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Attorneys for Plaintiff and the aggrieved employees

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

KANDICE NEWLEN, an individual, on
behalf of herself and others similarly situated

PLAINTIFF,

v.

RLH FIRE PROTECTION, INC.; and
DOES 1 thru 50, inclusive,

DEFENDANTS.

Case No. BCV-21-102503-DRZ

[Case Assigned for All Purposes to Hon. David
Zulfa in Dept. J]

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

Date: July 19, 2024

Time: 8:30 a.m.

Dept.: J

Complaint Filed: October 25, 2021

Trial Date: None Set

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I, Liane Katzenstein Ly, declare as follows:

1. I am an attorney licensed to practice before all of the courts of the State of California. I am the attorney of record for Plaintiff Kandice Newlen in the above-entitled action. I have personal knowledge of the facts set forth herein, and if called upon as a witness, I could and would testify competently thereto.

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

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

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

LITIGATION OVERVIEW AND PROCEDURAL HISTORY

5. Plaintiff's Motion for Approval of Representative Action Settlement will be concurrently uploaded to the Labor and Workforce Development Agency's ("LWDA) website on the date this Motion is filed. Proof of submission of Plaintiff's Motion for Approval of Representative Action Settlement, all related documents, and copy of the email from the LWDA confirming receipt are attached hereto as Exhibit "6".

6. Plaintiff worked for Defendant as a non-exempt employee. Plaintiff worked for Defendant as an Accounts Receivable, earning wages on an hourly basis.

7. On October 25, 2021, in compliance with Labor Code § 2699.3(a)(1), Plaintiff gave written notice by online filing to the LWDA, setting forth the facts and theories of the violations alleged against Defendant, paid the filing fee, and received an e-filing confirmation. Plaintiff also mailed notice to Defendant by certified mailing, return receipt requested, to the address listed on the California's Secretary of State's website as the entity address for Defendant.

1 8. On October 25, 2021, Plaintiff also filed a Class Action Complaint seeking recovery
2 for: (1) failure to provide rest breaks pursuant to Labor Code section 226.7; (2) failure to issue
3 accurate itemized wage statements pursuant to Labor Code section 226(a); (3) penalties under Labor
4 Code section 203; and (4) violation of Business & Professions Code section 17200.

5 9. On January 3, 2022, Plaintiff filed a First Amended Class and Representative Action
6 Complaint adding an additional cause of action for penalties pursuant to Labor Code § 2699, et seq.,
7 the Private Attorneys General Act (“PAGA”) based on the underlying Labor Code violations already
8 pled.

9 10. In accordance with the settlement, Plaintiff has filed an amended PAGA notice letter
10 with the LWDA and served Defendant her amended notice on January 17, 2024.

11 11. Accordingly, Plaintiff filed a Second Amended Representative Action Complaint on
12 June 10, 2024, alleging the following PAGA violations: (1) failing to pay minimum or regular wages
13 for all hours worked pursuant to Lab. Code sections 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198;
14 (2) failing to pay overtime wages pursuant to Lab. Code sections 510, 1194, and 1198; (3) failing to
15 provide compliant meal periods or premium pay in lieu thereof pursuant to Lab. Code sections 226.7,
16 512, and 1198; (4) failing to provide compliant rest periods or premium pay in lieu thereof pursuant
17 to Lab. Code sections 226.7 and 1198; (5) failing to provide and maintain accurate payroll records
18 pursuant to Lab. Code sections 226(a)/(f)/(h), 226.3, 1174(d); and (6) failing to timely pay wages
19 due pursuant to Lab. Code sections 201-204, and 210. (Hereafter, the “Action.”)

20 **THE DISCOVERY PROCESS AND MEDIATION**

21 12. The Parties focused their efforts on resolving this Action through early mediation.
22 As such, the Parties engaged in informal discovery to understand the nature of the allegations and
23 the scope of potential liability. Specifically, Defendant informally produced a sampling of time and
24 pay data for mediation purposes.

25 13. PAGA Counsel also learned that Plaintiff, as part of her employment with Defendant,
26 executed a valid and binding arbitration agreement.

27 14. Through the exchange of information and attendant discussions between the Parties,
28 Plaintiff learned that the number of Aggrieved Employees is no more than 425 (including Plaintiff)

1 and there is a maximum of 28,200 PAGA Pay Periods at issue. Plaintiff asserts that the maximum
2 potential exposure for the PAGA claims for Aggrieved Employees is \$2,820,000.00 (28,200 PAGA
3 Pay Periods at issue $\times$ \$100 = 2,820,000).

4 15. On December 6, 2023, the Parties participated in a private mediation with mediator
5 Russ J. Wunderli, Esq.

6 16. The Parties engaged in good faith, arms-length negotiations with Defendant
7 concerning possible resolution of the claims asserted in the Action. The Parties were able to reach a
8 tentative settlement subject to finalization of a formal PAGA Settlement Agreement and the approval
9 of the Court.

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

12 18. Although Defendant denies that it violated any pertinent law, it recognized the risks
13 and attendant costs of litigation, and the Parties were able to reach a tentative settlement subject to
14 finalization of a formal PAGA Settlement Agreement and the approval of the Court. The Parties
15 negotiated the terms and conditions of the Agreement and now present the agreed-upon Settlement
16 to the Court for Approval.

17 **THE SETTLEMENT**

18 19. Defendant will pay the total sum of \$140,000.00 in full and final settlement of the
19 PAGA claims alleged.

20 20. Per the Settlement, the amount is allocated as follows:

21 Gross Settlement Amount:	\$140,000.00
22 PAGA Counsel Fees Payment:	\$46,662.00
23 PAGA Counsel Litigation Expenses Payment:	\$8,500.00
24 Administrator Expenses Payment:	\$5,000.00
25 Named Plaintiff Enhancement:	\$5,000.00
	PAGA Penalties:
	\$74,838.00
	<i>\$56,128.50 to the LWDA; \$18,709.50 to be distributed to the Aggrieved Employees)</i>

26 21. PAGA Counsel's actual costs come to \$7,061.96.

27 22. The extra \$1,438.04 will remain in the net settlement fund, causing the net amount
28 for distribution to the LWDA and Aggrieved Employees to be slightly higher than the \$74,838.00

1 contemplated in the Agreement. Specifically, \$76,276.04 shall be allocated to the PAGA Penalties,
2 with \$57,207.03 (75%) going to the LWDA and \$19,069.01 (25%) going to the Aggrieved
3 Employees.

4 23. Each aggrieved employee shall receive a pro-rata portion of the remaining amount
5 in PAGA penalties based by dividing the amount of the aggrieved employees' 25% share of PAGA
6 Penalties by the total number of PAGA Pay Periods worked by all aggrieved employees during the
7 Covered Period, and then multiplying the result by each aggrieved employee's PAGA Pay Periods.

8 24. The Covered Period means the period from October 25, 2020 to February 5, 2024,
9 or the date of final approval, whichever comes first. ("Covered Period" or "Release Period".)

10 25. For settlement purposes, the Aggrieved Employees are defined as: "all non-exempt
11 employees who are employed or have been employed by RLH FIRE PROTECTION, INC., in the
12 State of California who worked one or more pay periods during the Covered Period" ("Aggrieved
13 Employee").

14 **RISKS AND EVALUATION OF THE SETTLEMENT**

15 26. To help the Court evaluate the fairness of the Settlement, a discussion of the risk
16 evaluation and discount taken follows.

17 27. Plaintiff believed that Defendant may persuasively argue that the Court should
18 exercise its discretion under PAGA to significantly reduce or altogether waive any penalties under
19 PAGA.

20 28. Pursuant to Labor Code §226.3, the Labor Commissioner has the discretion to
21 "decide not to penalize an employer for a first violation when that violation was due to a clerical
22 error or inadvertent mistake."

23 29. And in accordance with PAGA, the court in a PAGA action has the same discretion
24 "to assess a civil penalty" that the Labor Commissioner would have, as well as complete discretion
25 to "award a lesser amount than the maximum civil penalty amount specified [by PAGA] if, based on
26 the facts and circumstances of the particular case, to do otherwise would result in an award that is
27 unjust, arbitrary and oppressive, or confiscatory." (Labor Code § 2699(e)(1) and (e)(2)).

28 30. PAGA Counsel anticipated that, at trial, Counsel for Defendant could make a

1 potentially persuasive argument that Defendant: (1) the Aggrieved Employees were properly and
2 timely paid in accordance with Defendant's lawful policies and practices, and that any alleged failure
3 to compensate the Aggrieved Employees was the result of inadvertence and clerical error; (2) the
4 Aggrieved Employees were provided with the opportunity to take meal and rest breaks in compliance
5 with California law; (3) until this Action was filed, no employees had compliance about any alleged
6 failure to pay wages, pay wages timely, provide meal and/or rest breaks, and maintain accurate
7 payroll records; (4) none of Defendant's employees suffered any harm from or actual damage as a
8 result of the conduct that forms the basis for Plaintiff's allegations. All of which, Counsel for
9 Defendant would argue, should mitigate in factor of significantly reducing or waiving any PAGA
10 penalties.

11 31. While Plaintiff disagrees that this analysis is legal correct or persuasive, PAGA
12 Counsel had to consider the foregoing facts and arguments and how they might impact any judgment
13 ultimately awarded to Aggrieved Employees if the Court were persuaded by them.

14 32. Plaintiff alleges that Plaintiff and all aggrieved employees were not paid minimum
15 wage for each hour worked or part thereof during which they were required to perform acts at the
16 direction and for the benefit of Defendant.

17 33. Here, Plaintiff and the Aggrieved Employees consistently worked shifts over five (5)
18 hours.

19 34. Defendant maintained a written policy for meal and rest periods but Plaintiff alleged
20 Defendant violated its own policies. Plaintiff alleges that she missed meal periods sporadically due
21 to her work load.

22 35. Additionally, Plaintiff alleged that Defendant has had a consistent policy of failing
23 to pay Plaintiff and the Aggrieved Employees one (1) hour of pay at the employees' regular rate of
24 compensation for each workday that the compliant meal period was not provided. On July 15, 2021,
25 in *Ferra v. Loews Hollywood Hotel, LLC*, the California Supreme Court set forth the formula for
26 calculating the one extra hour of bonus pay that employees are owed if an employer fails to provide
27 a compliant meal period or rest break. Specifically, the Court held that those bonus payments must
28 include the hourly value of any nondiscretionary earnings (such as a nondiscretionary bonuses,

1 commissions, etc.), and cannot simply be paid at an employee's base hourly rate.

2 36. Here, Plaintiff alleged that when meal periods are provided, Defendant has had a
3 consistent policy of paying meal period premiums at the base rate and not the appropriate blended
4 rate in violation of Labor Code §§ 226.7 and 512.

5 37. Defendant argued that the employees did receive their meal periods and presented
6 evidence that other employees would testify to that fact.

7 38. Additionally, Defendant maintained valid meal and rest period policies.

8 39. This presented a risk on the meal period claim that Plaintiff considered when
9 evaluating this settlement.

10 40. Here, Plaintiff alleged that Defendant failed to maintain a lawful procedure of
11 providing rest breaks to Plaintiff and the Aggrieved Employees.

12 41. Plaintiff also alleged that Defendant failed to provide Plaintiff and the Aggrieved
13 Employees with uninterrupted rest breaks of not less than ten (10) minutes as required by the Labor
14 Code during the relevant time period and did not ensure it occurred within the first 3.5 hours of an
15 employee's shift.

16 42. Plaintiff also alleged that Defendant also did not pay rest break premiums even after
17 it began providing some rest breaks.

18 43. Further, Plaintiff and the Aggrieved Employees were not compensated with one (1)
19 hour of wages for each compliant rest period as required by Labor Code § 226.7.

20 44. Defendant again raised the defense that employees received their rest breaks and
21 presented evidence that employees would testify as such.

22 45. Given that the rest period policy was accurate, Plaintiff considered this a viable risk.

23 46. Here, Plaintiff asserts that Defendant's payroll practices are defective in that they fail
24 to timely pay Plaintiff's wages in accordance with California law.

25 47. Thus, Plaintiff maintains that Defendant is liable for each wage statement issued.

26 48. Here, Defendant furnishes Plaintiff and the Aggrieved Employees with itemized
27 wage statements that do not accurately show total hours worked.

28 49. Plaintiff alleged that Defendant furnishes Plaintiff and the Aggrieved Employees

1 with itemized wage statements that do not accurately show all applicable hourly rates in effect during
2 the pay period and the corresponding number of hours worked at each hourly rate because Plaintiff
3 and the Aggrieved Employees performed work while off the clock. The work performed off the
4 clock was not recorded and thus was not reflected in the Aggrieved Employees' wages and wage
5 statements.

6 50. Further, Plaintiff alleged that she and the Aggrieved Employees are issued wage
7 statements that do not include accurate meal and rest premiums as a result of the claims alleged
8 above.

9 51. As this is a derivative claim, the same risks present for the above claims were present
10 for this claim.

11 52. Here, Plaintiff and numerous Aggrieved Employees are no longer employed by
12 Defendant. Defendant failed to pay all wages owed and due upon their termination and/or
13 resignation.

14 53. Plaintiff factored in the risk of establishing that any violation was "willful" and the
15 fact that this claim is derivative.

16 54. In light of all these significant risks and given that PAGA gives the Court broad
17 discretion to reduce any penalties ultimately awarded, PAGA Counsel determined that the Gross
18 Settlement Amount of \$140,000.00 was fair and reasonable.

19 **ATTORNEY COMPETENCE**

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

- 26 a. *Goodman v. Crystal Ventures, Inc.* (No. BC245561, L.A. Super. Ct.) In January
27 2002, Hon. Anthony Mohr granted final approval of settlement in the gross amount
28 of \$255,000 and the court approved the attorneys' fee request of 33 1/3%.

- 1 b. *Johnston v. The Cheesecake Factory* (No. BC316180, L.A. Super. Ct.) In
2 December 2005, Honorable Rita Miller granted final approval of Settlement in the
3 gross amount of \$4,000,000 and the court granted attorneys' fees request of 30%.
- 4 c. *Tumino v. HOB Entertainment* (No. BC327962, L.A. Super. Ct.) In May 2006, the
5 Honorable Conrad R. Aragon granted final approval of Settlement in the gross
6 amount of \$1,000,000 and the court granted attorneys' fees request of 30%.
- 7 d. *Ryan v. Hilton Hotels Corporation*, (No. BC364260, L.A. Super. Ct.) In March
8 2008, the Honorable Mary Thornton House granted final approval of Settlement
9 in the gross amount of \$1,675,000.00 and the court granted attorneys' fees request
10 of 33 1/3%.
- 11 e. *Gerritson v. Styles For Less, Inc.*, (No. BC402921, L.A. Super. Ct.) In September
12 2010, the Hon. Kenneth R. Freeman granted final approval of Settlement in the
13 gross amount of \$2,000,000.00, and the court granted attorneys' fees request of
14 33.3%.
- 15 f. *Lewis v. Collabrus, Inc., et al.*, (No. 109CV-142927, Santa Clara Super. Ct.) In
16 March 2012, the Honorable James P. Kleinberg granted final approval of
17 Settlement in the gross amount of \$2,000,000.00, and the court granted attorneys'
18 fees request of 33.3%.
- 19 g. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (No.
20 BC402739, L.A. Super. Ct.) In June 2013, the Honorable Lee Smally Edmund
21 granted final approval of Settlement in the gross amount of \$4,700,000.00, and the
22 court granted attorneys' fees request of 38%.
- 23 h. *Anderson v. Total Renal Care, Inc.*, (No. BC388335, L.A. Super. Ct.) In January
24 2014, the Honorable William F. Highberger granted final approval of Settlement
25 in the gross amount of \$1,500,000.00 and the court granted attorneys' fees request
26 of 33.33%.
- 27 i. *Rojas, et al. v. Sunview Vineyards of California, Inc.*, Eastern District (1:09-cv-
28 00705 AWIJLT). This certified class action was approved for final settlement by

the Honorable Anthony W. Ishii in October 2015, in the gross amount of \$4,550,000.00, with attorneys' fees approved in the amount of \$1,137,500.00.

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

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

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

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

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

o. *Munoz, et al. v. Giumarra Vineyards Corporation*, United States District Court for the Eastern District of California (Case No.: 1:09-cv-00703 - AWI – JLT). The matter was approved for final settlement by the Honorable Anthony W. Ishii in November 2017, in the gross amount of \$6,100,000.00, plus interest, with attorney's fees benchmark award of \$1,525,000.

p. *Pineda, et al. v. Grimmway Enterprises, Inc.*, Kern County Superior Court (BCV-15-101333). The matter was approved for final settlement before the Hon. Stephen

1 D. Schuett, Dept. 10, in January 2018, in the gross amount of \$9,000,000 with
2 attorneys' fees request of 33.33%.

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

- 8 a. *Lewis v. Collabrus, Inc., Santa Clara County Superior Court (109CV-142927)*,
9 approved for Class Certification in 2011.
- 10 b. *Melendrez v. JK Communications*, No. BC497692, (L.A. Super. Ct., filed
11 December 19, 2012) (court granted contested class certification and appointed
12 Kingsley Szamet & Ly as PAGA Counsel).
- 13 c. *Amaro, et al v. Gerawan Farming, Inc.*, No. 1:14-cv-00147-DAD-SAB (E.D. Cal.,
14 filed February 3, 2014) (court granted contested class certification and appointed
15 Kingsley Szamet & Ly as PAGA Counsel).
- 16 d. *Suarez v. Mazatlan, Inc.*, No. 37-2015-00002978-CU-OE-CTL (S.D. Super. Ct.,
17 filed January 27, 2015) (court granted contested class certification and appointed
18 Kingsley Szamet & Ly as PAGA Counsel).
- 19 e. *Ruiz v. Daniel C. Salas Harvesting, Inc.*, Kings County Superior Court (16 C
20 0214). contested class certification granted in June 2020.
- 21 f. *Weldon v. Geo Corrections & Detentions, LLC*, Kern County Superior Court
22 (BCV-16-102833), contested class certification granted in 2018.
- 23 g. *Patton v. Skyler Electric*, Nevada County Superior Court, (CU17-082544),
24 contested class certification granted in June 2020.
- 25 h. *Hameister v. Jaco Oil Company*, Kern County Superior Court (BCV-17-102876),
26 contested class certification granted in August 2020.

27 57. PAGA Counsel is experienced in the handling of wage and hour class and
28 representative actions and supports this Settlement. Based on its analysis, PAGA Counsel believes

1 that this settlement is fair and reasonable and in the best interest of the aggrieved employees.

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

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

6 59. As detailed fully in the Settlement, the settlement provides for Defendant to create a
7 Gross Settlement Amount of \$140,000.00. From that fund, Plaintiff requests an award of attorneys'
8 fees for PAGA Counsel in the amount of \$46,662.00, or 33.33% of the Gross Settlement Amount,
9 and \$7,061.96 in reimbursement for litigation costs.

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

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

percentage provided in this retainer agreement. PAGA Counsel has never been paid any money for attorneys' fees in this case and has advanced all costs.

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

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

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

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

- 1 a. *D'Este v. Bayer Corp.*, 565 F.3d 1119 (9th Cir. 2009) (lower court ruling that
2 pharmaceutical sales representatives are exempt employees affirmed);
- 3 b. *Budrow v. Dave & Buster's of California, Inc.*, 171 Cal. App. 4th 875 (2009)
4 (lower court ruling in employer's favor that certain employees can share in
5 mandatory tip pool affirmed);
- 6 c. *Etheridge v. Reins Int'l California, Inc.*, 172 Cal. App. 4th 908 (2009) (lower court
7 ruling in employer's favor that certain employees can share in mandatory tip pool
8 affirmed);
- 9 d. *Areso v. CarMax, Inc.*, 195 Cal. App. 4th 996 (2011) (lower court ruling in
10 employer's favor approving employer's commission pay plan affirmed) ;
- 11 e. *Christopher v. SmithKline Beecham Corp.*, 132 S. Ct. 2156, 183 L. Ed. 2d 153
12 (2012) (lower court ruling that pharmaceutical sales representatives are exempt
13 employees affirmed);
- 14 f. *Schaefer-LaRose v. Eli Lilly & Co.*, 679 F.3d 560 (7th Cir. 2012) (lower court
15 ruling that pharmaceutical sales representatives are exempt employees affirmed);
- 16 g. *Fowler v. Carmax, Inc.*, No. B238426, 2013 WL 1208111 (Cal. Ct. App. Mar. 26,
17 2013), cert. granted, judgment vacated sub nom. *CarMax Auto Superstores*
18 *California, LLC v. Fowler*, 134 S. Ct. 1277, 188 L. Ed. 2d 290 (2014) (lower court
19 granted employer's motion to compel arbitration, Court of Appeal reversed, U.S.
20 Supreme Court affirmed lower court);
- 21 h. *Salazar v. Apple Am. Grp., LLC*, No. E059562, 2015 WL 314703 (Cal. Ct. App.
22 Jan. 26, 2015), review denied (Apr. 22, 2015), cert. denied, 136 S. Ct. 688, 193 L.
23 Ed. 2d 519 (2015) (lower court ruling in employee's favor on motion to compel
24 arbitration affirmed);
- 25 i. *Anaya v. J's Maint. Serv., Inc.*, No. B261662, 2016 WL 519867 (Cal. Ct. App. Feb.
26 9, 2016) (lower court ruling in employee's favor on motion to compel arbitration
27 affirmed);
- 28 j. *Cortez v. Doty Bros. Equipment Company, Inc.* (2017) 15 Cal.App.5th 1 (reversing

1 in part and affirming in part trial courts order compelling arbitration);

2 k. *Lopez v. Friant & Associates, L.L.C.* (2017) 15 Cal.App.5th 773 (reversing
3 summary judgement in favor of employer on wage statement claim);

4 l. *Kane v. Valley Slurry Seal Company*, Case No. C079558, Cal. Ct. App. May 8,
5 2018) (affirming judgement for employees after bench trial);

6 m. *Kim v. Reins International California*, Case No. S246911. Oral argument was held
7 before the California Supreme Court on January 6, 2020 and a decision was
8 published in March 2020.

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

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

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

22 68. Here, a lodestar cross-check confirms that the percentage requested is reasonable.

23 69. PAGA Counsel have an aggregate lodestar in the amount of \$42,085.00 which
24 represents 47.20 hours of attorney work on this litigation from its inception through the date of
25 this filing of Plaintiff's instant Motion. Additionally, PAGA Counsel estimates that PAGA
26 Counsel will incur ten future hours. With future hours, the lodestar is \$50,085.00.

27 70. As such, PAGA Counsel is not asking for a lodestar multiplier.

28 71. PAGA Counsel litigated this action with great efficiency in light of the amount of

1 work required to achieve the Settlement.

2 72. The requested hourly rates in this case range from \$450.00 per hour to \$1,100.00.

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

5 74. Mr. Kingsley is a 28-year attorney with expertise in wage and hour class action
6 lawsuits.

7 75. He has litigated several hundred such cases, including at the appellate level at the
8 U.S. Supreme Court, California Supreme Court, the Ninth Circuit, and the California Court of
9 Appeal.

10 76. He is also a prolific speaker at various seminars on employment law and has
11 contributed to legal publications on employment topics.

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

16 78. My office billed for the following three attorneys for work performed on this case:
17 Eric Kingsley, Jessica Bulaon, and me.

18 79. I, a partner at Kingsley Szamet & Ly, have a billing rate of \$800 per hour. I am
19 an honors graduate of Florida State University, and received my JD from University of California
20 Davis School of Law in 2008, where I was an editor of the Environmental Law Journal and a
21 board member of the King Hall Negotiations Team.

22 80. Jessi Bulaon is an Associate Attorney at Kingsley Szamet & Ly. Ms. Bulaon is a
23 graduate of UCLA where she obtained her Bachelor of Arts in Sociology. In 2021, she earned her
24 J.D. from Southwestern Law School, where she was a member on the Law Review and the Dean's
25 List. While at Southwestern, she was awarded the Exceptional Achievement Award in Employment
26 Law Survey course and Witkin Award in her Labor Law course. Ms. Bulaon also clerked at a
27 plaintiff-side employment law firm for 1.5 years until she was admitted to practice in December of
28 2021. She is billed at \$450 per hour.

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

82. PAGA Counsel’s charged rate are commensurate with the prevailing market rates in Kern County for attorneys of comparable experience and skill handling complex litigation.

83. PAGA Counsel’s rates in calculating the lodestar are the same rates charged to non-contingent hourly clients and thus necessarily reflect the current market value of counsel’s legal services.

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

85. Finally, PAGA Counsel’s rates are in line with the adjusted Laffey Matrix, which is a fee scale that courts often consult in determining the reasonableness of hourly rates. Under the adjusted Laffey Matrix, a reasonable rate for an attorney with 20+ years of experience, such as Mr. Kingsley, is \$1,057, a reasonable rate for an attorney with 16 years of experience, such as me, is \$878, and a reasonable rate for an attorney with 3 years or less of experience, such as Ms. Bulaon is \$437. A true and correct copy of the 2023-2024 Adjusted Laffey Matrix is attached hereto as Exhibit 4.

86. Kingsley Szamet & Ly’s attorneys’ fees in the present case are broken down as follows:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTALS</u>
Eric B. Kingsley	17.10	\$1,100.00	\$18,810.00
Liane Katzenstein Ly	37.80	\$800.00	\$30,240.00
Jessica Bulaon	2.30	\$800.00	\$1,035.00

**KINGSLEY TOTAL
ATTORNEYS' FEES**

57.20

\$50,085.00¹

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

- a. intake and interviewing Plaintiff and witnesses and flushing out facts and issues;
- b. researching employer and related causes of action;
- c. researching other pending and former matters against Defendant;
- d. fact development and investigating Defendant's ownership structure
- e. researching and analyzing relevant claims under B&P 17200;
- f. investigation and discussion regarding job functions, duties, compensation, policies, and procedures, etc.;
- g. regular meetings and or communicating with the Plaintiff;
- h. drafting pleadings (Complaints, Motion for Preliminary Approval, various documents related to Preliminary Approval, Motion for Final Approval, various documents related to Final approval, etc.);
- i. researching private right of action and various impact on class actions;
- j. preparing for and attending mediation;
- k. discussing issues related to damage model calculations;
- l. preparing and analyzing damage models;
- m. negotiating the terms of the settlement;
- n. reviewing and making changes to the Agreement;
- o. drafting and editing all documents for Approval of the settlement;
- p. monitoring settlement administration and notice procedures;
- q. coordinating and overseeing all aspects of the administration of the Settlement (review documentation, approve form and content, etc.); and multiple communications with defense counsel.

¹ PAGA Counsel anticipates 10 hours of future time to handle the final approval hearing in July and to oversee the administration process.

1 88. PAGA Counsel is not asking for a lodestar multiplier.

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

4 89. In addition to their request for fees, PAGA Counsel further request reimbursement
5 of the reasonable out-of-pocket expenses advanced and/or incurred by them in connection with this
6 litigation, in the amount of \$7,061.96.

7 90. To date, PAGA Counsel has incurred \$6,902.26 in costs.

8 91. PAGA Counsel anticipates incurring an additional \$159.70 in costs to file and serve
9 this motion.

10 92. As such, counsel is requesting a cost reimbursement of \$7,061.96.

11 93. All of the requested costs are reasonable in amount and were necessarily incurred by
12 PAGA Counsel in prosecuting this litigation. A true and correct copy of PAGA Counsel's cost ledger
13 is attached hereto as Exhibit "5".

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

17 95. Accordingly, the requested reimbursement of the reasonable out-of-pocket expenses
18 advanced and/or incurred is appropriate and justified as part of the overall settlement and the Court
19 should approve the request for reimbursement in the amount of \$7,061.96.

20 **THE NAMED PLAINTIFFS' ENHANCEMENT SHOULD BE APPROVED**

21 96. The Settlement calls for an enhancement payment of \$5,000.00 to the named
22 Plaintiff, to be paid from the Gross Settlement Amount.

23 97. The time spent by Kandice Newlen includes identifying competent counsel,
24 providing information to PAGA Counsel regarding Plaintiff's relevant employment experiences,
25 compiling documents, meeting with PAGA Counsel frequently to discuss the status of the case and
26 the theories of liability, reviewing settlement documents, and making herself available for a full day
27 of mediation.

28 98. PAGA Counsel considers this to be a fair and reasonable enhancement.

99. The enhancement takes into consideration the time, effort, risks, and expense incurred by Plaintiff in coming forward to litigate this matter on behalf of the Aggrieved Employees.

EXHIBITS

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

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

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

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

104. Attached hereto as Exhibit “5” is a true and correct copy of PAGA Counsel’s costs ledger reflecting costs incurred in this matter.

105. Attached hereto as Exhibit “6” is a true and correct copy of the proof of submission to the LWDA as referenced in paragraph 5 above.

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

This declaration was executed this 25th day of June, 2024, in Los Angeles, California.

Liane Katzenstein Ly

EXHIBIT "1"

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement ("Agreement") is made by and between plaintiff KANDICE NEWLEN ("Plaintiff") and defendant RLH FIRE PROTECTION, INC. ("Defendant"). The Agreement refers to Plaintiff and Defendant collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

- 1.1. "Action" means the Plaintiff's PAGA lawsuit alleging wage and hour violations against Defendant captioned *KANDICE NEWLEN, an individual, on behalf of herself and others similarly situated, PLAINTIFF, v. RLH FIRE PROTECTION, INC.; and DOES 1 thru 50, inclusive, DEFENDANTS*, Case No. BCV-21-102503 initiated on October 25, 2021 and pending in Superior Court of the State of California, County of Kern.
- 1.2. "Administrator" means Apex Class Action, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with approval of this Settlement.
- 1.4. "Aggrieved Employee" means all non-exempt employees who are employed or have been employed by RLH FIRE PROTECTION, INC., in the State of California who worked one or more pay periods during the Covered Period
- 1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in Defendant's possession including the Aggrieved Employee's name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. "Aggrieved Employee Address Search" means the Administrator's investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. "Court" means the Superior Court of California, County of Kern.
- 1.8. "Defense Counsel" means SAGASER, WATKINS & WIELAND PC.
- 1.9. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment.

- 1.10. “Enhancement/General Release Payment” means the payment to the Plaintiff for initiating the Action and providing services in support of the Action.
- 1.11. “Gross Settlement Amount” means One Hundred and Forty Thousand Dollars and No Cents (\$140,000.00) which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, Enhancement/General Release Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses Payment.
- 1.12. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the Release Period.
- 1.13. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.14. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.15. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.16. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Enhancement/General Release Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.17. “PAGA Counsel” means KINGSLEY & KINGSLEY, APC, the attorneys representing the Plaintiff in the Action.
- 1.18. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.19. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the Release Period.
- 1.20. “Covered Period” or “Release Period” means the period from October 25, 2020 to February 5, 2024, or the date of final approval, whichever comes first .
- 1.21. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

- 1.22. "PAGA Notice" means Plaintiff's October 25, 2021 and January 17, 2024 letters to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.23. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$18,709.50) and the 75% to LWDA (\$56,128.50) in settlement of PAGA claims.
- 1.24. "Plaintiff" means KANDICE NEWLEN, the named plaintiff in the Action.
- 1.25. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.26. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.27. "Released Parties" means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.28. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.29. Defendant" means named Defendant RLH FIRE PROTECTION, INC.

2. RECITALS.

- 2.1. On October 25, 2021, Plaintiff commenced this Action by filing a Class Action Complaint alleging causes of action for 1) failure to provide rest breaks pursuant Labor Code § 226.7; 2) failure to provide accurate itemized wage statements pursuant to Labor Code § 226(a); 3) penalties pursuant to Labor Code § 203; and, 4) violation of Business & Professions Code § 17200, *et seq.* [On January 3, 2022, Plaintiff filed a First Amended Complaint alleging an additional cause of action against Defendant for penalties under Labor Code § 2699, *et seq.*, the Private Attorneys General Act ("PAGA") for the aforementioned allegations set forth in the Complaint. . As part of the Settlement reached, Plaintiff shall file an amended PAGA notice with the LWDA and a Second Amended Complaint alleging the following causes of action and labor code sections asserted and are resolved by this Settlement: (1) failing to pay minimum or regular wages for all hours worked pursuant to Lab. Code sections 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198; (2) failing to pay overtime wages pursuant to Lab. Code sections 510, 1194, and 1198; (3) failing to provide compliant meal periods or premium pay in lieu thereof pursuant to Lab. Code sections 226.7, 512, and 1198; (4) failing to provide compliant rest periods or premium pay in lieu thereof pursuant to Lab. Code sections 226.7 and 1198; (5) failing to provide and maintain accurate payroll records pursuant to Lab. Code sections 226(a)/(f)/(h), 226.3, 1174(d); and (6) failing to timely pay wages due pursuant to Lab. Code sections 201-204, and 210. The Second Amended

Complaint is the operative complaint in the Action (the "Operative Complaint.") Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notices.
- 2.3. On December 6, 2023, the Parties participated in an all-day mediation presided over by experienced mediator Howard R. Broadman (Ret.) which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiff obtained, through formal and informal discovery, Plaintiff's personnel records and information pertinent to the aggrieved employees.
- 2.5. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay One Hundred Forty Thousand Dollars and No Cents (\$140,000.00) and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33-1/3% which is currently estimated to be \$46,662.00. and PAGA Counsel Litigation Expenses Payment of not more than \$8,500.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA

Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2. To the Plaintiff: An Enhancement/General Release Payment to the Plaintiff of not more than \$5,000.00 (in addition to any Individual PAGA Payment the Plaintiff is entitled to receive as an Aggrieved Employee). Defendant will not oppose Plaintiff's request for an Enhancement/General Release Payment that does not exceed this amount. To the extent the Enhancement/General Release Payment is less or the Court approves payment less than \$5,000.00, the Enhancement/General Release Payment will retain the remainder in the Net Settlement Amount. The Administrator will pay the Enhancement/General Release Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Enhancement/General Release Payment.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$5,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$5,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To the LWDA and Aggrieved Employees: The remainder of the Gross Settlement Amount shall be allocated as PAGA Penalties. PAGA Penalties in the amount of \$74,838.00, to be paid from the Gross Settlement Amount, with 75% (\$56,128.50) allocated to the LWDA PAGA Payment and 25% (\$18,709.50) allocated to the Individual PAGA Payments.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$18,079.50) by the total number of Release Period Pay Periods worked by all Aggrieved Employees during the Release Period and (b) multiplying the result by each Aggrieved Employee's Release Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records at the time the mediation occurred, Defendant estimated there are 425 Aggrieved Employees who worked a total 28,200 of PAGA Pay Periods at the time of mediation.

- 4.2. Aggrieved Employee Data. Within 15 days, Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.
- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 21 days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, Enhancement/General Release Payment, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.
- 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the Ronald McDonald House, Bakersfield Chapter, as Cy Pres.

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

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

5.1 Release by Plaintiff and the Aggrieved Employees:

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

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

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

6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and

appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

7. SETTLEMENT ADMINISTRATION.

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

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 425 Aggrieved Employees who worked 28,200 Pay Periods during the Release Period.

- 8.1 This representation is a material term of this PAGA Settlement Agreement. To the extent that the number of estimated pay periods at the time the mediation took place, as represented by Defendant, increases by more than 10% (i.e., pay periods in excess 28,200 at the time of mediation), Defendant will have the option to increase the Gross Settlement amount proportionately. For example, if the number of pay periods increases by 12% then Defendant shall increase the GSA by 2%. If Defendant

declines to do so, Plaintiff will have the option to terminate the settlement in its entirety and the Parties will be returned to their respective positions as if no settlement had been contemplated. Plaintiff shall communicate his decision to rescind the Settlement Agreement in writing to the Administrator and Defendant's counsel within seven (7) calendar days after the date on which the Administrator communicates to the Parties that the Plaintiff's Right to Rescind Clause has been triggered. Defendant shall have the option to preempt Plaintiff's right to rescind by increasing the Gross Settlement Amount on a proportional basis. Alternatively, Defendant shall have the right to cut off the end date of the Covered Period so that the number of pay periods does not exceed 31,020 (10% more than 28,200) and does not trigger this escalator provision.

9. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

10. ADDITIONAL PROVISIONS.

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

- 10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

- 10.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 10.12 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.13 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.14 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Kingsley & Kingsley, APC
Eric B. Kingsley
Liane Katzenstein Ly
16133 Ventura Blvd., Suite 1200
Encino, CA 91436

To Defendant:

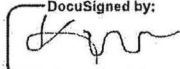
Ian B. Wieland
Charles P. Hamamjian
SAGASER, WATKINS & WIELAND PC
5260 North Palm Avenue, Suite 400
Fresno, California 93704

- 10.15 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 10.16 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The

Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Plaintiff

Dated: April 22, 2024

DocuSigned by:

KANDICE NEWLEN

Defendant

Dated: 5/15/24


RLH FIRE PROTECTION, INC.

Dated: April 23, 2024

KINGSLEY & KINGSLEY, APC

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

Dated: 5/17/24

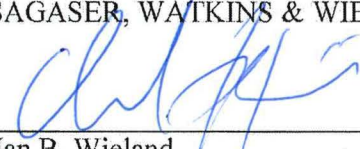
SAGASER, WATKINS & WIELAND PC
By: 
Ian B. Wieland
Charles P. Hamamjian
Attorneys for Defendant RLH FIRE PROTECTION, INC.

EXHIBIT "2"

	A	C	D	E	F	G	H	I	J	K	L
1											
2											
3											
4											
5											
6	Firm Name	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med	Firmwide Billing Rate Med
7	Adams and Reese	\$500	\$225	\$255	\$165	\$198	\$305	\$278	\$197	\$300	\$275
8	Andrews Kurth	\$795	\$400	\$460	\$210						
9	Arent Fox	\$675	\$395	\$440	\$240						
10	Armstrong Teasdale	\$450	\$295	\$295	\$165						
11	Baker, Donelson, Bearman, Caldwell & Berkowitz	\$525	\$230	\$315	\$160	\$205	\$325	\$280	\$200	\$320	\$270
12	Barnes & Thornburg	\$485	\$265	\$295	\$180	\$225	\$350	\$302	\$220	\$355	\$310
13	Bass, Berry & Sims PLC	\$575	\$300	\$285	\$180						
14	Best Best & Krieger	\$495	\$290	\$350	\$160	\$203	\$275	\$212	\$235	\$390	\$265
15	Bond, Schoeneck & King	\$435	\$200	\$250	\$140	\$179	\$294	\$253	\$175	\$295	\$300
16	Bradley Arant Rose & White	\$520	\$240	\$280	\$180	\$211	\$335	\$258	\$205	\$330	\$260
17	Briggs and Morgan	\$500	\$250	\$325	\$195	\$233	\$391	\$344	\$230	\$395	\$350
18	Brinks Hofer Gilson & Lione	\$650	\$300	\$410	\$180	\$273	\$479	\$365	\$250	\$485	\$350
19	Broad and Cassel	\$450	\$250	\$310	\$165	\$232	\$361	\$294	\$225	\$360	\$275
20	Brownstein Hyatt Farber Schreck	\$675	\$260	\$270	\$170	\$219	\$373	\$308	\$218	\$390	\$325
21	Bryan Cave	\$695	\$320	\$495	\$165	\$295	\$493	\$394	\$295	\$490	\$375
22	Buchanan Ingersoll & Rooney	\$750	\$320	\$460	\$150						
23	Bullivant Houser Bailey	\$500	\$225	\$350	\$150	\$240	\$285	\$260	\$220	\$275	\$250
24	Burr & Forman	\$470	\$250	\$305	\$175	\$235	\$340				
25	Butzel Long	\$575	\$210	\$350	\$155						
26	Carlton Fields	\$600	\$280	\$375	\$190	\$243	\$406	\$312	\$245	\$405	\$300
27	Cooley Godward Kronish	\$875	\$470	\$555	\$250						
28	Covington & Burling	\$800	\$510	\$525	\$240						
29	Cozen O'Connor	\$750	\$230	\$530	\$155	\$283	\$420	\$350	\$280	\$425	\$340
30	Curtis, Mallet-Prevost, Colt & Mosle	\$735	\$635	\$560	\$280	\$361	\$666	\$396	\$360	\$685	\$480
31	Davis Wright Tremaine	\$695	\$300	\$390	\$170	\$257	\$430	\$375	\$250	\$423	\$375
32	Day Pitney	\$650	\$350	\$525	\$210	\$306	\$472	\$374	\$310	\$465	\$375
33	Dickinson Wright	\$530	\$260	\$275	\$170						
34	Dickstein Shapiro Morin & Oshinsky	\$825	\$425	\$440	\$225	\$336	\$552	\$438	\$360	\$550	\$425
35	Dinsmore & Shohl	\$475	\$235	\$285	\$155	\$199	\$342	\$275	\$190	\$340	\$250
36	Dorsey & Whitney	\$750	\$220	\$470	\$145	\$274	\$463	\$375	\$260	\$463	\$365
37	Duane Morris	\$705	\$315	\$465	\$150	\$310	\$475	\$416	\$305	\$470	\$415
38	Dykema Gossett	\$625	\$245	\$390	\$185	\$272	\$403				
39	Edwards Angell Palmer & Dodge	\$700	\$350	\$450	\$170	\$293	\$515	\$407	\$280	\$513	\$400
40	Epstein Becker & Green	\$675	\$280	\$440	\$155	\$290	\$471	\$380	\$280	\$475	\$395
41	Fenwick & West	\$775	\$500	\$500	\$245	\$360	\$590	\$395	\$370	\$600	\$410
42	Foley & Lardner	\$855			\$185	\$387	\$550	\$476	\$375	\$550	\$475
43	Ford & Harrison	\$560	\$325	\$395	\$210						
44	Fowler White Boggs Banker	\$500	\$230	\$325	\$150	\$217	\$345	\$303	\$210	\$340	\$300
45	Fox Rothschild	\$595	\$240	\$440	\$190						

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

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

EXHIBIT "3"

THE WALL STREET JOURNAL.

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

BUSINESS | LAW

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

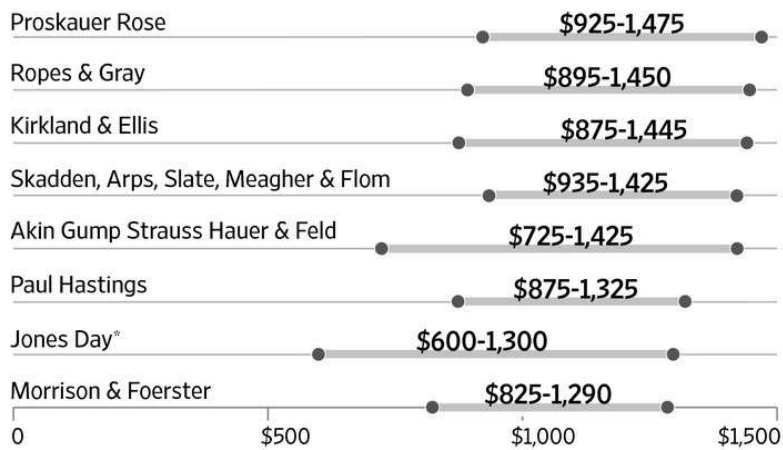
Proskauer Rose LLP’s hourly partner billing rate has climbed as high as \$1,475, while Ropes & Gray LLP’s tops out at \$1,450, court papers show.

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

Representatives of the law firms declined to comment.

Top Billers

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



*Includes partners and of counsel

Source: Bankruptcy court filings

THE WALL STREET JOURNAL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT "4"

LAFFEY MATRIX

[History](#)
[Case Law](#)
[See the Matrix](#)
[Contact us](#)
[Home](#)

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

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

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

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

EXHIBIT "5"



RLH Fire Protection, Inc. adv. Newlen, Kandice

Kandice Newlen Herrera • [REDACTED] • [REDACTED]

Historic Cost

\$6,902.26

Filing Fee

\$75.00

Created: 10/25/2021 at 3:32 PM

Trialworks TaskCode

filing fee

Payee

LWDA

Date Incurred

10/25/2021

Postage Cost

\$14.66

Created: 10/25/2021 at 3:33 PM

Trialworks TaskCode

Postage

Date Incurred

10/25/2021

Created: 10/25/2021 at 3:34 PM

\$0.60

Trialworks TaskCode

Copies

Payee

Papercut

Date Incurred

10/25/2021

Filing Fee

\$1,493.55

Created: 11/18/2021 at 10:31 AM

Trialworks TaskCode

Filing Fee

Description

OLINV#03623981 RLH 10.26.21

Date Incurred

10/26/2021

Docs

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Payee

One Legal

Created: 11/3/2021 at 11:04 AM

\$0.80

Trialworks TaskCode

Copies

Payee

Paper Cut

Date Incurred

11/3/2021

Postage Cost

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Created: 11/3/2021 at 11:04 AM

Trialworks TaskCode
Postage Cost

Date Incurred
11/3/2021

Filing Fee

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Created: 12/2/2021 at 1:33 PM

Trialworks TaskCode
Filing Fee

Date Incurred
11/3/2021

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Docs
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Filing Fee

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Trialworks TaskCode
Filing Fee

Date Incurred
11/5/2021

Payee
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Description
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Filing Fee

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Date Incurred
11/9/2021

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11/16/2021

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Court Cost

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Date Incurred
11/19/2021

Payee
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12/27/2021

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Date Incurred
1/3/2022

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1/4/2022

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Date Incurred
1/6/2022

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Date Incurred

1/27/2022

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Date Incurred

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Date Incurred

1/28/2022

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Filing Fee

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Created: 2/10/2022 at 1:59 PM

Trialworks TaskCode

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Date Incurred

1/28/2022

Payee

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Filing Fee

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Postage Cost Created: 8/9/2022 at 11:02 AM Trialworks TaskCode Postage Cost Date Incurred 8/9/2022 Payee DocuSign	\$5.80
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Filing Fee

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Created: 11/7/2022 at 2:16 PM

Trialworks TaskCode

filing fee

Date Incurred

10/25/2022

Description

OLINV#04478523 RLH 10.25.22

Docs

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RLH Fire Protection, Inc. adv. Newlen, Kandice

Kandice Newlen Herrera • [REDACTED] • [REDACTED]

Historic Cost

\$6,902.26

Filing Fee

Created: 11/8/2022 at 8:35 AM

Trialworks TaskCode

filing fee

Date Incurred

10/26/2022

Payee

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Description

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Filing Fee

Created: 11/8/2022 at 12:46 PM

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Date Incurred

10/28/2022

Payee

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\$42.47

Research Cost

Created: 11/9/2022 at 12:16 PM

Trialworks TaskCode

costs

Date Incurred

11/9/2022

Payee

Thomson Reuters

Description

billing period of 8/1/22-8/31/22

\$2.04

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Created: 11/10/2022 at 12:25 PM

Trialworks TaskCode

filing fee

Date Incurred

11/9/2022

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Date Incurred
11/22/2022

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Filing Fee

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12/6/2022

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Filing Fee

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Created: 2/10/2023 at 11:59 AM

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Date Incurred
1/13/2023

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Description
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Arbitration Cost

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Created: 6/13/2023 at 11:37 AM

Trialworks TaskCode
costs

Date Incurred
6/13/2023

Payee
Howard Broadman, Private Judge

Description
Broadman Invoice #1085939 Re RLH Fire paid 6.13.23

Docs
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Filing Fee

\$23.22

Created: 7/6/2023 at 9:08 AM

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Postage Cost Created: 9/5/2023 at 7:38 PM \$5.80	
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Notes Ntc of Arb Ntc of Arb
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Date Incurred

4/22/2024

Payee

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Notes

Settlement Agreement
Settlement Agreement

Filing Fee

Created: 5/23/2024 at 9:46 AM

Trialworks TaskCode

filing fee

Date Incurred

5/9/2024

Payee

One Legal

Description

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Created: 5/23/2024 at 12:29 PM

Trialworks TaskCode

filing fee

Date Incurred

5/15/2024

Payee

One Legal

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Filing Fee

Created: 6/3/2024 at 2:15 PM

Trialworks TaskCode

filing fee

Date Incurred

5/23/2024

Payee

One Legal

Description

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Filing Fee

Created: 6/4/2024 at 11:46 AM

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Filing Fee

Created: 6/4/2024 at 3:11 PM

\$61.77



Trialworks TaskCode filing fee Date Incurred 5/28/2024 Payee One Legal	Description OLINV#06068890 RLH Fire 5.28.24 Docs  OLINV#06068890 RLH Fire 5.28.24.pdf ▼
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Filing Fee

Created: 6/5/2024 at 9:12 AM

\$44.99

Trialworks TaskCode filing fee Date Incurred 5/29/2024 Payee One Legal	Description OLINV#06071656 RLH Fire 5.29.24 Docs  OLINV#06071656 RLH Fire 5.29.24.pdf ▼
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Postage Cost Created: 6/11/2024 at 2:11 PM		\$5.80
Trialworks TaskCode Postage Cost Date Incurred 6/11/2024	Payee DocuSign Notes Client dec ISO appvl mtn for review and signature via DocuSign Client dec ISO appvl mtn for review and signature via DocuSign	

EXHIBIT "6"

(Proof of Submission to LWDA)

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

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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

On June 25, 2024, I served all interested parties in this action the following documents described as: **DECLARATION OF LIANE KATZENSTEIN LY IN SUPPORT OF MOTION FOR APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Ian B. Wieland

ian@sw2law.com

Charles P. Hamamjian

charles@sw2law.com

David G. Litman

david@sw2law.com

Tristan Matthews

tristan@sw2law.com

SAGASER, WATKINS & WIELAND PC

5260 N. Palm Ave. Ste. 400

Fresno, CA 93704

ABRAMSON LABOR GROUP

William Zev Abramson

Wza@abramsonlabor.com

11846 Ventura Blvd., Suite 100

Studio City, CA 91604

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

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

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

Executed on June 25, 2024, at Encino, California.


Michelle Tanzer