979	CA	\$ 760.00	39.40	30,732.00
Partner	Ana Lawton	1989	1989	CA	\$ 755.00	50.30	68,176.50
Of Counsel	Jennifer S. Baldocchi	1983	1983	CA	\$ 755.00	152.40	115,062.00
Of Counsel	James K.T. Hunter	1976	1976	CA	\$ 745.00	0.10	74.50
Of Counsel	James K.T. Hunter	1976	1976	CA	\$ 745.00	4.00	2,980.00
Partner	John D. Fiero	1989	1989	CA	\$ 745.00	50.80	37,846.00
Senior Counsel	Edward P. Christian	1985	1985	CA	\$ 725.00	2.60	1,885.00
Partner	Samuel R. Malzel	1985	1985	CA	\$ 725.00	40.90	29,632.50
Partner	Bruce Grohschal	1983	1984	CA	\$ 725.00	11.10	8,077.50
Partner	Heather Dunn	2000	2000	CA	\$ 705.00	1.30	916.50
Partner	Lance N. Jurth	1987	1987	CA	\$ 695.00	1.90	1,320.50
Associate	Jessica Bullock	2003	2003	CA	\$ 695.00	21.10	14,684.50
Counsel	Ellen Sueda	1983	1983	CA	\$ 675.00	2.40	1,632.00
Of Counsel	Henry Hochman	1987	1987	CA	\$ 675.00	16.50	10,462.50
Partner	Max C. Fischer	1985	1985	CA	\$ 675.00	18.10	12,217.50
Partner	Jeffrey D. Karson	1988	1988	CA	\$ 650.00	12.70	8,255.00
Partner	Christopher W. Campbell	1989	1989	CA	\$ 650.00	46.20	30,030.00
Of Counsel	Ben Gibson	2002	2002	CA	\$ 640.00	3.10	1,984.00
Associate	Bertrand Pan	2004	2004	CA	\$ 630.00	170.00	107,100.00
Partner	Colleen M. Regan	1985	1985	CA	\$ 620.00	1.50	930.00
Of Counsel	Jeffrey Kamel	1984	1984	CA	\$ 615.00	0.50	307.50
Partner	Malhar S. Pargy	1984	1987	CA	\$ 615.00	1.60	1,107.00
Partner	Scott McFarland	1980	1980	CA	\$ 615.00	47.80	29,337.00
Associate	Melinda A. Gordon	2009	2009	CA	\$ 615.00	31.10	19,126.50
Of Counsel	Mary Lane	1976	1976	CA	\$ 595.00	3.90	2,261.00
Partner	Nina Hong	1986	1986	CA	\$ 595.00	0.90	535.50
Of Counsel	Gabriele Rohrer	1997	1997	CA	\$ 595.00	5.20	3,094.00

California Rate Report

PROFESSIONAL	FIRM	GRADUATED	ADMITTED	STATE	RATE	HOURS	TOTAL
Of Counsel	Pachulski Stang Ziehl Young Jones & Weintraub	1980	1980	CA	\$ 575.00	4.30	\$ 2,472.50
William Ramseyer	Paul Hastings LLP	2007	2008	CA	\$ 575.00	191.70	104,477.50
Robert E. Zivner	Tony's LLP	2007	2007	CA	\$ 555.00	110.00	62,160.00
Adam Siverts	Loeb & Loeb	2007	2007	CA	\$ 550.00	122.30	67,265.00
Ryan M. Aulich	Seyfarth Shaw LLP	1997	1997	CA	\$ 40.00	56.60	30,854.00
Holger Basch	Pachulski Stang Ziehl Young Jones & Weintraub	2004	2010	CA	\$ 525.00	31.00	16,275.00
John W. Lucas	DLA Piper LLP	2008	2008	CA	\$ 510.00	87.00	34,170.00
Diana M. Malzer	Tony's LLP	2008	2008	CA	\$ 500.00	0.50	250.00
Madhew Akoy	Pachulski Stang Ziehl Young Jones & Weintraub	2004	2008	CA	\$ 495.00	8.40	4,158.00
Teddy M. Kumar	Paul Hastings LLP	2009	2009	CA	\$ 485.00	87.10	42,243.00
Liam M. Paez	DLA Piper LLP	2011	2011	CA	\$ 470.00	1.80	846.00
Natasha Hsieh	Sidley Austin LLP	2010	2010	CA	\$ 450.00	117.50	53,055.00
Michael T. Gustafson	Gibson Dunn & Crutcher, LLP	2010	2010	CA	\$ 445.00	19.20	8,544.00
Virginia FRI	Loeb & Loeb	1993	1993	CA	\$ 435.00	18.20	7,917.00
Jeanne C. Wanlass	Kornfield, Nyberg, Bendes & Kuhner, P.C.	1987	1987	CA	\$ 425.00	16.90	7,182.50
Eric A. Nyberg	DLA Piper LLP	2000	2000	CA	\$ 400.00	4.10	1,640.00
Tina Bhattachali	Gibson Dunn & Crutcher, LLP	2011	2011	CA	\$ 395.00	12.60	4,977.00
Matthew Bourisog	Paul Hastings LLP	2010	2010	CA	\$ 385.00	97.00	37,545.00
Ji Hae Kim	Paul Hastings LLP	2010	2010	CA	\$ 385.00	160.20	61,677.00
Marlo C. Ortega	Sidley Austin LLP	2011	2011	CA	\$ 355.00	41.00	14,555.00
Francis S. Lum	Tony's LLP	2000	2000	CA	\$ 305.00	0.80	264.00
Clare Mauro	Tony's LLP	2000	2000	CA	\$ 305.00	43.90	13,389.50
Bradley Tordick	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 285.00	1.10	324.50
Leslie A. Forrester	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 275.00	23.00	6,325.00
Paraprofessional Felicia Harrison	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 265.00	2.50	662.50
Paraprofessional Patricia Cuniff	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 265.00	7.70	2,040.50
Paraprofessional Louise Tuzchak	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 265.00	1.00	265.00
Paraprofessional Cheryl A. Krotts	Loeb & Loeb	2000	2000	CA	\$ 260.00	0.20	52.00
Paraprofessional S. Steadman	Tony's LLP	2000	2000	CA	\$ 260.00	28.20	7,332.00
Paraprofessional Dianna Rajah	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 185.00	5.40	595.00
Case Manager Sharita Filman	Pachulski Stang Ziehl Young Jones & Weintraub	2000	2000	CA	\$ 185.00	0.40	74.00
Case Manager Dina K. Whaley	Kornfield, Nyberg, Bendes & Kuhner, P.C.	2000	2000	CA	\$ 80.00	0.30	24.00
Paraprofessional Nancy L. Nyberg							

Exhibit 5

1 DEBRA L. HURST (SBN 106118)
2 KYLE VAN DYKE (SBN 171186)
3 JULIE CORBO RIDLEY (SBN 234274)
4 **HURST & HURST**
5 701 "B" Street, Suite 1700
6 San Diego, CA 92101
7 Telephone: 619.236.0016
8 Facsimile: 619.236.8569

WILLIAM TURLEY (SBN 122408)
DAVID T. MARA (SBN 230498)
The Turley Law Firm, APLC
625 Broadway, Suite 625
San Diego, CA 92101
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Facsimile: 619.234.4048

RAUL CADENA (SBN 185787)
NICOLE R. ROYSDON (SBN 262237)
CADENA CHURCHILL, LLP
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San Diego, CA 92101
Telephone: 619.546.0888
Facsimile: 619.923.3208

L. TRACEE LORENS (SBN 150138)
LORENS AND ASSOCIATES, APLC
701 B Street, Suite 1700
San Diego, CA 92101
Telephone: 619.239-1233
Facsimile: 619.239-1178

Additional Counsel Listed After Signature Page
Attorneys for Plaintiffs and the certified Class

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION

ADAM HOHNBAUM, ILLYA HAASE,
ROMEO OSORIO, AMANDA JUNE RADER,
and SANTANA ALVARADO and ROES 1
through 500, Inclusive on behalf of themselves
and all others similarly situated, and on behalf
of the general public,

Plaintiffs,

v.

BRINKER RESTAURANT CORPORATION,
BRINKER INTERNATIONAL, INC. and
BRINKER INTERNATIONAL PAYROLL
COMPANY, LP a Delaware Corporation; and
DOES 1 through 500, Inclusive

Defendants.

CASE NO.: GIC834348

CLASS ACTION

DECLARATION OF RICHARD M.
PEARL IN SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION FOR FINAL
APPROVAL AND OF CLASS ACTION
SETTLEMENT AND MOTION FOR
AWARD OF ATTORNEYS' FEES,
COSTS, CLASS REPRESENTATIVE
SERVICE PAYMENTS, AND CLAIMS
ADMINISTRATION EXPENSES

Date: December 12, 2014

Time: 1:30 p.m.

Dept.: C-69

Judge: Hon. Katherine A. Bacal

Complaint Filed: August 16, 2004

1 I, RICHARD M. PEARL, hereby declare the following:

2 1. I am a member in good standing of the California State Bar. I am in
3 private practice as the principal of my own law firm, the Law Offices of Richard
4 M. Pearl, in Berkeley, California. I specialize in issues related to court-awarded
5 attorneys' fees, including the representation of parties in fee litigation and
6 appeals, serving as an expert witness, and serving as a mediator and arbitrator in
7 disputes concerning attorneys' fees and related issues. In this case, I have been
8 asked by Plaintiffs' counsel to render my opinion on the reasonableness of the
9 hourly rates they are requesting in this matter. I make this Declaration in Support
10 of Plaintiffs' Motion for Award of Reasonable Attorneys' Fees.

11 **Professional Background**

12 1. Briefly summarized, my background is as follows: I am a 1969
13 graduate of Boalt Hall School of Law, University of California, Berkeley,
14 California. I took the California Bar Examination in August 1969 and passed it in
15 November of that year, but because I was working as an attorney in Atlanta,
16 Georgia for the Legal Aid Society of Atlanta (LASA), I was not admitted to the
17 California Bar until January 1970. I worked for LASA until summer of 1971,
18 when I then went to work in California's Central Valley for California Rural Legal
19 Assistance, Inc. (CRLA), a statewide legal services program. From 1977 to 1982,
20 I was CRLA's Director of Litigation, supervising more than fifty attorneys. In
21 1982, I went into private practice, first in a small law firm, then as a sole
22 practitioner. Martindale Hubbell rates my law firm "AV." I also have been
23 selected as a Northern California "Super Lawyer" in Appellate Law for 2005,
24 2006, 2007, 2008, 2010, 2011, 2012, 2013, and 2014. A copy of my current
25 Resume is attached hereto as Exhibit A.

26 2. Since 1982, my practice has been a general civil litigation and
27 appellate practice, with an emphasis on cases and appeals involving court-awarded
28 attorneys' fees. I also am the author of *California Attorney Fee Awards* (3d ed.

1 Cal. CEB 2010) and its February 2011, 2012, 2013, and March 2014 Supplements,
2 as well as all its previous editions and annual supplements. California appellate
3 courts have cited this treatise on more than 35 occasions. *See, e.g., Graham v.*
4 *DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 576, 584; *Lolley v. Campbell* (2002)
5 28 Cal.4th 367, 373; *Chacon v. Litke* (2010) 181 Cal.App.4th 1234, 1259; *Syers*
6 *Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 698, 700. I also have
7 lectured and written extensively on court-awarded attorneys' fees. I have been a
8 member of the California State Bar's Attorneys' Fees Task Force and have
9 testified before the State Bar Board of Governors and the California Legislature on
10 attorneys' fee issues. In addition, I authored a federal manual on attorneys' fees
11 entitled *Attorneys' Fees: A Legal Services Practice Manual*, published by the
12 Legal Services Corporation. I also co-authored the chapter on "Attorney Fees" in
13 Volume 2 of CEB's *Wrongful Employment Termination Practice*, 2d Ed. (1997).

14 3. More than 90% of my practice is devoted to issues involving court-
15 awarded attorneys' fees. I have been counsel in over 180 attorneys' fee
16 applications in state and federal courts, primarily representing other attorneys. I
17 also have briefed and argued more than 40 appeals, at least 25 of which have
18 involved attorneys' fees issues. I have successfully handled five cases in the
19 California Supreme Court involving court-awarded attorneys' fees: (1) *Maria P. v.*
20 *Riles* (1987) 43 Cal.3d 1281, a landmark early decision on the scope of California
21 Code of Civil Procedure section 1021.5; (2) *Delaney v. Baker* (1999) 20 Cal.4th
22 23, which held that heightened remedies, including attorneys' fees, are available in
23 suits against nursing homes under California's Elder Abuse Act; (3) *Ketchum v.*
24 *Moses* (2001) 24 Cal.4th 1122, which held, *inter alia*, that contingent risk
25 multipliers remain available under California attorney fee law, despite the United
26 States Supreme Court's contrary ruling on federal law (note that in *Ketchum*, I was
27 primary appellate counsel in the Court of Appeal and "second chair" in the
28 Supreme Court); (4) *Flannery v. Prentice* (2001) 26 Cal.4th 572, which held that in

1 the absence of an agreement to the contrary, statutory attorneys' fees belong to the
2 attorney whose services they are based upon; and (5) *Graham v. DaimlerChrysler*
3 *Corp.* (2004) 34 Cal.4th 553, which held, *inter alia*, that the "catalyst" theory was
4 still valid under California law despite federal Supreme Court authority to the
5 contrary. I also represented and argued on behalf of *amicus curiae* in
6 *Conservatorship of McQueen* (2014) 59 Cal.4th 602, and, along with Richard
7 Rothschild, filed an *amicus curiae* brief in *Vasquez v. State of California* (2009) 45
8 Cal.4th 243. I also have handled numerous other appeals involving attorney's fees,
9 including: *Davis v. City & County of San Francisco* (9th Cir. 1992) 976 F.2d 1536;
10 *Mangold v. CPUC* (9th Cir. 1995) 67 F.3d 1470; *Moore v. Bank of America* (9th
11 Cir. 2007) 245 Fed.Appx. 613; *Velez v. Wynne* (9th Cir. 2007) 2007
12 U.S.App.LEXIS 2194; *Camacho v. Bridgeport Financial, Inc.* (9th Cir. 2008) 523
13 F.3d 973; *Center for Biological Diversity v. County of San Bernardino* (2010) 185
14 Cal.App.4th 866; and *Environmental Protection Information Center v. California*
15 *Dept. of Forestry & Fire Protection et al* (2010) 190 Cal.App.4th 217. For an
16 expanded list of my representative decisions, see Exhibit A.

17 4. I also have been retained by various governmental entities, including
18 the State of California, at my then current rates to consult with them regarding their
19 affirmative attorney fee claims.

20 5. I am frequently called upon to opine about the reasonableness of
21 attorneys' fees, and numerous federal and state courts have cited my testimony on
22 that issue favorably. The reported cases referencing my testimony include the
23 following California appellate courts: *Laffite v. Robert Half Int'l* (2014)
24 __Cal.App.4th __, 2014 Cal.App.LEXIS 1059; *In re Tobacco Cases I* (2013) 216
25 Cal.App.4th 570; *Heritage Pacific Financial LLC v. Monroy* (2013) 215
26 Cal.App.4th 972, 1009; *Children's Hospital & Medical Center v. Bonta* (2002) 97
27 Cal.App.4th 740; *Wilkinson v. South City Ford* (2010) 2010 Cal.App.Unpub.
28 LEXIS 8680; *Church of Scientology v. Wollersheim* (1996) 42 Cal.App.4th 628

(anti-SLAPP case). My declaration also has been favorably referenced by the following federal courts: *Prison Legal News v. Schwarzenegger* (9th Cir. 2010) 608 F.3d 446, 455, in which the expert declaration referred to in that opinion is mine; *Antoninetti v. Chipotle Mexican Grill, Inc.* (9th Cir. 2012) Order filed Dec. 26, 2012; *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D.Cal. 2013) No. M 07-1827 SI, MDL, No. 1827, Report and Recommendation of Special Master re Motions for Attorneys' Fees etc., filed Nov. 9, 2012, adopted in relevant part, 2013 U.S.Dist.LEXIS 49885; *Rosenfeld v. United States Dept. of Justice* (N.D. Cal. 2012) 904 F.Supp.2d 988; *Stonebrae v. Toll Bros.* (N.D. Cal. 2011) 2011 U.S.Dist.LEXIS 39832, at *9 (thorough discussion), *aff'd* (9th Cir. 2013) 2013 U.S.App.LEXIS 6369; *Hajro v. United States Citizenship & Immigration Service* (N.D.Cal 2012) 900 F.Supp.2d 1034, 1054; *Armstrong v. Brown* (N.D. Cal. 2011) 2011 U.S.Dist.LEXIS 87428; *Californians for Disability Rights, Inc. v. California Dept. of Transportation* (N.D. Cal. 2010) 2010 U.S.Dist.LEXIS 141030; *Prison Legal News v. Schwarzenegger* (N.D. Cal. 2008) 561 F.Supp.2d 1095 (an earlier motion); *Oberfelder v. City of Petaluma* (N.D. Cal. 2002) 2002 U.S.Dist.LEXIS 8635, *aff'd* (9th Cir. 2003) 2003 U.S.App.LEXIS 11371; *Bancroft v. Trizechahn Corp.*, C.D. Cal. No. CV 02-2373 SVW (FMOx), Order Granting Reasonable Attorneys' Fees etc., filed Aug. 14, 2006; *Willoughby v. DT Credit Corp.*, C.D. Cal. No. CV 05-05907 MMM (Cwx), Order Awarding Reasonable Attorneys' Fees After Remand, filed July 17, 2006; *A.D. v. California Highway Patrol* (N.D.Cal. 2009) 2009 U.S.Dist.LEXIS 110743, *rev's'd on other grounds* (9th Cir. 2013) 712 F.3d 446, *reaffirmed and additional fees awarded on remand* at 2013 U.S.Dist.LEXIS 169275; *National Federation of the Blind v. Target Corp.* (N.D.Cal. 2009) 2009 U.S.Dist.LEXIS 67139. In addition, numerous trial courts have relied upon my testimony in unpublished fee orders.

6. I also have extensive experience litigating the merits of class actions, including numerous housing, government benefits, and consumer class actions.

1 See, e.g., *Employment Dev. Dept. v. Superior Court (Boren)* (1981) 30 Cal.3d 256.

2 I also have represented Class Counsel on their fee requests in numerous highly-
3 contested class actions, including *Davis v. City & County of San Francisco, supra*,
4 *Duran v. First National Bank*, Alameda County Superior Court No. 2001-035537,
5 and *Molina, et al. v. Lexmark International, et al.*, Los Angeles County Superior
6 Court No. BC339177.

7 7. In this matter, I have reviewed several documents from the underlying
8 litigation and fee motion, including the entire Motion for Preliminary Approval, as
9 well as the declarations of Plaintiffs' principal counsel filed in support of the
10 instant motion. I also have discussed the case with class counsel Julie Corbo-
11 Ridley.

12 **PLAINTIFFS' ATTORNEYS' HOURLY RATES ARE**
13 **REASONABLE**

14 8. Through my writing and practice, I have become knowledgeable
15 about the non-contingent market rates charged by attorneys in California and
16 elsewhere. I have obtained this knowledge in several ways: (1) by handling
17 attorneys' fee litigation; (2) by preparing expert declarations in numerous cases;
18 (3) by discussing fees with other attorneys; (4) by obtaining declarations regarding
19 prevailing market rates in cases in which I represent attorneys seeking fees; and (5)
20 by reviewing attorneys' fee applications and awards in other cases, as well as
21 surveys and articles on attorneys' fees in the legal newspapers and treatises.

22 9. I am aware of the hourly rates being requested by Plaintiffs' attorneys
23 in this case, their experience and qualifications, the nature of the work performed,
24 and the results achieved. Under California law, Plaintiff's attorneys are entitled to
25 their requested rates if those rates are "within the range of reasonable rates charged
26 by and judicially awarded comparable attorneys for comparable work." *Children's*
27 *Hosp. & Med. Ctr. v. Bonta [CHMC]* (2002) 97 Cal.App.4th 740, 783. In my
28 opinion, the information about non-contingent hourly rates I have gathered, some

1 of which is summarized below, shows that the rates requested by Plaintiffs'
2 counsel in this matter are well within the range of the non-contingent market rates
3 charged by California and San Diego attorneys of reasonably comparable
4 experience, skill, and expertise for reasonably comparable services. I base that
5 opinion in large part on the following data:

6 **Court Awards**

7 10. Several of the Plaintiffs' law firms have had the hourly rates requested
8 here, or their equivalent rates in prior years, approved by the courts in other class
9 actions. For example, Hurst & Hurst's rates were found reasonable in *Serochi v.*
10 *Bosa Development California II, Inc., et al.*, San Diego Superior Court Case No.:
11 37-2009-00096686-CU-BT-CTL. Similarly, Ms. Lorens's 2012 rate of \$795/hour
12 was approved in November 2012 in *Hoch v. Rockin' Baja Coastal Cantina, et al.*,
13 San Diego Superior Court Case No. 37-2012-00095176-CU-OE-CTL/*Mojica v.*
14 *Rockin' Baja Coastal Cantina, et al.*, San Diego Superior Court Case No. 37-2012-
15 00091490-CU-OE-CTL. This is highly probative evidence of the reasonableness
16 of their rates in subsequent reasonably similar cases.

17 11. Counsel's rates are also consistent with the following court awards
18 from the Southern District of California¹:

19 (1) In *Hartless v. Clorox*, 273 F.R.D. 630, 644 (S.D. Cal. 2011), the
20 Court found, *inter alia*, that class counsel's requested rates were consistent with
21 the hourly rates found reasonable in numerous other class actions and with rates
22 charged by other firms in the San Diego area, including rates of \$795 per hour for a
23 25-year attorney and \$675 per hour for an experienced partner. 273 F.R.D. at 644.

24
25 ¹ In my experience, for purposes of the hourly rates charged and found reasonable by the courts,
26 the differences between types of class actions (i.e. wage and hour class actions versus consumer
27 class actions) are not significant, either factually or legally. See, e.g., *Heritage Pacific Financial,*
28 *LLC v. Monroy*, 215 Cal.App.4th 972, 1009 (2013); *Camacho v. Bridgeport Financial, Inc.*, 523
F.3d 973, 979 (9th Cir. 2008).

1 Given the rate increases that have occurred over the ensuing three years, counsel's
2 rates here are certainly within the same range.

3 (2) In *Shames v. Hertz Corp.*, 2012-2 Trade Case. (CCH) ¶78,120 (S.D.
4 Cal. 2012), the Court, relying on *Hartless*, found that plaintiffs' San Diego
5 Counsel there were comparable in skill and experience to the attorneys whose rates
6 were found reasonable in *Hartless*. At *59-61.

7 (3) In *Briarwood Capital LLC v. HCC Investors LLC*, San Diego
8 Superior Court No. GIC877446, on March 30, 2011, the court (Judge William R.
9 Nevitt Jr.) found that the 2009 hourly rates charged by the San Diego office of
10 Bernstein Litowitz Berger & Grossman LLP -- \$725 for partners, \$490-550 for
11 associates -- were reasonable.

12 (4) Similarly, in the same case, the court found that the 2009 rates
13 charged by the Century City office of O'Melveny & Myers LLP, including rates of
14 \$860-950 for a 36-37 year attorney and \$700-710 for 16-18 year attorneys also
15 were reasonable for San Diego litigation. Again, given the rate increases that have
16 occurred over the past three years, Plaintiffs' attorneys' current rates here are in the
17 same range as those found reasonable in *Briarwood Capital*.

18 (5) In *Atlas v. Accredited Home Lenders Holdings, Co.* Case No. 07-
19 CV-488-H-CAB (S.D. Cal. 2009), the court (Judge Marilyn Huff) found the 2009
20 rates charged by Bernstein Litowitz's San Diego office reasonable. Again, those
21 rates ranged from \$490 to \$550 for associates, and \$725 for a partner.

22 (6) In *In re Virgil's Tours*, Case No. 08-30659 (Bank. N.D. Cal. 2008),
23 the court found reasonable the 2008 rates requested by Morrison & Foerster LLP's
24 San Diego office. Those rates ranged from \$600 to \$675 for partners, from \$350 to
25 \$485 for associates, and from \$220 to \$245 for paralegals.

26 (7) In *Qualcomm, Inc. v. Broadcom, Inc.* Case No. 05-CV-1958-B,
27 2008 WL 2705161 (S.D. Cal. 2008), the court found the 2007 hourly rates
28 requested by Wilmer Cutler, Pickering, Hale & Dorr LLP reasonable for San

1 Diego-based litigation. Those rates ranged from \$45 to \$300 for staff and
2 Paralegals, from \$275 to \$505 for associates and counsel, and from \$435 to \$850
3 for partners.

4 12. In addition to local courts, the following hourly rates have been
5 found reasonable by various California courts for reasonably similar services:

6 **2014**

7 (1) *IPVX Patent Holdings, Inc. v. Voxernet LLC*, N.D. Cal. No.
8 5:13-CV-01708-HRL, a patent infringement case, in which the court found the
9 following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
<u>2014</u>	
45	\$750
35	750
23	725
19	695
5	400
3	350
Paralegal	125
<u>2013</u>	
18	\$755
11	595
2	425
<u>2012</u>	
40	\$865
17	755
10	595
1	375

23 (2) *Doe v. United Healthcare Insurance Co., et al.*, C.D. Cal. No.
24 SACV 13-0864 DOC(JPRx), Order Granting Attorney's Fees and Costs, filed
25 October 15, 2014, a multi-Plaintiff consumer action, in which the court found the
26 following hourly rates reasonable:

<u>Whatley Kallas</u>	
<u>Years of Experience</u>	<u>Rate</u>
36	\$950

1 **Whatley Kallas**

2 Years of Experience Rate

3 27 900

4 32 800

5 33 750

6 21 700

7 10 600

8 4 400

9 2 375

10 Paralegal 225

11 Intern 125

12 **Consumer Watchdog**

13 35 \$925

14 19 650

15 4 425

16 (3) *Rose v. Bank of America Corp.*, N.D. Cal. No. 5:11-CV-02390-
17 EJD; 5:12 CV-04009-EJD, Order Granting Motion for Final Approval of
18 Settlement; Granting in Part and Denying in Part Motion for Attorney's Fees and
19 Costs, filed August 29, 2014, a consumer class action involving the Bank's loan
20 servicing calls, in which the court found the following hourly rates reasonable:

21 Partners: \$775-350

22 Associates: \$525-325

23 (4) *Carpio v. California Department of Social Services, Los Angeles*
24 *County Superior Court*, No. BS 135127, Order Granting Petitioner's Motion For
25 Attorney's Fees, filed July 24, 2014, a government benefits writ of mandate, in
26 which the court found the following hourly rates reasonable:

27 Years Rate

28 39 \$750

 35 730

 13 500

 8 460

 6 440

(5) *Cornell v. City & County of San Francisco*, San Francisco County

1 Superior Court No. CGC-11-509240, Order Granting Motion for Reasonable
2 Attorneys' Fees, Subject to Modifications, filed May 15, 2014, an individual police
3 misconduct/employment action, in which the court found the following hourly
4 rates reasonable, plus a 1.25 lodestar multiplier for merits work:

<u>Years of Experience</u>	<u>Rate</u>
45	\$750
35	750
23	725
19	695
5	400
3	350
Paralegal	125

11 **2013 Rates**

12 (1) *Ellis v. Costco Wholesale Corp.*, N.D. Cal. No. C04-3341 EMC,
13 Order Granting Motion for Final Approval of Class Action Settlement, filed May
14 27, 2014, an employment class action, in which the court found the following
15 hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
38	\$700
35	825
30	650-825
29	875
19	725
9	500
8	460
7	425-575
6	435
3	315
Paralegals	155-295
Law Clerks	185-275

25 (2) *In re Pacific Bell Late Fee Litigation*, Contra Costa County Superior
26 Ct. No. MSC10-00840, Order Awarding Attorneys' Fees, Costs and Expenses and
27 Authorizing Payment of Incentive Award to the Class Representative, filed
28 October 18, 2013, a consumer class action, in which the court found the following

hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
17	\$850
16	680
11 (partner)	680
36	675
32	675
28 (assoc.)	620
4	400
3	390
Paralegals and Litigation Support	160-180

(3) *Reuters America LLC v. The Regents of the Univ. of Calif.*, Alameda County Superior Court No. RG12-613664, Order Granting in Part Motion of Petitioner for Attorneys' Fees filed May 2, 2013, reversed on the merits sub nom *Regents of U.C. v. Superior Court* (2014) 222 Cal.App.4th 383, a California Public Records Act action, in which the trial court found the following hourly rates reasonable, before applying a 1.3 lodestar multiplier:

<u>Years of Experience</u>	<u>Rate</u>
31	\$785
27	600
6	400

(4) *Recouvreur v. Carreon* (N.D. Cal. 2013) 940 F.Supp.2d 1063, a Lanham Act/ sanctions fee motion, in which the court found the following hourly rate reasonable:

<u>Years of Experience</u>	<u>Rate</u>
20+	\$700

2012 Rates

(1) *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D.Cal. 2013) No. M 07 1827 SI, MDL, No. 1827, an antitrust class action, in which the court found the following hourly rates reasonable:

Zelle Hofman

<u>Bar Admission</u>	<u>Rate</u>
1967	\$1000
1978	861
2001	619
2002	525
2005	500
2006	472
2009	417

Steyer, Lowenthal et al.

<u>Bar Admission</u>	<u>Rate 2012</u>	<u>Rate 2011</u>	<u>Rate 2010</u>
1981	\$820	\$770	\$730
1995	660	640	590
2007	380	360	320
2008	380	360	320
1982	750	710	680
Paralegal	190		

Cooper & Kirkham

<u>Bar Admission</u>	<u>Rates 2010-2012</u>
1964	\$950
1975	825
2001	550

(2) *Rosenfeld v. United States Dept. of Justice* (N.D. Cal. 2012) 904 F.Supp.2d 988, a Freedom of Information Act action, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
28	\$700
21	550
1	200
Law students	160-180

(3) *Williams v. H&R Block Enterprises, Inc.*, Alameda County Superior Ct. No. RG08366506, Order of Final Approval and Judgment filed November 8, 2012, a wage and hour class action, in which the court found the following hourly

1 rates reasonable:

<u>Year of Bar Admission</u>	<u>Rate</u>
1970	\$785
1976	775
1981	750
1993	650-700
1994-1997	500-650
2004	500
2005	470
2006	445-475
2007	450
2008	400
2009	350

11 (4) *American Civil Liberties Union v. Drug Enforcement Administration*,
12 N.D. Cal. No. C-11-01977 RS, Order Granting Motion for Attorneys' Fees and
13 Litigation Costs Pursuant to 5 U.S.C. §552, filed November 8, 2012, a Freedom of
14 Information Act case, in which the court found the following hourly rates
15 reasonable:

<u>Year of Bar Admission</u>	<u>Rate</u>
1970	\$700
1996	595
1999	575
Law Clerks	150

20 (5) *Luquetta v. The Regents of the Univ. of California*, San Francisco
21 Superior Ct. No.CGC-05-443007, Order Granting Plaintiff's Motion for Common
22 Fund Attorneys' Fees and Expenses, filed October 31, 2012, a class action to
23 recover tuition overcharges, in which the court found the following hourly rates
24 reasonable:

<u>Year of Bar Admission</u>	<u>Rate</u>
1977	\$850
1986	785
1991	750
1994	700
1998	625

2000	570
2001	550
2002	520
Law Clerks	250
Paralegals	215

(6) *Davis v. Prison Health Services* (N.D. Cal. 2012) 2012 U.S. Dist. LEXIS 138556, an individual Fair Employment and Housing Act case, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
33	\$750
29	675
4	300
6	265

2011 Rates

(1) *Pierce v. County of Orange* (C.D. Cal. 2012) 905 F.Supp.2d 1017, a civil rights class action brought by pre-trial detainees, in which the court approved a lodestar, including appellate fees, based on the following 2011 rates:

<u>Years of Experience</u>	<u>Rate</u>
42	\$850
32	825
23	625
18	625
Law Clerks	250
Paralegals	250

(2) *Davis v. Prison Health Services* (N.D. Cal. 2012) 2012 U.S. Dist. LEXIS 138556, an individual Fair Employment and Housing Act case, in which the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
33	\$750
29	675
4	300
6	265

(3) *Holloway et. al. v. Best Buy Co., Inc.* (N.D. Cal. 2011) No. 05-5056

1 PJH, Order dated November 9, 2011, a class action alleging that Best Buy
2 discriminated against female, African American and Latino employees by denying
3 them promotions and lucrative sales positions, in which the court approved a
4 lodestar award based on the following rates:

<u>Years of Experience</u>	<u>Rate</u>
37	\$825
Associates	
8	490
6	405
Law Clerks	225
Paralegals	215

10 (3) *Molina, et al. v. Lexmark International, et al.*, Los Angeles County
11 Superior Court No. BC339177, Order Granting Petitioners' Motion for Attorneys'
12 Fees and Costs in the Amount of \$5,722,008.07, filed October 28, 2011, *aff'd*
13 (2013) 2013 Cal.App.Unpub. LEXIS 6684, a class action to recover forfeited
14 vacation pay, in which the court found the following hourly rates reasonable
15 (before applying a 2.0 multiplier):

<u>Years of Experience</u>	<u>Rate</u>
42	\$675
25	550
24	655-675
23	625
20	550
17	600
9	475
6	350
Paralegals	210
Paralegals	210

23 **2010 Rates**

24 (1) *Californians for Disability Rights, Inc., et al. v. California*
25 *Department of Transportation, et al.* (N.D.Cal. 2010) 2010 U.S.Dist.LEXIS
26 141030, adopted by Order Accepting Report and Recommendation filed February
27 2, 2011, a disability-access class action, in which the court found the following
28

2010 hourly rates reasonable:

<u>Years of Experience</u>	<u>Rate</u>
49	\$835
34	730
26	740
25	730
19	660
10	570
9	560
7	535
6	500
5	475
3	350
2	290
1	225-265
Senior Paralegals	265
Law Clerks	175
Case Clerks	165

Rate Information from Surveys

12. I also base my opinion on several credible surveys of legal rates, including the following:

- The 2014 *Laffey Matrix* is a survey of District of Columbia hourly rates that is often relied upon in other jurisdictions, with appropriate adjustments for differences in income levels, to determine reasonable hourly rates. See, e.g., *Syers Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 695. A copy of that survey is attached hereto as Exhibit B. It shows that for attorneys with 20+ years out of law school, the prevailing market in the period between June 1, 2013, and May 31, 2014 was \$771 per hour. For lawyers with 11-19 years out of law school, the prevailing rate for the same period was \$640 per hour. The difference in the Local Pay Tables for the Washington D.C. area and the San Diego-Carlsbad-San Marcos areas are de minimis -- .03%.

- 1 • On January 13, 2014, the National Law Journal published an article
2 about its most recent rate survey. That article included a chart listing
3 the billing rates of the 50 firms that charge the highest average hourly
4 rates for partners. A true and correct copy of that article is attached
5 hereto as Exhibit C. Of the 50 firms listed, several have offices in the
6 San Diego area and many others have significant litigation experience
7 in this area. And, although the rates that Plaintiffs' counsel are
8 requesting here are significantly *lower* than many of the rates charged
9 by the top 50 firms, the NLJ chart does show the *range* of rates
10 charged for similar services, which *is* the applicable standard. *See*
11 *CHMC*, 97 Cal.App.4th at 783.
- 12 • In an article entitled "On Sale: The \$1,150-Per Hour Lawyer,"
13 written by Jennifer Smith and published in the Wall Street Journal on
14 April 9, 2013, the author describes the rapidly growing number of
15 lawyers billing at \$1,150 or more revealed in public filings and major
16 surveys. A true and correct copy of that article is attached hereto as
17 Exhibit D. The article also notes that in the first quarter of 2013, the
18 50 top-grossing law firms billed their partners at an *average* rate
19 between \$879 and \$882 per hour.
- 20 • In an article published April 16, 2012, the Am Law Daily described
21 the 2012 Real Rate Report, an analysis of \$7.6 billion in legal bills
22 paid by corporations over a five-year period ending in December
23 2011. A true and correct copy of that article is attached hereto as
24 Exhibit E. That article confirms that the rates charged by experienced
25 and well-qualified attorneys have continued to rise over the five-year
26 period between 2006 and 2011, particularly in large urban areas. It
27 also shows, for example, that the top quartile of lawyers bill at an
28 *average* of "just under \$900 per hour."

1 **Rates Charged by Other Law Firms**

2 14. The standard hourly non-contingent rates for comparable civil
3 litigation stated in court filings, depositions, surveys, or other reliable sources by
4 numerous California law firms or law firms with offices or practices in California
5 also support counsel's rates. The following hourly rates are those charged where
6 full payment is expected promptly upon the rendition of the billing and without
7 consideration of factors other than hours and rates. If any substantial part of the
8 payment were to be contingent or deferred for any substantial period, for example,
9 the fee arrangement would be adjusted accordingly to compensate the attorneys for
10 those factors. These rates include, in alphabetical order:²

11 **Altshuler Berzon LLP****

12 **2014 Rates:** Years of Experience Rate
13 38 \$895

14 **2012 Rates:** Years of Experience Rate
15 34 \$850
16 26 785
17 21 750
18 18 700
19 14 625
20 12 570
21 11 550
22 10 520
23 6 410
24 5 385
25 4 335

26 Law Clerks 250
27 Paralegals 215
28 **2011 Rates:** Years of Experience Rate
 43 \$825
 17 675
 12 575
 10 520
 Law Clerks 225

² Firms based in San Diego are marked with an *. Firms with substantial class action practices, which tend to be statewide, are marked "***".

Altshuler Berzon LLP**

Paralegals	215
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Arnold Porter LLP

<u>2013 Rates:</u>	Average Partner	\$815
	Highest Partner	950
	Lowest Partner	670
	Average Associate	500
	Highest Associate	610
	Lowest Associate	345

The Arns Law Firm LLP **

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	37	\$950
	Law Clerks	165

Bernstein Litowitz Borger & Grossman LLP
(San Diego Office) *, **

<u>2009 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$725
	Associates	490-550

Bingham McCutchen

<u>2013 Rates:</u>	Average Partner	\$795
	Highest Partner	1,080
	Lowest Partner	670
	Average Associate	450
	Highest Associate	605
	Lowest Associate	185

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	30	\$780

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	13	\$655
	4	480
	2	400

Blood Hurst & O'Reardon *, **

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	22	\$655
	17	585

Blood Hurst & O'Reardon*, **

6	510
5	410
1	305
Paralegals	260

Burson & Fisher**

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	16	\$680-850
	11	680
	4	400
	3	390
	2	375
	1	300
	Law Clerks	225
	Litigation Support Specialists	180

Chavez & Gertler*

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	33	\$750
	29	725
	32	675
	21	575
	11	535
	7	475
	Legal Assistant	185

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	32	\$725
	28	700
	10	550
	9	510
	5	425
	Paralegals	225

Coblentz Patch & Duffy

<u>2013 Rates:</u>	<u>Year of Bar Admission</u>	<u>Rate</u>
	1979	\$720
	1994	575
	2008	320
	Paralegals/Case Clerks	295

Cohelan Khoury & Singer

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	38	\$750
	28	750
	11	400
	Paralegal	170

Cooper & Kirkham

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	48	\$950
	37	825
	11	600

Covington Burling

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	28	\$750
	16	670
	14	670
	7	510
	2	375
	5	490
	Litigation Support	110-355

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	27	\$730
	15	632-650
	13	650

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	26	\$710
	14	640
	12	600
	9	565
	7	550
	5	425
	3	390
	1	320

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	25	\$710
	13	640
	11	575-600
	8	550-565

Covington Burling

6	525-550
4	390-425
2	350-390

Farella Braun & Martell LLP

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	31	\$715

Fenwick & West

<u>2014 Rates</u>	<u>Years of Experience</u>	<u>Rate</u>
	45	\$750
	35	750
	23	725
	19	695
	5	400
	3	350
	Paralegal	125
<u>2013 Rates</u>	18	\$755
	11	595
	2	425
<u>2012 Rates</u>	40	\$865
	17	755
	10	595
	1	375

Furth Firm LLP**

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	51	\$875
	39	750
	38	600
	33	775
	25	550
	23	650
	21	625
	19	610
	18	600
	17	585
	16	570
	15	560

Furth Firm LLP**

14	550
13	525
12	515
11	510
10	505
9	500
7	460
4	435
Law Clerks	125-260

Gibson Dunn & Crutcher LLP

<u>2013 Rates:</u>	Average Partner	\$980
	Highest Partner	1,800
	Lowest Partner	765
	Average Associate	590
	Highest Associate	930
	Lowest Associate	175

Goldstein, Borgen, Dardarian & Ho**

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	33	\$795
	27	750
	8	500
	4	395
	3	350
	1	300
	Law Clerks/Paralegals	160-250

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	42	\$785
	36	750
	31	700
	18	650

	Associates	
	7	470
	6	445
<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	41	\$725
	35	725

Goldstein, Borgen, Dardarian & Ho**

30	700
24	650
18	600
17	600
16	550

2010 Rates:

Years of Experience Rate

Partners

40	\$700
34	700
29	675
23	625
17	575
16	575

Of Counsel

40	725
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Associates

15	\$500
11	440
6	375
5	365
4	355
3	340
2	325
1	305

Law Clerks

Paralegals	195
	150-225

Greenberg, Traurig, LLP

2010 Rates:

<u>Years of Experience</u>	<u>Rate</u>
22	\$850

Greines, Martin, Stein & Richland

2012 Rates:

<u>Years of Experience</u>	<u>Rate</u>
41	\$850
29	850
23	650
18	500
Law Clerks	100

**Hadsell, Stormer, Keeny, Richardson &
Renick****

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	38	\$825
	33	775
	22-23	625
	17	600
	12	525
	10	425
	4	275
	3	250

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	36	\$800
	31	750
	20-21	600
	15	575
	10	475-500
	8	425
	4	325
	2	275
	1	250

Hausfeld LLP**

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	45	\$985
	37	935-895
	15	610-510
	14	600
	7	490
	3	370
	Paralegals	300-320
	Law Clerks	325

Irell & Manella

<u>2013 Rates:</u>		
	Average Partner	\$890
	Highest Partner	975
	Lowest Partner	800
	Average Associate	535
	Highest Associate	750
	Lowest Associate	395

1 **Janssen Malloy LLP**

2 **2014 Rates:**

<u>Years of Experience</u>	<u>Rate</u>
33	\$775
Paralegals	175

4 **Jones Day**

5 **2013 Rates:**

Average Partner	\$745
Highest Partner	975
Lowest Partner	670
Average Associate	435
Highest Associate	775
Lowest Associate	205

9 **Kaye, McLane, Bednarski & Litt ****

10 **2013 Rates:**

<u>Years of Experience</u>	<u>Rate</u>
11 44	\$925
12 27	725
13 24	725
14 7	525
15 5	475

15 **Keker & Van Nest, LLP**

16 **2010 Rates:**

<u>Years of Experience</u>	<u>Rate</u>
17 Partners	
32	\$775
18 Other Partners	525-975
19 Associates	340-500
20 Paralegals/Support Staff	120-260

21 **Kemnitzer, Barron & Krieg**

22 **2014 Rates:**

<u>Years of Experience</u>	<u>Rate</u>
23 38	\$750
32	750
8	475
24 3	350
25 Senior Paralegal	250

26 **Kiesel, Boucher, Larson LLP *, ****

27 **2012 Rates:**

<u>Years of Experience</u>	<u>Rate</u>
28 Partners	
27-28	\$890

1 **Kiesel, Boucher, Larson LLP *, ****

2 Associates 625-325

3 **Kingsley & Kingsley****

4 <u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	14	\$655
5	8	475-515
6	7	475
	6	485
7	5	375
8	3	350
9	2	300

10 **Kirkland & Ellis**

11 <u>2013 Rates:</u>		
	Average Partner	\$825
	Highest Partner	995
12	Lowest Partner	670
	Average Associate	540
13	Highest Associate	715
14	Lowest Associate	235

15 **Knapp, Petersen & Clarke**

16 <u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	36	\$753
17	9	554
18	6	383

19 **Knobbe Martin Olson & Bear LLP**

20 <u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$395-710
21	Associates	285-450

22 **Latham & Watkins**

23 <u>2013 Rates:</u>		
	Average Partner	\$990
24	Highest Partner	1,100
	Lowest Partner	670
25	Average Partner	895
26	Average Associate	605
27	Highest Associate	725
28	Lowest Associate	465

**Lewis Feinberg Lee, Renaker & Jackson,
P.C. ****

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	38	\$825
	29	750
	24	725
	21	700
	8	450
	7	425
	3	375
	Senior Paralegals	250
	Law Clerks	225

Litt, Estuar, & Kitson, LLP**

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	42	\$825
	18	625
	17	625
	5	425
	3	375
	Senior Paralegals	125-235
	Law Clerks	225

Manatt, Phelps & Phillips

<u>2013 Rates:</u>		
	Average Partner	\$740
	Highest Partner	795
	Lowest Partner	670
	Lowest Partner	640
<u>2010 Rates:</u>	Partners	525-850
	Associates	200-525

McKenna Long & Aldridge LLP

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	30	\$775
	9	650

McKenna Long & Aldridge LLP

5	420
Litigation Support Mgr.	350
Paralegals	225

Minami Tamaki LLP

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	36	\$750
	15	525
	5	395
	Paralegals	175

Morrison Foerster LLP

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Average Partner	\$865
	Highest Partner	1,195
	Lowest Partner	670
	Lowest Partner	595
	Average Associate	525
	Highest Associate	725
	Lowest Associate	230

<u>2011 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	22	\$775
	11	625
	10	620
	1	335

<u>2009 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	24	\$750

O'Melveny & Myers

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Average Partner	\$715
	Highest Partner	950
	Lowest Partner	615

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	12	\$695
	4	495

Patton Boggs

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
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Patton Boggs

Partners	
14	\$830
29	750
20	750
33	700
27	700
13	575
24	550
14	530
Of Counsel	
30	600
15	500
Associates	
9	450
7	425
3	340
2	315
Senior Paralegals	200-265
Paralegals	170

Pillsbury Winthrop Shaw Pittman LLP

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Average Partner	\$865
	Highest Partner	1,070
	Lowest Partner	670
	Average Associate	520
	Highest Associate	860
	Lowest Associate	375
<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	30	\$705-775
	Other Partners	595-965
	Associates	320-650
	Paralegals/Support Staff	85-380

Quinn Emanuel Urquhart & Sullivan

<u>2013 Rates:</u>	Average Partner	\$915
	Highest Partner	1,075
	Lowest Partner	810
	Average Associate	410

Quinn Emanuel Urquhart & Sullivan

Highest Associate	675
Lowest Associate	320

Reed Smith LLP

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partner	
	36	\$830
	30	805
	17	610-615
	14	570
	Associates	
	8	450-535
	6	495

Robbins Geller Rudman & Dowd LLP *, **

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	26	\$695
	19	575
	Associates	535-345
	Paralegals	295

Rosen, Bien, Galvan & Grunfeld LLP

<u>2013 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	51	\$875
	33	780
	29	660
	16	630
	Of Counsel	
	30	580
	Associates	
	20	550
	10	480
	9	465
	8	445-450
	7	440
	6	435
	5	405
	4	375

Rosen, Bien, Galvan & Grunfeld LLP

3	355
Paralegals	220-280
Litigation Support/ Paralegal clerk	170
Law Clerk/Students	250
Word Processing	80

2012 Rates:

Years of Experience **Rate**

Partners

50	\$860
32	760
28	640
15	610

Of Counsel

29	570
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Associates

19	540
10	470
9	460
7	400
6	400
5	380
4	360
3	340

Paralegals	215-280
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Litigation Support/ Paralegal clerk	150
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Law Clerk/Students	240
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Word Processing	80
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2011 Rates:

Years of Experience **Rate**

Partners

49	\$840
31	740
27	625
14	590

Of Counsel

28	540
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Associates

18	525
11	465
10	450

Rosen, Bien, Galvan & Grunfeld LLP

9	440
8	420
6	385
5	365
4	350
3	325
2	315
Paralegals	205-275
Litigation Support/ Paralegal clerk	140-220
Law Clerk/Students	225
Word Processing	75

2010 Rates:

Years of Experience Rate

Partners

48	\$800
30	700
26	575
13	560
Of Counsel	
27	520

Associates

17	510
13	490
9	430
8	415
7	390
5	360
3	325
1	285
Paralegals	200-275
Litigation Support/ Paralegal clerk	135-220
Law Clerk/Students	190
Word Processing	70

Rudy, Exelrod, Zieff & Lowe LLP

2010 Rates:

Years of Experience Rate

Partners

42	\$725
32	725

Rudy, Exelrod, Zieff & Lowe LLP

15	625
Associates	
21	495
13	485
8	450

**Schneider Wallace Cottrell Brayton Konecky
LLP****

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	13-22	\$750
	Associates/Of Counsel	575
	20	535-345
	37	295
	10-13	650
	0-3	350-475
	Paralegals/Law Clerks	135-300

**Schonbrun, DeSimone, Seplow, Harris &
Hoffman****

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	27	\$695
	22	630

Sheppard, Mullin, Richter & Hampton

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$495-820
	Associates	270-620

Sidley Austin

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	33	\$900
	Senior Partners	1,100
	Legal Assistants	120-280

Skadden, Arps, Slate, Meagher & Flom

<u>2013 Rates:</u>	<u>Average Partner</u>	<u>\$1,035</u>
	Highest Partner	1,150
	Lowest Partner	845

Skadden, Arps, Slate, Meagher & Flom

Average Associate	620
Highest Associate	845
Lowest Associate	340

Spiro Moore LLP**

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	30+	\$700
	17	600

Law Offices of Michael D. Thamer

<u>2014 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	31	\$775

Townsend and Townsend and Crew

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	\$470-475
	Associates	260-460

Wilson Sonsini Goodrich & Rosati PC

<u>2010 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	28	\$875
	Other Partners	650-975
	Associates	290-610
	Paralegals/Litigation	120-300
	Support	

Zelle Hofmann Voelbel & Mason, LLP**

<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	Up to \$950
	Associates	Up to \$540
	Paralegals	Up to \$290
	Law Clerks	Up to \$250
<u>2012 Rates:</u>	<u>Years of Experience</u>	<u>Rate</u>
	Partners	
	38	\$800
	26	685
	23	650
	22	640
	Associates	
	9	500

1 **Zelle Hofmann Voelbel & Mason, LLP****

2	4	435
3	3	415
4	2	405
5	1	395
6	Paralegals	210-290

7 13. The declaration of San Diego attorneys Vincent J. Bartolotta and
8 Timothy Blood, filed with this motion, also support the rates requested here. All of
9 this evidence shows that Plaintiffs' requested rates are well within the range of
10 rates charged in this forum by comparably qualified and experienced attorneys for
11 comparably difficult work.

12 14. In my experience, fee awards are almost always determined based on
13 current rates, *i.e.*, the attorney's rate at the time a motion for fees is made, rather
14 than the historical rate at the time the work was performed. This is a common and
15 accepted practice to compensate attorneys for the delay in being paid. The hourly
16 rates set forth above are those charged where full payment is expected promptly
17 upon the rendition of the billing and without consideration of factors other than
18 hours and rates. If any substantial part of the payment were to be deferred for any
19 substantial period of time, for example, the fee arrangement would be adjusted
20 accordingly to compensate the attorneys for those factors.

21 15. If called as a witness, I could and would competently testify from my
22 personal knowledge to the facts stated herein. I declare under penalty of perjury
23 that the foregoing is true and correct. Executed this 25th day of November 2014, in
24 Berkeley, California.

25 

26 Richard M. Pearl

1 **ADDITIONAL COUNSEL FOR PLAINTIFFS AND THE CERTIFIED CLASS**

2 Timothy D. Cohelan (Bar No. 60827)

3 Michael D. Singer (Bar No. 115301)

4 COHELAN KHOURY & SINGER

5 605 "C" Street, Suite 200

6 San Diego, CA 92101

7 Telephone: (619) 595-3001

EXHIBIT A

RESUME OF RICHARD M. PEARL

RICHARD M. PEARL
LAW OFFICES OF RICHARD M. PEARL
1816 Fifth Street
Berkeley, CA 94710
(510) 649-0810
(510) 548-5074 (facsimile)
rpearl@interx.net (e-mail)

EDUCATION

University of California, Berkeley, B.A., Economics (June 1966)
Boalt Hall School of Law, Berkeley, J.D. (June 1969)

BAR MEMBERSHIP

Member, State Bar of California (admitted January 1970)
Member, State Bar of Georgia (admitted June 1970) (inactive)
Admitted to practice before all California State Courts; the United States Supreme Court; the United States Court of Appeals for the District of Columbia and Ninth Circuits; the United States District Courts for the Northern, Central, Eastern, and Southern Districts of California, for the District of Arizona, and for the Northern District of Georgia; and the Georgia Civil and Superior Courts and Court of Appeals.

EMPLOYMENT

LAW OFFICES OF RICHARD M. PEARL (April 1987 to Present): Civil litigation practice (AV rating), with emphasis on court-awarded attorney's fees, class actions, and appellate practice. Selected Northern California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013, and 2014.

QUALIFIED APPELLATE MEDIATOR, APPELLATE MEDIATION PROGRAM, Court of Appeal, First Appellate District (October 2000 to 2013) (program terminated).

ADJUNCT PROFESSOR, HASTINGS COLLEGE OF THE LAW (January 1988 to Present): Teach Public Interest Law Practice, a 2-unit course that focuses on the history, strategies, and issues involved in the practice of public interest law.

PEARL, McNEILL & GILLESPIE, Partner (May 1982 to March 1987): General civil litigation practice, as described above.

RICHARD M. PEARL

Page 2

CALIFORNIA RURAL LEGAL ASSISTANCE, INC. (July 1971 to September 1983) (part-time May 1982 to September 1983):

Director of Litigation (July 1977 to July 1982)

Responsibilities: Oversaw and supervised litigation of more than 50 attorneys in CRLA's 15 field offices; administered and supervised staff of 4-6 Regional Counsel; promulgated litigation policies and procedures for program; participated in complex civil litigation.

Regional Counsel (July 1982 to September 1983 part-time)

Responsibilities: Served as co-counsel to CRLA field attorneys on complex projects; provided technical assistance and training to CRLA field offices; oversaw CRLA attorney's fee cases; served as counsel on major litigation.

Directing Attorney, Cooperative Legal Services Center (February 1974 to July 1977) (Staff Attorney February 1974 to October 1975)

Responsibilities: Served as co-counsel on major litigation with legal services attorneys in small legal services offices throughout California; supervised and administered staff of four senior legal services attorneys and support staff.

Directing Attorney, CRLA McFarland Office (July 1971 to February 1974) (Staff Attorney July 1971 to February 1972)

Responsibilities: Provided legal representation to low income persons and groups in Kern, King, and Tulare Counties; supervised all litigation and administered staff of ten.

HASTINGS COLLEGE OF THE LAW, Instructor, Legal Writing and Research Program (August 1974 to June 1978)

Responsibilities: Instructed 20 to 25 first year students in legal writing and research.

CALIFORNIA AGRICULTURAL LABOR RELATIONS BOARD, Staff Attorney, General Counsel's Office (November 1975 to January 1976, while on leave from CRLA)

Responsibilities: Prosecuted unfair labor practice charges before Administrative Law Judges and the A.L.R.B. and represented the A.L.R.B. in state court proceedings.

ATLANTA LEGAL AID SOCIETY, Staff Attorney (October 1969 to June 1971)

Responsibilities: Represented low-income persons and groups as part of 36-lawyer legal services program located in Atlanta, Georgia.

RICHARD M. PEARL

Page 3

PUBLICATIONS

Pearl, *California Attorney Fee Awards, Third Edition* (Cal. Cont. Ed. Bar 2010) and February 2011, 2012, 2013, and 2014 Supplements

Pearl, *California Attorney Fee Awards, Second Edition* (Cal. Cont. Ed. Bar 1994), and 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, and 2008 Supplements

Graham v. DaimlerChrysler Corp. and *Tipton-Whittingham v. City of Los Angeles*, Civil Litigation Reporter (Cal. Cont. Ed. Bar Feb. 2005)

Current Issues in Attorneys' Fee Litigation, California Labor and Employment Law Quarterly (September 2002 and November 2002)

Flannery v. Prentice: Shifting Attitudes Toward Fee Agreements and Fee-Shifting Statutes, Civil Litigation Reporter (Cal. Cont. Ed. Bar Nov. 2001)

A Practical Introduction to Attorney's Fees, Environmental Law News (Summer 1995)

Wrongful Employment Termination Practice, Second Edition (Cal. Cont. Ed. Bar 1997) (co-authored chapter on "Attorney Fees")

California Attorney's Fees Award Practice (Cal. Cont. Ed. Bar 1982) (edited), and 1984 through 1993 Supplements

Program materials on attorney fees, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations in Determining, Billing, and Collecting (October 1992)

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PUBLIC SERVICE

Member, Attorneys' Fee Task Force, California State Bar

Chairperson, Board of Directors, California Rural Legal Assistance Foundation

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September 2014

Furnished upon request

10/1/2011

EXHIBIT B

LAFFEY MATRIX

History

Easy Link

Expert Opinion

See the Matrix

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Year	Adjustmt Factor**	Paralegal/ Law Clerk	Years Out of Law School *				
			1-3	4-7	8-10	11-19	20 +
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

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., McDowell v. District of Columbia, Civ. A. No. 00-594 (RCL), LEXSEE 2001 U.S. Dist. LEXIS 8114 (D.D.C. June 4, 2001); Salazar v. Dist. of Col., 123 F.Supp.2d 8 (D.D.C. 2000).

* "Years Out of Law School" is calculated from June 1 of each year, when most law students graduate. "1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). "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 "1-3" from June 1, 1996 until May 31, 1999, would move into tier "4-7" on June 1, 1999, and tier "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 C

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

The National Law Journal

January 13, 2014 Monday

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**THE NATIONAL
LAW JOURNAL**

Section: NLJ'S **BILLING SURVEY**; Pg. 1; Vol. 36; No. 20

Length: 1860 words

Byline: KAREN SLOAN

Body

As recently as five years ago, law partners charging \$1,000 an hour were outliers. Today, four-figure hourly rates for indemand partners at the most prestigious firms don't raise eyebrows-and a few top earners are closing in on \$2,000 an hour.

These rate increases come despite hand-wringing over price pressures from clients amid a tough economy. But everrising standard billing rates also obscure the growing practice of discounts, falling collection rates, and slow march toward alternative fee arrangements.

Nearly 20 percent of the firms included in The National Law Journal's annual survey of large law firm billing rates this year had at least one partner charging more than \$1,000 an hour. Gibson, Dunn & Crutcher partner Theodore Olson had the highest rate recorded in our survey, billing \$1,800 per hour while representing mobile satellite service provider LightSquared Inc. in Chapter 11 proceedings.

Of course, few law firm partners claim Olson's star power. His rate in that case is nearly the twice the \$980 per hour average charged by Gibson Dunn partners and three times the average \$604 hourly rate among partners at NLJ 350 firms. Gibson Dunn chairman and managing partner Ken Doran said Olson's rate is "substantially" above that of other partners at the firm, and that the firm's standard rates are in line with its peers.

"While the majority of Ted Olson's work is done under alternative billing arrangements, his hourly rate reflects his stature in the legal community, the high demand for his services and the unique value that he offers to clients given his extraordinary experience as a former solicitor general of the United States who has argued more than 60 cases before the U.S. Supreme Court and has counseled several presidents," Doran said.

In reviewing billing data this year, we took a new approach, asking each firm on the NLJ 350-our survey of the nation's 350 largest firms by attorney headcount-to provide their highest, lowest and average billing rates for associates and partners. We supplemented those data through public records. All together, this year's survey includes information for 159 of the country's largest law firms and reflects billing rates as of October.

The figures show that, even in a down economy, hiring a large law firm remains a pricey prospect. The median among the highest partner billing rates reported at each firm is \$775 an hour, while the median low partner rate is \$405. For associates, the median high stands at \$510 and the low at \$235. The average associate rate is \$370.

Multiple industry studies show that law firm billing rates continued to climb during 2013 despite efforts by corporate counsel to rein them in. TyMetrix's 2013 Real Rate Report Snapshot found that the average law firm billing rate increased by 4.8 percent compared with 2012. Similarly, the Center for the Study of the Legal Profession at the Georgetown University Law Center and Thomson Reuters Peer Monitor found that law firms increased their rates by an average 3.5 percent during 2013.

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

Of course, rates charged by firms on paper don't necessarily reflect what clients actually pay. Billing realization rates-which reflect the percentage of work billed at firms' standard rates- have fallen from 89 percent in 2010 to nearly 87 percent in 2013 on average, according to the Georgetown study. When accounting for billed hours actually collected by firms, the realization rate falls to 83.5 percent.

"What this means, of course, is that- on average-law firms are collecting only 83.5 cents for every \$1.00 of standard time they record," the Georgetown report reads. "To understand the full impact, one need only consider that at the end of 2007, the collected realization rate was at the 92 percent level."

In other words, law firms set rates with the understanding that they aren't likely to collect the full amount, said Mark Medice, who oversees the Peer Monitor Index. That index gauges the strength of the legal market according to economic indicators including demand for legal services, productivity, rates and expenses. "Firms start out with the idea of, 'I want to achieve a certain rate, but it's likely that my client will ask for discounts whether or not I increase my rate,'" Medice said.

Indeed, firms bill nearly all hourly work at discounts ranging from 5 percent to 20 percent off standard rates, said Peter Zeughauser, a consultant with the Zeughauser Group. Discounts can run as high as 50 percent for matters billed under a hybrid system, wherein a law firm can earn a premium for keeping costs under a set level or for obtaining a certain outcome, he added. "Most firms have gone to a two-tier system, with what is essentially an aspirational rate that they occasionally get and a lower rate that they actually budget for," he said.

Most of the discounting happens at the front end, when firms and clients negotiate rates, Medice said. But additional discounting happens at the billing and collections stages. Handling alternative fee arrangements and discounts has become so complex that more than half of the law firms on the Am Law 100-NLJ affiliate The American Lawyer's ranking of firms by gross revenue-have created new positions for pricing directors, Zeughauser said.

THE ROLE OF GEOGRAPHY

Unsurprisingly, rates vary by location. Firms with their largest office in New York had the highest average partner and associate billing rates, at \$882 and \$520, respectively. Similarly, TyMetrix has reported that more than 25 percent of partners at large New York firms charge \$1,000 per hour or more for contracts and commercial work.

Washington was the next priciest city on our survey, with partners charging an average \$748 and associates \$429. Partners charge an average \$691 in Chicago and associates \$427. In Los Angeles, partners charge an average \$665 while the average associate rate is \$401.

Pricing also depends heavily on practice area, Zeughauser and Medice said. Bet-the-company patent litigation and white-collar litigation largely remain at premium prices, while practices including labor and employment have come under huge pressure to reduce prices.

"If there was a way for law firms to hold rates, they would do it. They recognize how sensitive clients are to price increases," Zeughauser said. But declining profit margins-due in part to higher technology costs and the expensive lateral hiring market-mean that firms simply lack the option to keep rates flat, he said.

BILLING SURVEY METHODOLOGY

The National Law Journal's survey of billing rates of the largest U.S. law firms provides the high, low and average rates for partners and associates.

The NLJ asked respondents to its annual survey of the nation's largest law firms (the NLJ 350) to provide a range of hourly billing rates for partners and associates as of October 2013.

For firms that did not supply data to us, in many cases we were able to supplement billing-rate data derived from public records.

In total, we have rates for 159 of the nation's 350 largest firms.

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

Rates data include averages, highs and low rates for partners and associates. Information also includes the average full-time equivalent (FTE) attorneys at the firm and the city of the firm's principal or largest office.

We used these data to calculate averages for the nation as a whole and for selected cities.

Billing Rates at the Country's Priciest Law Firms

Here are the 50 firms that charge the highest average hourly rates for partners.

Billing Rates at the Country's Priciest Law Firms

FIRM NAME	LARGEST AVERAGE		PARTNER ASSOCIATE		HOURLY HOURLY		AVERAGE	HIGH	LOW	
	U.S. OFFICE*	FULL-TIME EQUIVALENT ATTORNEYS*	RATES	RATES	RATES	RATES				
			AVERAGE		HIGH		LOW		AVERAGE	
* Full-time equivalent attorney numbers and the largest U.S. office are from the NLJ 350 published in April 2013. For complete numbers, please see NLJ.com .										
** Firm did not exist in this form for the entire year.										
Debevoise & Plimpton	New York	615	\$1,055	\$1,075	\$955	\$490	\$760	\$120		
Paul, Weiss, Riffkind, Wharton & Garrison	New York	803	\$1,040	\$1,120	\$760	\$600	\$760	\$250		
Skadden, Arps, Slate, Meagher & Flom	New York	1,735	\$1,035	\$1,150	\$845	\$620	\$845	\$340		
Fried, Frank, Harris, Shriver & Jacobson	New York	476	\$1,000	\$1,100	\$930	\$595	\$760	\$375		
Latham & Watkins	New York	2,033	\$990	\$1,110	\$895	\$605	\$725	\$465		
Gibson, Dunn & Crutcher	New York	1,086	\$980	\$1,800	\$765	\$590	\$930	\$175		
Davis Polk & Wardwell	New York	787	\$975	\$985	\$850	\$615	\$975	\$130		
Willkie Farr & Gallagher	New York	540	\$950	\$1,090	\$790	\$580	\$790	\$350		
Cadwalader, Wickersham & Taft	New York	435	\$930	\$1,050	\$800	\$605	\$750	\$395		
Weil, Gotshal & Manges	New York	1,201	\$930	\$1,075	\$625	\$600	\$790	\$300		
Quinn Emanuel Urquhart & Sullivan	New York	697	\$915	\$1,075	\$810	\$410	\$675	\$320		
Wilmer Cutler Pickering Hale and Dorr	Washington	961	\$905	\$1,250	\$735	\$290	\$695	\$75		
Dechert	New York	803	\$900	\$1,095	\$670	\$530	\$735	\$395		
Andrews Kurth	Houston	348	\$890	\$1,090	\$745	\$528	\$785	\$265		
Hughes Hubbard & Reed	New York	344	\$890	\$995	\$725	\$555	\$675	\$365		
Irell & Manella	Los Angeles	164	\$890	\$975	\$800	\$535	\$750	\$395		
Proskauer Rose	New York	746	\$880	\$950	\$725	\$465	\$675	\$295		
White & Case	New York	1,900	\$875	\$1,050	\$700	\$525	\$1,050	\$220		

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

FIRM NAME	LARGEST U.S. OFFICE*	AVERAGE FULL-TIME EQUIVALENT ATTORNEYS*	PARTNER ASSOCIATE HOURLY HOURLY RATES RATES					
			AVERAGE	HIGH	LOW	AVERAGE	HIGH	LOW
Morrison & Foerster	San Francisco	1,010	\$865	\$1,195	\$595	\$525	\$725	\$230
Pillsbury Winthrop Shaw Pittman	Washington	609	\$865	\$1,070	\$615	\$520	\$860	\$375
Kaye Scholer	New York	414	\$860	\$1,080	\$715	\$510	\$680	\$320
Kramer Levin Naftalis & Frankel	New York	320	\$845	\$1,025	\$740	\$590	\$750	\$400
Hogan Lovells	Washington	2,280	\$835	\$1,000	\$705	-	-	-
Kasowitz, Benson, Torres & Friedman	New York	365	\$835	\$1,195	\$600	\$340	\$625	\$200
Kirkland & Ellis	Chicago	1,517	\$825	\$995	\$590	\$540	\$715	\$235
Cooley	Palo Alto	632	\$820	\$990	\$660	\$525	\$630	\$160
Arnold & Porter	Washington	748	\$815	\$950	\$670	\$500	\$610	\$345
Paul Hastings	New York	899	\$815	\$900	\$750	\$540	\$755	\$335
Curtis, Mallet-Prevost, Colt & Mosle	New York	322	\$800	\$860	\$730	\$480	\$785	\$345
Winston & Strawn	Chicago	842	\$800	\$995	\$650	\$520	\$590	\$425
Bingham McCutchen	Boston	900	\$795	\$1,080	\$220	\$450	\$605	\$185
Akin Gump Strauss Hauer & Feld	Washington	806	\$785	\$1,220	\$615	\$525	\$660	\$365
Covington & Burling	Washington	738	\$780	\$890	\$605	\$415	\$565	\$320
King & Spalding	Atlanta	838	\$775	\$995	\$545	\$460	\$735	\$125
Norton Rose Fulbright	N/A**	N/A**	\$775	\$900	\$525	\$400	\$515	\$300
DLA Piper	New York	4,036	\$765	\$1,025	\$450	\$510	\$750	\$250
Bracewell & Giuliani	Houston	432	\$760	\$1,125	\$575	\$440	\$700	\$275
Baker & McKenzie	Chicago	4,004	\$755	\$1,130	\$260	\$395	\$925	\$100
Dickstein Shapiro	Washington	308	\$750	\$1,250	\$590	\$475	\$585	\$310
Jenner & Block	Chicago	432	\$745	\$925	\$565	\$465	\$550	\$380
Jones Day	New York	2,363	\$745	\$975	\$445	\$435	\$775	\$205
Manatt, Phelps & Phillips	Los Angeles	325	\$740	\$795	\$640	-	-	-
Seward & Kissel	New York	152	\$735	\$850	\$625	\$400	\$600	\$290
O'Melveny & Myers	Los Angeles	738	\$715	\$950	\$615	-	-	-
McDermott Will & Emery	Chicago	1,024	\$710	\$835	\$525	-	-	-
Reed Smith	Pittsburgh	1,468	\$710	\$945	\$545	\$420	\$530	\$295
Dentons	N/A**	N/A**	\$700	\$1,050	\$345	\$425	\$685	\$210
Jeffer Mangels Butler & Mitchell	Los Angeles	126	\$690	\$875	\$560	-	-	-
Sheppard, Mullin,	Los Angeles	521	\$685	\$875	\$490	\$415	\$535	\$275

Richard Pearl

\$1,000 Per Hour Isn't Rare Anymore; Nominal billing levels rise, but discounts ease blow.

FIRM NAME	LARGEST U.S. OFFICE*	AVERAGE FULL-TIME EQUIVALENT ATTORNEYS*	PARTNER ASSOCIATE HOURLY RATES		ASSOCIATE HOURLY RATES		AVERAGE LOW	AVERAGE HIGH	LOW
			AVERAGE	HIGH	AVERAGE	HIGH			
Richter & Hampton	Angeles								
Alston & Bird	Atlanta	805	\$675	\$875	\$495	\$425	\$575	\$280	

THE FOUR-FIGURE CLUB

These 10 firms posted the highest partner billing rates.

Gibson, Dunn & Crutcher	\$1,800
Dickstein Shapiro	\$1,250
Wilmer Cutler Pickering Hale and Dorr	\$1,250
Akin Gump Strauss Hauer & Feld	\$1,220
Kasowitz, Benson, Torres & Friedman	\$1,195
Morrison & Foerster	\$1,195
Skadden, Arps, Slate, Meagher & Flom	\$1,150
Baker & McKenzie	\$1,130
Bracewell & Giuliani	\$1,125
Paul, Weiss, Rifkind, Wharton & Garrison	\$1,120

THE FOUR-FIGURE CLUB

Contact Karen Sloan at ksloan@alm.com

SATELLITE TECHNOLOGY (67%); SUPREME COURTS (63%)

Classification

Company: GIBSON DUNN & CRUTCHER LLP (93%); LIGHTSQUARED INC (83%)

Language: ENGLISH

Publication-Type: Newspaper

Industry: NAICS541110 OFFICES OF LAWYERS (93%); SIC8111 LEGAL SERVICES (93%); NAICS517410 SATELLITE TELECOMMUNICATIONS (83%); NAICS334220 RADIO & TELEVISION BROADCASTING & WIRELESS COMMUNICATIONS EQUIPMENT MANUFACTURING (83%)

Subject: POLLS & SURVEYS (90%); LEGAL SERVICES (90%); MAJOR US LAW FIRMS (90%); LAW FIRM BILLABLE RATES (90%); LAWYERS (89%); LAW PRACTICE (89%); LAW FIRM BILLABLE HOURS (78%); ECONOMIC CONDITIONS (76%); CORPORATE COUNSEL (73%); US CHAPTER 11 BANKRUPTCY (73%); LAW COURTS & TRIBUNALS (68%);

Geographic: UNITED STATES (92%)

Load-Date: January 13, 2014

Richard Pearl

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The Firms

April 16, 2012 5:20 PM

When It Comes to Billing, Latest Rate Report Shows the Rich Keep Getting Richer

Posted by Sara Randazzo

Hourly rates just keep rising—and the best-paid lawyers are raising their rates faster than everyone else.

Those are two of the key findings contained in the [2012 Real Rate Report](#), an analysis of \$7.6 billion in legal bills paid by corporations over a five-year period ending in December 2011. The report, released Monday, is the second such collaboration between TyMetrix, a company that manages and audits

legal bills for corporate legal departments, and the Corporate Executive Board.

Many of the new rate report's findings echo those contained in the 2010 study, including the fact that rates keep going up, almost across the board, and that the cost of a given matter can vary dramatically depending on a law firm's size and location and its relationship with a particular client.

At the same time, this year's study shows that the legal sector is becoming increasingly bifurcated, with top firms raising rates faster than those at the bottom of the market and large firms charging a premium price based purely on their size.

"What it's really showing is that there's an increased premium being paid for experience and expertise," says Julie Peck, vice president of strategy and market development at TyMetrix. "Some parts of the lawyer market are able to raise rates much more quickly, and are more impervious to economic forces than others."

To compile the current rate report, TyMetrix received permission from its clients to examine legal fees billed to 62 companies across 17 industries including energy, finance, retail, technology, insurance, and health care. The bills, which represent the amount actually paid by the companies in question rather than the amount initially charged, came from more than 4,000 firms in 84 metropolitan areas around the country. Every firm on the 2011 Am Law 100 is represented in the data.

The report's key data points include:

A Widening Gap: Hourly rates charged by lawyers in the legal sector's upper echelon grew faster between 2009 and 2011 than those charged by lawyers toiling on the lower rungs. Particularly striking was the jump in associate rates billed by those falling in the report's top quartile: 18 percent on average, to just over \$600 per hour. Rates billed by top quartile partners, meanwhile, rose 8 percent, to just under \$900 per hour. In the bottom quartile, associate rates rose 4 percent and partner rates rose 3 percent during the same period.

The Recession's (Minor) Toll: Even amid the economic downturn, the cost of an hour of a lawyer's time continued to rise faster than key measures of inflation. That said, the legal industry wasn't completely immune to the broader economy's slowdown. After rising 8.2 percent between 2007 and 2008, hourly rates rose just 2.3 percent in 2009. Law firms bounced back a bit last year, with rates climbing 5.1 percent, to an average of \$530 an hour.

Location Counts: Not surprisingly, lawyers working in major metropolitan areas—where, as the rate report notes, rents are typically higher—are the priciest. An address in Boston, Chicago, Los Angeles, San Francisco, or Washington, D.C., alone adds about \$161 to the hourly rate charged by an individual lawyer. Those six cities and Baltimore, Houston, Philadelphia, and San Jose are the ten U.S. markets with the highest hourly rates. With an average partner rate topping \$700 per hour and average associate rate of more than \$450 per hour, New York is the most expensive market in the country. The least expensive? Riverside, California, where the average partner bills at under \$250 per hour and associates bill at just over \$300 an hour.

In the Minority: A small group of lawyers—12 percent—bucked the trend toward higher fees and actually lowered rates between 2009 to 2011—and 3 percent trimmed rates by \$50 or more per hour. (Most of those in the rate-cutting camp were based outside the big six markets identified above.) At the other end of the spectrum, 52 percent of lawyers increased rates by between \$25 and \$200 or more per hour. Another 18 percent increased rates by less than \$25 per hour, and the final 18 percent held rates steady.

First-Year Blues: Even before the recession hit, clients balked at paying for what they considered on-the-job training for first-year associates. The latest rate report is likely to reinforce that reluctance, given its finding that using entry-level lawyers adds as much as 20 percent to the cost of a legal matter. The report offers evidence that firms may be accommodating clients on this front: The percentage of bills attributed to entry-level associates dropped from 7 percent in 2009 to 2.9 percent last year.

Ties That Bind: The more work one firm handles for a client—and the longer the client relationship extends—the higher the average rate the firm charges. For companies that paid one firm \$10 million or more in a single year, the average hourly rate paid was \$553 in 2011. By comparison, clients that limited their spending on an individual firm to \$500,000 paid that firm an average of \$319 per hour.

Four-Digit Frontier: Data has consistently shown that many lawyers hesitate to charge more than \$1,000 an hour, and in 2011 just under 3 percent of the lawyers covered by the rate report had broken that barrier. Of those, the vast majority were working in the six main legal markets identified above and 60 percent of the time, they billed in increments of one hour or less.

Playing Favorites: Across all practice areas, 90 percent of lawyers charged different clients different rates for similar types of work. (The figure for mergers and acquisitions lawyers was 100 percent.) The differences from client to client can be extreme, and were even more pronounced in the current report than in the 2010 edition. Rates charged by intellectual property specialists, for instance, had a median variance of 23.1 percent, while lawyers doing commercial and contract work showed a 18.7 percent median difference.

Who's Doing What? A closer look at law firm bills for work performed on litigation and intellectual property assignments shows that the kind of timekeeper billing on a matter varies by practice type. On patent matters, the report shows, 47 percent of hours billed on average are attributed to paralegals, and 37 percent by partners. By comparison, paralegals account for just 8 percent of the work done on labor and employment litigation hours, while partners handle 45 percent.

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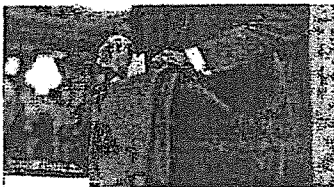
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By JENNIFER SMITH

Top partners at leading U.S. law firms are charging more than ever before, yet those hourly rates aren't all they appear to be.



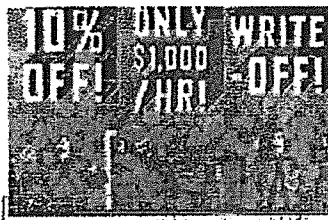
Top partners at leading U.S. law firms are charging more than ever — routinely \$1,150 or more an hour — but after discounts and write-offs the nosebleed rates aren't all they appear to be. Jennifer Smith reports. Photo: Getty Images.

Having blown past the once-shocking price tag of \$1,000 an hour, some sought-after deal, tax and trial lawyers are commanding hourly fees of \$1,150 or more, according to an analysis of billing rates compiled from public filings.

But, as law firms boost their standard rates, many are softening the blow with widespread discounts and write-offs, meaning fewer clients are paying full freight. As a result, law firms on

average are actually collecting fewer cents on the dollar, compared with their standard, or "rack," rates, than they have in years.

Think of hourly fees "as the equivalent of a sticker on the car at a dealership," said legal consultant Ward Bower, a principal at Altman Weil Inc. "It's the beginning of a negotiation.... Law firms think they are setting the rates, but clients are the ones determining what they're going to pay."



the firm's database billed at that level in the first quarter of 2013, up from 158 a year earlier.

Star lawyers still can fetch a premium, and some of them won't budge on price. The number of partners billing \$1,150-plus an hour has more than doubled since this time last year, according to Valeo Partners, a consulting firm that maintains a database of legal rates pulled from court filings and other publicly disclosed information. More than 320 lawyers in

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That glided circle includes tax experts such as Christopher Roman of King & Spalding LLP and Todd Maynes of Kirkland & Ellis LLP, intellectual-property partner Nader A. Mousavi of Sullivan & Cromwell LLP, and deal lawyers such as Kenneth M. Schneider of Paul, Weiss, Rifkind, Wharton & Garrison LLP.

Those lawyers and their firms either declined to comment or didn't reply to requests for comment.

When corporate legal departments need a trusted hand to fend off a hostile takeover or win a critical court battle, few general counsels will nitpick over whether a key lawyer is charging \$900 an hour or \$1,150 an hour. But for legal matters where their future isn't on the line, companies are pushing for—and winning—significant price breaks.

"We almost always negotiate rates down from the rack rates," said Randal S. Milch, general counsel for phone giant Verizon Communications Inc. [VZ +0.29%] The result, he said, is a "not-insignificant discount."

For the bread-and-butter work that many big law firms rely on, haggling has become the norm. Many clients grew accustomed to pushing back on price during the recession and continue to demand discounts.

Some companies insist on budgets for their legal work. If a firm billing by the hour exceeds a set cap, lawyers may have to write off some of that time.

Other clients refuse to work with firms who don't discount, lopping anywhere from 10% to 30% off their standard rates. Some may grant rate increases to individual partners or associates they deem worthy. Another tactic: locking in prices with tailored multiyear agreements with formulas governing whether clients grant or refuse a requested rate increase.

In practical terms, that means the gap between law firms' sticker prices and the amount of money they actually bill and collect from their clients is wider than it has been in years.

According to data collected by Thomson Reuters Peer Monitor, big law firms raised their average standard rate by about 9.3% over the past three years. But they weren't able to keep up on the collection side, where the increase over the same period was just 6%. Firms that used to collect on average about 92 cents for every dollar of standard time their lawyers worked in 2007, before the economic downturn, now are getting less than 85 cents. "That's a historic low," said James Jones, a senior fellow at the Center for the Study of the Legal Profession at Georgetown Law.

To be sure, things have certainly picked up some since the recession, when some clients flat-out refused to pay rate increases.

In the first quarter of 2013, the 50 top-grossing U.S. law firms boosted their partner rates by as much as 5.7%, billing on average between \$879 and \$882 an hour, according to Valeo Partners. Rates for junior lawyers, whose labors have long been a profit engine for major law firms, jumped even more.

While some clients resisted using associate lawyers during the downturn, refusing to pay hundreds of dollars an hour for inexperienced first- or second-year attorneys, the largest U.S. law firms have managed to send the needle back up again. This year, for the first time, the average rate for associates with one to four years of experience rose to \$500 an hour, according to Valeo.

The increases continue the upward trend of 2012, when legal fees in general rose 4.8% and associate billing rates rose by 7.4%, according to a coming report by TyMetrix Legal Analytics, a unit of Wolters Kluwer, [WKL.AE +0.95%] and CEB, a research and advisory-services company. Those numbers are based on legal-spending data from more than 17,000 law firms.

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More than a dozen leaders at major law firms declined to discuss rate increases on the record, though some said privately that the increase in associate rates could be caused in part by step increases as junior lawyers gain in seniority.

Joe Sims, an antitrust partner at Jones Day and former member of the firm's partnership committee, said clients don't mind paying for associates, as long as they feel they are getting their money's worth.

Sophisticated clients, he said, tend to focus on the overall price tag for legal work, not on individual rates. "They are more concerned about how many people are working on the project and the total cost of the project," Mr. Sims said. "Clients want value no matter who is on the job."

While a handful of elite lawyers have successfully staked out the high end—the deal teams at Wachtell, Lipton, Rosen & Katz, for example—legal experts say that client pressure to control legal spending means most law firms must be considerably more flexible on price.

"There will always be some 'bet the company' problem where a client will not quibble about rates," said Mr. Jones, the Georgetown fellow. "Unfortunately, from the law firms' standpoint, that represents a small percentage of the work."

Write to Jennifer Smith at jennifer.smith@wsj.com

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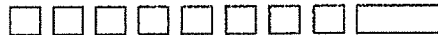
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