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Attorneys for MANUEL BALUX OCH and PEDRO GARCIA ALFEREZ, on behalf of themselves, all others similarly situated, and on behalf of the general public

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA**

MANUEL BALUX OCH and PEDRO  
GARCIA ALFEREZ on behalf of  
themselves, all others similarly situated, and  
on behalf of the general public,

Plaintiffs,

v.

SAC PROFLOORS; and DOES 1-100,

Defendants.

Case No. 23CV031860  
(Consolidated with Case No. 23CV039543)

*[Assigned for All Purposes to the  
Hon. Michael Markman; Dept. 23]*

**DECLARATION OF DAVID MARA, ESQ.,  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF CLASS AND  
PAGA ACTION SETTLEMENT**

Date: September 12, 2024  
Time: 10:30 a.m.  
Reservation ID: A-31860-001

Action File: April 25, 2023  
Trial Date: None Set

1 I, DAVID MARA, declare the following:

- 2 1. I am President of Mara Law Firm, PC, and counsel of record for Plaintiffs and the putative  
3 class in this matter. I am duly admitted to practice before all the courts of the state of  
4 California. The following facts are within my personal knowledge and, if called to testify,  
5 I could and would competently testify thereto.
- 6 2. I graduated from California Western School of Law.
- 7 3. I was admitted to practice law in California in May 2004.
- 8 4. I extensively handle employment cases which involve violations of the California Labor  
9 Code and Industrial Welfare Commission Wage Orders, such as wage and hour class  
10 actions and cases alleging violations of the Private Attorneys General Act of 2004  
11 (“PAGA”).
- 12 5. I was co-class counsel in *Hohnbaum v. Brinker Restaurant Corp.* (San Diego County Superior  
13 Court, Case No. GIC834348) which was the underlying case in the California Supreme  
14 Court’s landmark decision in *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th  
15 1004, in which the California Supreme Court delineated the scope of employer obligations to  
16 provide, and employee rights to receive, meal and rest periods under California law.
- 17 6. I am frequently called upon to author Amicus Curiae briefs on behalf of Consumer Attorneys  
18 of California (“CAOC”). For example, I authored the Amicus Curiae briefs on behalf of  
19 CAOC in *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, (The California  
20 Supreme Court ruling that, like meal periods, employers must relieve employees of all duty  
21 and relinquish all control to satisfactorily discharge its obligation to authorize and permit rest  
22 periods.); *Frlekin v. Apple, Inc.* (2020) 8 Cal.5th 1038 (The California Supreme Court ruling  
23 that the time spent on the employer’s premises waiting for, and undergoing, required exit  
24 searches of packages, bags, or personal technology devices voluntarily brought to work is  
25 compensable hours worked within the meaning of the Wage Orders.); *Oliver v. Superior*  
26 *Court* (2021) California Court of Appeal Case No. H049185 (A brief asking the California  
27 Court of Appeal for the Sixth Appellate District to determine whether mandatory drive time  
28 of personal vehicles should be considered hours worked within the meaning of the Wage

1 Orders' suffered or permitted test.). *Davidson v. O'Reilly Auto Enterprises, LLC* (9th Cir.,  
2 2020; Docket No. 18-56188) (a brief seeking Review *En Banc* of an order denying class  
3 certification in a wage and hour matter).

4 7. I am also a member of CAOC's Amicus Committee that determines the cases in which the  
5 organization will agree to provide amicus support.

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

8 9. My firm has been granted class certification in both state and federal courts.

9 10. I have been named as class counsel in a number of wage and hour class actions in which  
10 the Court granted the plaintiff's motion for class certification. For example, I have been  
11 named class counsel in the following cases: *Mario Norona v. B&G Delivery System, Inc.*  
12 (Sacramento County Superior Court, Case No. 34-2015-00186826-CU-OE-GDS); *Jerald*  
13 *Schroeder v. YRC, Inc.; et al.* (Central District of California, Case No. 12-cv-01374-TJH);  
14 *John Martin v. Sysco Corporation, et al.* (Eastern District of California, Case No. 1:16-cv-  
15 00990-DAD-SAB); *William Smith v. Werner Enterprises, Inc. d/b/a C.L. Werner, Inc.*  
16 (District of Nebraska, Case No. 8:15-cv-287); *Thomas Perez v. City of San Diego* (San  
17 Diego County Superior Court, Case No. 37-2014-00016621-CU-OE-CTL); *Robert Bejar,*  
18 *et al. v. United Road Services, Inc. et al* (Northern District of California, Case No. 19-cv-  
19 08404-JST), *Eric Mendez v. M&N Consulting, Inc. dba A-Line Messenger Service* (San  
20 Bernardino County Superior Court, Case No. CIVDS1923624); *Denson Sales v.*  
21 *Professional Auto Transport, Inc. et al.* (San Bernardino County Superior Court, Case No.  
22 CIVDS2010153); *Sonny Williams, et al. v. Hansen and Adkins Auto Transport, Inc.; et al.*  
23 (San Bernardino County Superior Court, Case No. CIVDS2020832); *Bobby Williams, et*  
24 *al. v. Mohsen Transport, Inc.* (San Diego County Superior Court, Case No. 37-2019-  
25 00063361-CU-OE-CTL); and *Ashton Harden vs. Mushiana Transport Inc.* (Sacramento  
26 County Superior Court, Case No. 34-2021-00301950-CU-OE-GDS).

27 11. I have also been named as class counsel in numerous cases during the settlement process.

28 Here is a non-exhaustive list of cases where I have been named as class counsel in cases

1 during the settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo County Superior  
2 Court, Case No. CV-18-100); *Brian Davidson v. A&B Trucking Services, Inc.* (Kern  
3 County Superior Court Case No. BCV-16-102985); *Alex Vega, et al. v. Advance Beverage*  
4 *Co., Inc.* (Kern County Superior Court, Case No. BCV-16-100848); *Jaime Ruiz v. Altura*  
5 *Centers for Health* (Kern County Superior Court, Case No. BCV-19-101577); *George*  
6 *Zamudio v. AmeriPride Service, Inc.* (Alameda County Superior Court, Case No.  
7 RG1809666); *Richard Hendricks v. Antonini Freight Express, Inc.* (San Joaquin County  
8 Superior Court, Case No. STK-CV-UOE-2016-6999); *Alton Davis v. Apria Healthcare*  
9 *Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-00004724-CU-OE-  
10 CTL); *Alan Atchison v. Ashley Furniture Industries, Inc., et al.* (Central District of  
11 California, Case No. 17-cv-00528-JAK-SP); *Bernard Payton v. Atech Logistics, Inc.*  
12 (Sonoma County Superior Court, Case No. SCV 258595); *Ramon Jenkins v. Compass*  
13 *Group USA, Inc., et al.* (Yolo County Superior Court, Case No. CVCV-18-747); *Timothy*  
14 *Spikes, et al. v. Bear Trucking, Inc., et al.* (San Bernardino County Superior Court, Case  
15 No. CIVDS1715151); *Joshua Turpen v. Benjamin's Transfer Inc.* (Solano County Superior  
16 Court, Case No. FCS048845); *Cesar Mendoza v. Bi-Rite Food Service, Inc.* (San Mateo  
17 County Superior Court, Case No. 17CIV02044); *Terrance Bailey v. Blue Apron, LLC; et*  
18 *al.* (Northern District of California, Case No. 18-cv-07000-VC); *Jeffrey Weast v.*  
19 *California Aseptic Beverages, LLC* (San Bernardino County Superior Court, Case No.  
20 CIVDS1825256); *Michael Valentich v. Hub Construction Specialties, Inc.* (San Bernardino  
21 County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega Velazquez v.*  
22 *Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case No.  
23 CIVDS1928062); *Adrian Diaz v. Keystone Automotive Operations, Inc.* (Riverside County  
24 Superior Court, Case No. RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba NCI*  
25 *Building Systems* (Eastern District of California, Case No. 18-cv-00948-AWI-SKO); *Larry*  
26 *Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case No. 30-  
27 2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San Bernardino  
28 County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw Industries,*

1 *Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVSB2024674); *Joshua*  
2 *Rael v. Intercontinental Hotels Group Resources, Inc.* (Los Angeles County Superior  
3 Court, Case No. 19STCV16010); and *Aaron Romero v. Vitro Flat Glass, LLC* (Kern  
4 County Superior Court, Case No. BCV-21-101357).

5 12. A class action complaint was filed by Plaintiff Och on April 25, 2023, in Alameda County  
6 Superior Court (Case No. 23CV031860). The complaint alleges the following causes of  
7 action against Defendant: (1) Failure to Pay All Straight Time Wages; (2) Failure to Pay  
8 Overtime; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest  
9 Periods; (5) Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy; (6) Knowing  
10 and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions;  
11 (7) Failure to Pay all Wages Due at the Time of Termination; and (8) Violation of Unfair  
12 Competition Law.

13 13. Plaintiff Manuel Balux Och submitted a Notice of Labor Code Violations to the Labor and  
14 Workforce Development Agency (“LWDA”) on April 13, 2023. Thereafter, a PAGA  
15 representative action complaint against Defendant was filed by Plaintiff Och in the  
16 Alameda County Superior Court on July 27, 2023 (Case No. 23CV039543). The complaint  
17 sought civil penalties under the PAGA. Plaintiff Och’s PAGA complaint alleged the same  
18 underlying violations as his class complaint. On August 12, 2023, the Court granted the  
19 Parties’ stipulation to consolidate both the class and PAGA matters filed by Plaintiff Och,  
20 with Case No. 23CV031860 serving as the lead case.

21 14. Plaintiff Pedro Garcia Alferez filed a class action complaint on May 12, 2023, in Yolo  
22 County Superior Court. The complaint alleged substantially the same class action  
23 allegations as Plaintiff Och’s class action complaint. On March 14, 2024, the Parties filed  
24 a stipulation to allow Plaintiff Och to file a First Amended Complaint adding Plaintiff  
25 Pedro Garcia Alferez as a plaintiff and class representative as well as his counsel. On March  
26 18, 2024, the Court granted the Parties’ stipulation and Plaintiff Och filed his First  
27 Amended Complaint on March 20, 2024.

28 15. After filing, the Parties engaged in informal discovery. These discovery efforts led to

1 Defendant producing policy documents that covered employees' employment with  
2 Defendant, such as employee handbooks, and time and wage records. Included within these  
3 documents were Defendant's wage and hour policies, including its meal and rest period  
4 policies. Defendant also produced time and wage records to a mutually agreed upon  
5 mediation expert for the expert to pull a random 20% sampling of Class Members. The  
6 records for these Class Members were then analyzed by the expert. Defendant further  
7 produced a Class List that contained the hire and termination dates of all Class Members  
8 which allowed Plaintiffs to determine the number of workweeks worked by Class Members  
9 during the relevant time period. From this discovery, Plaintiffs and their Counsel were able  
10 to analyze Defendant's liability in this action and prepare a realistic damage model.

11 16. The Parties attended an all-day mediation presided over by wage and hour mediator  
12 Brandon McKelvey on December 15, 2023. This mediation was successful. The Parties  
13 then met and conferred over all the terms of the settlement and finalized their settlement in  
14 the Parties' Agreement. The Parties' Agreement is attached hereto as **Exhibit 1**. The Parties  
15 also entered into an Addendum to Joint Stipulation and Settlement Agreement.  
16 ("Addendum"). The Parties' Addendum is attached hereto as **Exhibit 2**.

17 17. Class Counsel applies for an award of attorneys' fees in the sum of \$314,135 (33 1/3% of  
18 the GSA), and litigation costs of \$19,053.55.

19 18. Class Counsel has worked 298.7 hours to date on this case and have calculated the lodestar  
20 fee on those hours at \$207,330.10 at rates reflecting those currently earned in the  
21 marketplace.

22 19. All of the work and tasks performed by Class Counsel were reasonable and necessary to  
23 the prosecution of this case and are reflected in the result achieved.

24 20. This was a highly contested matter which required a significant amount of time and labor.  
25 Class Counsel had to investigate and analyze documents and data. In addition, as part of  
26 the above investigation and analysis, Class Counsel had to marshal the evidence in a  
27 manner in which it could be adjudicated on a class-wide basis. So often, lawyers unskilled  
28 in the class action aspect of wage and hour cases do not pay attention to or put the work

1 into how the evidence must be presented for class-wide adjudication. Strong class-wide  
2 cases perish in the hands of inexperienced counsel because the case has not been worked  
3 up to succeed at certification. Class Counsel here has considerable experience in class  
4 litigation and, from the beginning of the case, is marshalling the evidence with a sharp  
5 focus on class-wide proof needed for the matter to get certified. This case was no different.  
6 This filtering of voluminous evidence into class-wide proof while keeping an eye on the  
7 merits of the litigation required a considerable amount of attorney time and skill.

8 21. Most importantly, all services were performed by Class Counsel on a contingent basis.

9 22. Class Counsel's hourly rates are between \$437 and \$800 and are in line with rates typically  
10 approved in wage and hour class action litigation and which rates have been approved by  
11 Courts in California in the Los Angeles, Sacramento, San Francisco, Alameda, Orange and  
12 San Diego County Superior Courts.

13 23. I devoted 144.5 hours to this case. The following is a summary of my tasks and activities  
14 performed in the litigation of this matter: initial case intake with Plaintiff; research into  
15 new case; pre-filing investigation and legal research; reviewing and revising initial  
16 complaint in class action and related documents; reviewing and revising PAGA notice;  
17 reviewing and revising PAGA complaint and related documents; researching and  
18 investigating legal issues throughout case; interoffice discussions throughout case;  
19 discussions with co-counsel throughout case; discussions with Defendant's counsel  
20 throughout case; draft Joint Prosecution Agreement; investigating Defendant's pay-  
21 structures and policies for its employees; analyzing records produced by Defendant relating  
22 to its policies, pay-structures, and time keeping; creating document summary; reviewing  
23 and revising mediation brief and mediation damage and exposure model; preparing for and  
24 attending mediation; drafting MOU; reviewing and revising the settlement agreement and  
25 the Notice to the Class; reviewing and revising preliminary approval motion and supporting  
26 papers; drafting declaration in support of preliminary approval; reviewing weekly status  
27 reports from the Settlement Administrator regarding Class participation; drafting  
28 declaration in support of final approval; and reviewing and revising final approval motion

1 and supporting documents.

2 24. My hourly rate is \$800. Based on my hourly rate and the hours expended, 144.5, my fee is  
3 \$115,600, which is reasonable and necessary to the successful litigation of this matter.

4 25. Jill Vecchi is a partner at Mara Law Firm, PC. She solely handles wage and hour class  
5 actions and PAGA actions. Ms. Vecchi graduated from Santa Clara University School of  
6 Law and was admitted to practice law in California in December 2014 and received her  
7 undergraduate degree from University of California, Riverside in 2010. Ms. Vecchi has  
8 been litigating wage and hour class actions for nine (9) years and has handled over one  
9 hundred (100) class action and PAGA lawsuits.

10 26. Ms. Vecchi has been named as class counsel in the following certified cases as a result of  
11 the court granting a motion for class certification: *Mario Norona v. B&G Delivery System,*  
12 *Inc.* (Sacramento County Superior Court, Case No. 34-2015-00186826-CU-OE-GDS);  
13 *Jerald Schroeder v. YRC, Inc.; YRC Worldwide, Inc.* (Central District of California, Case  
14 No. 12-cv-01374-TJH); *John Martin v. Sysco Corporation; Sysco Central California, Inc.*  
15 (Eastern District of California, Case No. 1:16-cv-00990-DAD-SAB); *Denson Sales, et al.*  
16 *v. United Road Services, Inc. et al* (Northern District of California, Case No. 19-cv-08404-  
17 JST); *Bobby Williams v. Mohsen Transport, Inc.* (San Diego County Superior Court, Case  
18 No. 37-2019-00063361-CU-OE-CTL); and *Ashton Harden vs. Mushiana Transport Inc.*  
19 (Sacramento County Superior Court, Case No. 34-2021-00301950-CU-OE-GDS)..

20 27. Ms. Vecchi has also been named as class counsel in numerous cases during the settlement  
21 process. Here is a non-exhaustive list of cases where Ms. Vecchi has been named as class  
22 counsel in cases during the settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo  
23 County Superior Court, Case No. CV-18-100); *Brian Davidson v. A&B Trucking Services,*  
24 *Inc.* (Kern County Superior Court Case No. BCV-16-102985); *Alex Vega, et al. v. Advance*  
25 *Beverage Co., Inc.* (Kern County Superior Court, Case No. BCV-16-100848); *Alton Davis*  
26 *v. Apria Healthcare Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-  
27 00004724-CU-OE-CTL); *Timothy Spikes, et al. v. Bear Trucking, Inc., et al.* (San  
28 Bernardino County Superior Court, Case No. CIVDS1715151); *Terrance Bailey v. Blue*

1 *Apron, LLC; et al.* (Northern District of California, Case No. 18-cv-07000-VC); *Jeffrey*  
2 *Weast v. California Aseptic Beverages, LLC* (San Bernardino County Superior Court, Case  
3 No. CIVDS1825256); *Michael Valentich v. Hub Construction Specialties, Inc.* (San  
4 Bernardino County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega*  
5 *Velazquez v. Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case  
6 No. CIVDS1928062); *Adrian Diaz v. Keystone Automotive Operations, Inc.* (Riverside  
7 County Superior Court, Case No. RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba*  
8 *NCI Building Systems* (Eastern District of California, Case No. 18-cv-00948-AWI-SKO);  
9 *Larry Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case No.  
10 30-2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San  
11 Bernardino County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw*  
12 *Industries, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVSB2024674);  
13 *Joshua Rael v. Intercontinental Hotels Group Resources, Inc.* (Los Angeles County  
14 Superior Court, Case No. 19STCV16010); and *Aaron Romero v. Vitro Flat Glass, LLC*  
15 (Kern County Superior Court, Case No. BCV-21-101357).

16 28. Ms. Vecchi devoted 117.2 hours to this case. The following is a summary of her tasks and  
17 activities performed in the litigation of this matter: draft PAGA notice; draft class and  
18 PAGA complaints; interoffice discussions throughout case; discussions with co-counsel  
19 throughout case; draft discovery to propound on Defendant; draft stipulations; analyzing  
20 documents and information produced by Defendant, including records produced by  
21 Defendant relating to its policies, pay-structures, and time keeping; discussions with  
22 Defendant's counsel; drafting and revising mediation brief and damage model; draft and  
23 revise settlement agreement; draft and revise preliminary approval motion; draft and revise  
24 addendum to the settlement agreement; draft supplemental briefing in support of  
25 preliminary approval; working with Settlement Administrator during notice process;  
26 reviewing weekly status reports from the Settlement Administrator regarding Class  
27 participation; reviewing and revising Settlement Administrator's declaration; and drafting  
28 and revising motion for final approval of the settlement.

1 29. Ms. Vecchi's hourly rate is \$600. Based on her hourly rate and the hours expended, 117.2,  
2 her fee is \$70,320 which is reasonable and necessary to the successful litigation of this  
3 matter.

4 30. Mara Law Firm, PC, seeks reimbursement of the litigation costs and expenses of  
5 \$17,276.80.

6 31. A true and correct copy of the Westlaw Court's Express's Legal Billing Report, Volume  
7 14, Number 3, California Region for December 2012 is attached as **Exhibit 3**.

8 32. A true and correct copy of the Declaration of Richard M. Pearl in *Hohnbaum v. Brinker*  
9 *Restaurant Corp.* SDSC GIC834348 is attached as **Exhibit 4**.

10 33. A true and correct copy of the 2012 National Law Journal Survey of Hourly Billing Rates  
11 for Partners and Associates is attached as **Exhibit 5**.

12 34. A Summary of Time and Costs is attached hereto as **Exhibit 6**.

13 35. The preliminary approval motion and supporting documents, including the Agreement,  
14 were uploaded to the Labor Workforce Development Agency ("LWDA") on March 25,  
15 2024. The Parties' Addendum was uploaded to the LWDA on May 3, 2024. Plaintiffs did  
16 not receive a response or objection to the settlement from the LWDA.

17 36. The Court's Revised Order Granting Plaintiffs' Motion for Preliminary Approval of Class  
18 and PAGA Action Settlement, Conditional Certification, Approval of Class Notice, and  
19 Setting of Final Approval Hearing Date was uploaded to the LWDA on May 17, 2024.

20 37. The final approval motion and supporting documents were uploaded to the LWDA.  
21 Attached hereto as **Exhibit 7** is a confirmation received as a result of this upload.

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

24  
25 Dated: August 19, 2024

**MARA LAW FIRM, PC**

26  
27   
28 David Mara, Esq.  
Attorneys for Plaintiffs

# Exhibit 1

## JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this settlement agreement is made between Plaintiffs Manuel Balux Och and Pedro Garcia Alferez (hereinafter “Plaintiffs”) on behalf of themselves and the Class and Defendant Sac ProFloors (hereinafter “Defendant”) (collectively Plaintiffs and Defendant are referred to in this Agreement as the “Parties”). This agreement is intended to settle the cases entitled *Manuel Balux Och v. Sac ProFloors* (Alameda County Superior Court, Case No. 23CV031860), *Manuel Balux Och v. Sac ProFloors* (Alameda County Superior Court, Case No. 23CV039543), and *Pedro Garcia Alferez v. Sac ProFloors* (Yolo County Superior Court, Case No. CV2023-0968) (collectively, “the Complaints” or “Lawsuits”).

### I. DEFINITIONS

In addition to the other terms defined in this agreement, the terms below have the following meaning:

1. **Administration Costs:** The costs incurred by the Settlement Administrator, APEX Class Action Administration, to administer this Settlement, which shall not exceed \$10,000. All Administration Costs shall be paid from the Gross Settlement Amount. If the actual administration costs are less than the amount allocated in this agreement, or if the Court awards less than the amount requested, the difference in the amount allocated in this agreement and the amount awarded by the Court will become part of the Net Settlement Amount for distribution to Participating Class Members.
2. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement:** The settlement agreement reflected in this document, titled “Joint Stipulation and Settlement Agreement.”
3. **Aggrieved Employees:** All non-exempt, hourly employees of Defendant in the State of California from April 13, 2022 through December 15, 2023.
4. **Attorneys Fee Award:** The amount of attorneys’ fees approved of by the Court and awarded to Class Counsel. This amount shall not exceed 33 1/3% of the Gross Settlement Amount. The Attorneys Fee Award shall be paid from the Gross Settlement Amount. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
5. **Class:** All non-exempt, hourly employees of Defendant in the State of California from April 25, 2019 through December 15, 2023.
6. **Class Counsel:** David Mara and Jill Vecchi of Mara Law Firm, PC, Peter Horton of Lawyers for Employee and Consumer Rights, and Jonathan Melmed and Laura Supanich of Melmed Law Group P.C.

7. **Class Data:** The electronic database Defendant shall deliver to the Settlement Administrator which will list the following information for each Class Member: (1) first and last name; (2) last known mailing address; (3) social security number; (4) telephone number; and (5) the total number of weeks during which the Class Member performed work during the Class Period. The Class Data shall be based on Defendant's payroll, personnel, and other business records.
8. **Class Member:** Each person eligible to participate in this Settlement who is a member of the Class as defined above.
9. **Class Notice:** The Notice of Class Action Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval.
10. **Class Period:** April 25, 2019 through December 15, 2023.
11. **Class Representatives or Plaintiffs:** Manuel Balux Och and Pedro Garcia Alferez.
12. **Class Representative Enhancement Payments:** The amounts the Court awards to Plaintiffs, which will not exceed \$7,500 each. These payments shall be paid from the Gross Settlement Amount. These payments are being offered in consideration for Plaintiffs executing a general release of claims against Defendant, a release that is broader than any Participating Class Member will provide in consideration for a settlement share. This payment is also offered in consideration for the Plaintiffs' actions in conferring a benefit upon the State of California and the Class, and the time and effort Plaintiffs put into pursuing the litigation. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
13. **Cost Award:** The amount that the Court orders Defendant to pay Class Counsel for payment of actual litigation costs, which shall not exceed \$20,000. The Cost Award will be paid from the Gross Settlement Amount. The Cost Award is subject to Court approval. If the actual costs incurred are less than the amount allocated in this Agreement, or if the Court awards less than the amount requested, the difference in the amount allocated in this Agreement and the amount awarded by the Court will become part of the Net Settlement Amount for distribution to Participating Class Members.
14. **Counsel for Defendant:** Kerry L. Krueger of Kroloff, Belcher, Smart, Perry & Christopherson APLC.
15. **Court:** Superior Court of California for the County of Alameda.
16. **Defendant:** Sac ProFloors.

17. **Disbursement of the Settlement:** Within ten (10) business days after the Settlement Administrator's receipt of the Gross Settlement Amount, the Settlement Administrator shall disburse: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Net PAGA Settlement Amount to Aggrieved Employees; (3) the Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (4) the Class Representative Enhancement Payments paid to the Class Representatives, as approved by the Court; (5) the Administration Costs, as approved by the Court; and (6) the LWDA Payment to the LWDA.
18. **Effective Final Settlement Date:** The effective date of this Settlement will be when the final approval of the settlement can no longer be appealed, or, if there are no objectors and no plaintiffs in intervention at the time the court grants final approval of the settlement, the date the court enters judgment granting final approval of the settlement.
19. **Employer Taxes:** Defendant's portion of payroll taxes as the Class Members' current or former employer (including the employer's payment of applicable FICA, FUTA, and SUI contributions, etc.) owed to the appropriate local, state, and federal taxing authorities. Defendant will pay its portion of payroll taxes separate and apart from the Gross Settlement Amount.
20. **Final Judgment or Final Approval:** The final order entered by the Court approving this Agreement.
21. **Funding of Settlement:** Defendants shall wire or otherwise provide to the Settlement Administrator the Gross Settlement Amount no later than six (6) months after the Court grants final approval or June 15, 2024, whichever is later.
22. **Gross Settlement Amount or GSA:** The total value of the Settlement is a non-reversionary \$942,500. This is the gross amount Defendant can be required to pay under this Settlement Agreement, with the exception of its obligation to pay Employer Taxes, or if the Escalator Provision is triggered. The Gross Settlement Amount includes without limitation: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorneys Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payments paid to the Class Representatives, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the PAGA Payment to the LWDA and to Aggrieved Employees, as approved by the Court. Defendant's portion of payroll taxes as the Class Members' current or former employer will be paid outside of and in addition to the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant for any reason.

23. **Individual Class Settlement Share(s)**: The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Class Settlement Shares pursuant to this Agreement. Rather, Participating Class Members will receive an Individual Class Settlement Share automatically, without the return of a claim form.
24. **Individual PAGA Settlement Share(s)**: The amount payable to each Aggrieved Employee under the terms of this Settlement Agreement. Aggrieved Employees are not required to submit a claim form to receive their Individual Settlement Shares pursuant to this Agreement. Also, even if an Aggrieved Employee requests exclusion from the Class Settlement as described in this Agreement, the Aggrieved Employee will receive an Individual PAGA Settlement Share. Therefore, Aggrieved Employees will receive an Individual PAGA Settlement Share automatically, without the return of a claim form and regardless of whether they request to be excluded from the Class Settlement.
25. **LWDA**: California Labor and Workforce Development Agency (“LWDA”). The LWDA is empowered to enforce the Labor Code Private Attorneys General Act, California Labor Code section 2698, *et seq.*, and has delegated such authority to Plaintiff with regard to the claim in this Action through the procedural mechanisms provided for by statute.
26. **LWDA Payment**: Refers to the Seventy-five percent (75%) of the PAGA Payment of \$50,000 that is to be paid to the LWDA as described in this Settlement.
27. **Net PAGA Settlement Amount or NPSA**: The total amount of money for payout to Aggrieved Employees, which is the PAGA Payment less the LWDA Payment.
28. **Net Settlement Amount or NSA**: The total amount of money available for payout to Participating Class Members, which is the GSA less the Attorneys Fee Award, Cost Award, Class Representative Enhancement Payments, the PAGA Payment, and Administration Costs. In other words, the NSA is the portion of the GSA that will be distributed to Participating Class Members. The payment of employee-side taxes on the portion of the settlement shares earmarked as wages shall be paid out of the Net Settlement Amount. Thus, the Individual Settlement Shares that are paid out of the Net Settlement Amount shall be reduced by the employee’s tax liability for the share for the portion of the settlement shares allocated as wages.
29. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*).

30. **PAGA Data**: The electronic database Defendant shall deliver to the Settlement Administrator which will list the following information for each Aggrieved Employee: (1) first and last name; (2) last known mailing address; (3) social security number; (4) telephone number; and (5) the total number of weeks the total number of weeks during which the Aggrieved Employee performed work during the PAGA Period as an Aggrieved Employee. The PAGA Data shall be based on Defendant's payroll, personnel, and other business records.
31. **PAGA Payment**: Refers to the \$50,000 the Parties have agreed to settle the PAGA claims. 75% of this amount, or \$37,500, shall be paid to the LWDA. The remaining 25% of the \$50,000, or \$12,500, shall become part of the Net PAGA Settlement Amount payable to Aggrieved Employees.
32. **PAGA Period**: April 13, 2022 through December 15, 2023.
33. **PAGA Settlement**: Refers to the settlement of claims included in the Released PAGA Claims, for which Aggrieved Employees will receive an Individual PAGA Settlement Share payment.
34. **Participating Class Members**: All Class Members who do not submit a valid and timely request to exclude themselves from this Settlement.
35. **Parties**: Plaintiffs Manuel Balux Och and Pedro Garcia Alferez, as individuals and as Class Representatives, and Defendant Sac ProFloors.
36. **Preliminary Approval or Preliminary Approval Order**: The Court's order preliminarily approving the Class Settlement.
37. **Released Class Claims**: The Released Class Claims include, for the entire Class Period, all claims that were pled or that could have been pled in the operative class complaint based upon the facts alleged in the Lawsuits including: (1) Failure to Pay All Straight Time Wages; (2) Failure to Pay All Overtime Wages; (3) Failure to Authorize and Permit Rest Periods and pay for missed rest periods; (4) Failure to Provide Meal Periods and pay for missed meal periods; (5) Failure to Provide Accurate and Complete Wage Statements; (6) Failure to Adopt A Compliant Sick Pay/Paid Time Off Policy; (7) Waiting Time Penalties; (8) Failure to Reimburse Business Expenses; (9) Failure to Timely Pay Wages During Employment; and (10) Violation of Unfair Competition Law based upon violations of the California Labor Code sections set forth herein.
38. **Released PAGA Claims**: The Released PAGA Claims include, for the entire PAGA Period, any and all claims belonging to the State of California, the LWDA, and Plaintiff (as representative of the State of California, the LWDA, and the general public) under the California Private Attorney General Act ("PAGA"), Cal. Lab. Code § 2698, *et seq.* to the extent such claims are

predicated on claims that were or reasonably could have been alleged based on the claims, facts and/or allegations that were contained in Plaintiff's PAGA Letters.

39. **Released Parties:** Defendant Sac ProFloors, its subsidiaries, d/b/as, and affiliated entities, and each of its past or present officers, directors, employees and agents which could be jointly liable with Defendant for the claims alleged.
40. **Response Deadline:** Sixty (60) calendar days from the initial mailing of the Class Notices.
41. **Settlement Administration:** The Settlement Administrator will use the National Change of Address Database to obtain updated addresses for Class Members. The Settlement Administrator will mail the Class Notices by first class U.S. mail to all Class Members at the address resulting from the search of the National Change of Address Database. The Class Notices will inform Class Members that they have until the Response Deadline to either object to the Settlement or to opt-out of the Settlement. Any Class Member who does not receive notice after the steps outlined above have been taken will still be bound by the Settlement and/or judgment.
42. **Settlement Administrator:** The third party administrator agreed upon by Parties to administer this Settlement is APEX Class Action Administration.

## II. **RECITALS**

43. A class action complaint was filed by Plaintiff Manuel Balux Och on April 25, 2023 in Alameda County Superior Court (Case No. 23CV031860). The complaint alleges the following causes of action against Defendant: 1) Failure to Pay All Straight Time Wages; 2) Failure to Pay Overtime; 3) Failure to Provide Meal Periods; 4) Failure to Authorize and Permit Rest Periods; 5) Failure to Adopt a Compliant Sick Pay/Paid Time Off Policy; 6) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; 7) Failure to Pay all Wages Due at the Time of Termination; and 8) Violation of Unfair Competition Law.
44. Plaintiff Manuel Balux Och submitted his Notice of Labor Code Violations to the LWDA on April 13, 2023. Thereafter, a PAGA representative action complaint against was filed by Plaintiff (as an agent of the LWDA) in the Alameda County Superior Court on July 27, 2023 (Case No. 23CV039543). The complaint sought civil penalties under the PAGA in relation to the following alleged violations suffered by allegedly similar aggrieved employees: 1) Failure to Pay All Straight Time Wages; 2) Failure to Pay Overtime; 3) Failure to Provide Meal Periods; 4) Failure to Authorize and Permit Rest Periods; 5) Failure to Pay all Wages Due at the Time of Termination; 6)

Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions; and 7) Failure to Adopt a Compliant Sick Pay Policy.

45. On August 12, 2023, the Court granted the Parties' stipulation to consolidate both matters filed by Plaintiff Manuel Balux Och, with Case No. 23CV031860 serving as the lead case.
46. Plaintiff Pedro Garcia Alferez filed a class action complaint on May 12, 2023, in Yolo County Superior Court. The complaint alleges the following causes of action against Defendant: 1) Failure to pay all minimum wages; 2) Failure to pay all overtime wages; 3) Failure to provide rest periods and pay missed rest period premiums; 4) Failure to provide meal periods and pay missed meal period premiums; 5) Failure to maintain accurate employment records; 6) Failure to pay wages timely during employment; 7) Failure to pay all wages earned and unpaid at separation; 8) Failure to furnish accurate itemized wage statements; and 9) Violations of the Unfair Competition Law.
47. The parties met and conferred regarding the cases on multiple occasions and then agreed to attend a mediation. Prior to the mediation, Defendants provided class-wide data, documents, and information permitting Plaintiffs and their lawyers to fully evaluate class-wide exposure.
48. On December 15, 2023, the parties participated in a full-day mediation with respected wage and hour mediator, Brandon McKelvey, which resulted in the settlement that is reflected in this Agreement.
49. As part of this settlement, Plaintiff Manuel Balux Och will file a First Amended Complaint in Case No. 23CV031860 adding Plaintiff Pedro Garcia Alferez as a plaintiff and class representative as well as his counsel.
50. **Benefits of Settlement to Class Members.** Plaintiffs and Class Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiffs and Class Counsel also have taken into account the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiffs and Class Counsel have conducted extensive settlement negotiations. Based on the foregoing, Plaintiffs and Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members.
51. **Defendant's Reasons for Settlement.** Defendant recognizes that the defense of this litigation will be protracted and expensive. Substantial amounts of time, energy, and resources of Defendant has been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by

Plaintiffs. Defendant, therefore, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.

- 52. Defendant's Denial of Wrongdoing.** Defendant generally and specifically denies any and all liability or wrongdoing of any sort with regard to any of the claims alleged, makes no concessions or admissions of liability of any sort, and contends that for any purpose other than settlement, the Action is not appropriate for class or representative treatment. Defendant asserts a number of defenses to the claims, and have denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Action. Neither this Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement, is or may be construed as, or may be used as an admission, concession, or indication by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. There has been no final determination by any court as to the merits of the claims asserted by Plaintiffs against Defendant or as to whether a class or classes should be certified, other than for settlement purposes only.
- 53. Plaintiffs' Claims.** Plaintiffs assert that Defendant's defenses are without merit. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Plaintiffs, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Action. However, in the event that this Settlement is finally approved by the Court, the Plaintiffs, Participating Class Members, and Class Counsel will not oppose Defendant's efforts to use this Agreement to prove that Plaintiffs and Participating Class Members have resolved and are forever barred from re-litigating the claims released under this Agreement.

### **III. SETTLEMENT TERMS AND CONDITIONS**

- 54. Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the maximum Gross Settlement Amount, that Defendant is obligated to pay under this Settlement Agreement is \$942,500. The Gross Settlement Amount includes, but is not limited to: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorneys Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payments paid to the Class Representatives, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the PAGA Payment, as approved by the Court. Defendant's portion of payroll taxes as the Class Members' current or former employer will be paid outside of and in addition to the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant for any reason.

**A. Escalator Provision:** It was estimated for purposes of mediation that there are approximately 19,947 workweeks between the start of the Class Period and the December 15, 2023 mediation. As such, this settlement is estimated to encompass approximately 19,947 workweeks. To the extent that the total number of workweeks increases by more than 5% of 19,947 (or above 20,944), the Gross Settlement Amount shall increase proportionately. Alternatively, in the event that this escalator provision is triggered, Defendant has the option to adjust the end date of the Class Period so as to have an earlier end date in order to limit the number of covered workweeks.

- 55. Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that in order for this Settlement to occur, the Court must certify the Class as defined in this Agreement.
- 56. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiffs and Class Members for purposes of this Settlement only. If the Settlement does not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall not be admissible or used in any way in connection with, the question of whether the Court should certify any claims in a non-settlement context in this Action or in any other lawsuit. If the Settlement does not become effective, Defendant reserves the right to contest any issues relating to class certification and liability.
- 57. Appointment of Class Representatives.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiffs Manuel Balux Och and Pedro Garcia Alferez shall be appointed as representative for the Class.
- 58. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties stipulate and agree that the Court appoint Class Counsel to represent the Class.
- 59. Individual Class Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual Class Settlement Share from the Net Settlement Amount to each Participating Class Member.

**A. Calculation.**

- i. **Individual Class Settlement Share Calculation.** Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked for Defendant, based on the Class Data provided by Defendant, divided by (ii) the total number

of weeks worked by all Participating Class Members based on the same Class Data, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a work week for purposes of this calculation. Therefore, the value of each Class Member's Individual Settlement Share ties directly to the amount of weeks that he or she worked.

**B. Tax Withholdings.** Each Class Member's Individual Settlement Share will be apportioned as follows: 40% wages and 60% to interest and penalties/other payments. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. Payment of all amounts will be made subject to backup withholding unless a duly executed W-9 form is received from the payee(s). The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Only the employee share of payroll tax withholdings shall be paid from each Class Member's Individual Settlement Share. The employer share of payroll tax withholdings shall be paid separate from and in addition to the Gross Settlement Amount.

**60. Individual PAGA Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual PAGA Settlement Share from the Net PAGA Settlement Amount to each Aggrieved Employee.

**A. Calculation.**

i. **Individual PAGA Settlement Share Calculation.** Each Aggrieved Employee will receive a proportionate share of the Net PAGA Settlement Amount that is equal to (i) the number of pay periods he or she worked for Defendant, based on the PAGA Data provided by Defendant, divided by (ii) the total number of pay periods worked by all Aggrieved Employees based on the same PAGA data, which is then multiplied by the Net PAGA Settlement Amount. One day worked in a given pay period will be credited as a pay period for purposes of this calculation. Therefore, the value of each Aggrieved Employee's Individual PAGA Settlement Share ties directly to the amount of pay periods that he or she worked during the PAGA Period.

**B. Tax Withholdings.** Each Aggrieved Employee's Individual PAGA Settlement Share will be apportioned as 100% penalties. The Individual

PAGA Settlement Shares shall therefore be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms.

61. **Constituents of Gross Settlement Amount Disbursement.** Subject to the terms and conditions of this Agreement, the Settlement Administrator shall disburse the Gross Settlement Amount as directed later on herein to the following:

- A. To the Named Plaintiffs:** In addition to his Individual Settlement Share, and subject to the Court's approval, the named Plaintiffs, Manuel Balux Och and Pedro Garcia Alferez, will receive up to \$7,500 each in consideration for providing Defendant a General Release, a release that is broader than the claims released by Participating Class Members. The Settlement Administrator will pay the Class Representative Enhancement Payments out of the Gross Settlement Amount. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payments. An IRS Form 1099 will be issued to Plaintiffs with respect to their Class Representative Enhancement Payments.
- B. To Class Counsel.** At the Final Approval Hearing, Class Counsel will apply to the Court for an Attorneys Fee Award not to exceed 33 1/3 % of the GSA and a Cost Award not to exceed \$20,000. The Settlement Administrator will pay the Court approved amounts for the Attorneys Fee Award and Cost Award out of the Gross Settlement Amount. Payroll tax withholding and deductions will not be taken from the Attorneys Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to the Attorneys Fee Award. In the event the Court does not approve the entirety of the application for the Attorneys Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorneys Fee Award and/or Cost Award, the difference shall become part of the NSA and be available for distribution to Participating Class Members.
- C. To the Responsible Tax Authorities.** The Settlement Administrator will pay the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each Class Member's Individual Settlement Share. Defendant's portion of payroll taxes as the current or former employer (including the employer's payment of applicable FICA, FUTA, and SUI contributions, etc.) will be paid outside of and in addition to the GSA. The Settlement Administrator will calculate the amount of the Participating Class Members' and Defendant's portion of payroll withholding taxes and will forward the amount of the Participating Class

Members' portion of normal payroll withholding taxes to the appropriate taxing authorities.

**D. To the Settlement Administrator.** The Settlement Administrator – APEX Class Action Administration – will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed \$10,000. This will be paid out of the Gross Settlement Amount. If the actual amount of Administration Costs is less than the amount estimated and/or requested, the difference shall become part of the NSA and be available for distribution to Participating Class Members.

**E. To the LWDA and Aggrieved Employees.** The Settlement Administrator will pay \$37,500 of the PAGA Payment to the LWDA. This is 75% of the \$50,000 allocated to satisfy the PAGA penalties claim. The remaining 25% of the PAGA Payment (which equates to \$12,500) shall become part of the Net PAGA Settlement Amount payable to Aggrieved Employees

**F. To Participating Class Members.** The Settlement Administrator will pay Participating Class Members according to the Individual Settlement Share calculations set forth above. All payments to Participating Class Members and Aggrieved Employees shall be made from the Gross Settlement Amount.

**62. Appointment of Settlement Administrator.** Solely for the purposes of this Settlement, the Parties stipulate and agree that APEX Class Action Administration shall be retained to serve as Settlement Administrator. The Settlement Administrator shall be responsible for preparing, printing, and mailing the Class Notice to Class Members and Aggrieved Employees; performing skip traces and re-mailing notices to Class Members and Aggrieved Employees; calling Class Members and Aggrieved Employees with undeliverable notices to obtain accurate addresses; keeping track of any objections or requests for exclusion from Class Members; calculating any and all payroll tax deductions as required by law; calculating each Class Member's and Aggrieved Employee's Individual Settlement Share; maintaining a website which will include settlement documents; providing weekly status reports to Defendants' Counsel and Class Counsel, which is to include updates on any objections or requests for exclusion that have been received; providing a due diligence declaration for submission to the Court prior to the Final Approval hearing; mailing and re-mailing Individual Settlement Shares to Participating Class Members and Aggrieved Employees; calculating and mailing the LWDA Payment to the LWDA; distributing the Attorneys Fee Award and Cost Award to Class Counsel; printing and providing Participating Class Members, Aggrieved Employees, and Plaintiff with W-2s and 1099 forms as required under this Agreement and applicable law; providing a due diligence declaration for submission to the Court upon the completion of the Settlement; providing any funds remaining in the QSF as a result of uncashed checks to Legal Aid at

Work in the amounts directed per this Settlement; and for such other tasks as the Parties mutually agree. The Parties each represent that they do not have any financial interest in APEX Class Action Administration or otherwise have a relationship with APEX Class Action Administration that could create a conflict of interest.

**63. Procedure for Approving Settlement.**

**A. Cooperation.**

- i. All Parties and their counsel shall support the Settlement and take such steps as are reasonably necessary to effectuate the Settlement.

**B. First Amended Complaint.**

- i. Plaintiff Manuel Balux Och shall prepare and file a stipulated request for leave to amend in the lead case, Case No. 23CV031860, to add Pedro Garcia Alferez as a Plaintiff and Class Representative as well as to add his Counsel. Upon the Court's receipt and acceptance of the amended complaint in Case No. 23CV031860, Plaintiff Pedro Garcia Alferez will file for dismissal of the action entitled *Pedro Garcia Alferez v. Sac ProFloors* (Yolo County Superior Court, Case No. CV2023-0968) without prejudice. Should the Yolo County Superior Court deny dismissal of the action entitled *Pedro Garcia Alferez v. Sac ProFloors*, the Parties will work together to effectuate this dismissal and cure any deficiencies found by the Court. If the Yolo County Superior Court ultimately denies dismissal of the action entitled *Pedro Garcia Alferez v. Sac ProFloors*, the Parties will stipulate to transfer the action to the Alameda County Superior Court and to coordinate it with the case *Och* class action (Case No. 23CV031860). Regardless of whether or not settlement approval is ultimately granted, the FAC will remain the operative complaint.

**C. Motion for Preliminary Approval and Conditional Certification.**

- i. Plaintiffs will move for an order: (1) conditionally certifying the Class for settlement purposes only; (2) granting Preliminary Approval of the Settlement; (3) setting a date for the Final Approval hearing; and (4) approving the Class Notice.
- ii. At the same time that Plaintiffs files their Motion for Preliminary Approval, Plaintiffs shall send a copy of the Agreement to the LWDA pursuant to the 2016 amendments to PAGA.

- iii. At the Preliminary Approval hearing, Plaintiffs will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representatives, Class Counsel, and Settlement Administrator; approving the Class Notice; and setting the Final Approval hearing.
- iv. **Effect of Denial of Preliminary Approval.** Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the Settlement, the Settlement Agreement will be null and void, and the Parties will have no further obligations under it. Provided, however, that the amounts of the Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payments shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement, and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement Agreement. Any order or proceeding relating to an application for the Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payments shall not operate to terminate or cancel this Settlement Agreement. Nothing in this Agreement shall limit Plaintiffs' or Class Counsel's ability to appeal any decision by the Court to award less than the requested Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payment.

**D. Notice to Class Members and Aggrieved Employees.** After the Court enters its Preliminary Approval Order, every Class Member and Aggrieved Employee will be provided with the Class Notice in accordance with the following procedure:

- i. **Delivery of Class and PAGA Data.** Within ten (10) business days after entry of the Preliminary Approval Order, Defendant shall deliver to the Settlement Administrator an electronic database, which will list the Class and PAGA Data. If any or all of this information is unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon how to deal with the unavailable information. The Settlement Administrator will use the National Change of Address Database to obtain updated addresses for Class Members. The Class Data and PAGA Data shall be based on Defendant's payroll, personnel, and other

business records. The Settlement Administrator shall maintain the Class and PAGA Data and all information contained within the Class and PAGA Data as private and confidential.

- ii. Preparation of Class Notices.** Based on the information in the Class and PAGA Data and the formulae set forth in Paragraph 57(A)(i) and 58(A)(i), above, the Settlement Administrator shall promptly calculate the estimated Individual Settlement Share and Individual PAGA Settlement Share for every Class Member and Aggrieved Employee, to be included in the individualized Class Notices to be sent to that Class Member and/or Aggrieved Employee, and shall prepare and mail a spreadsheet setting forth those calculations to Class Counsel and Defense Counsel no fewer than five (5) days before mailing the Class Notices to Class Members and Aggrieved Employees. The Class Notices will inform each Class Member of his/her right to do nothing, dispute the number of work weeks worked, opt out of the Settlement, or object to the Settlement. It will also inform Class Members that if they first request exclusion from the Settlement and then object, the objections would not be considered valid. In addition, if the Class Members object and then request exclusion from the Class Settlement, the Class Members would be deemed to have waived their objection.
- iii. Mailing of Class Notices.** Within ten (10) business days after receipt of the Class and PAGA Data, the Settlement Administrator will mail via first-class regular U.S. Mail the Class Notice to all identified Class Members and Aggrieved Employees using the mailing address information provided by Defendant and the results of the search of the National Change of Address Database on all Class Members and Aggrieved Employees.
- iv. Returned Notices.** If a Class Notice is returned because of an incorrect address, within five (5) business days from receipt of the returned notice, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the National Change of Address Database and skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Class Notice is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail, performing address searches for all mail returned without a forwarding address, and promptly re-mailing to Class Members for whom new addresses are found.

- v. **Weekly Status Reports.** The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendant's Counsel of the number of Notices mailed, the number of Notices returned as undeliverable, the number of Notices re-mailed, and the number of requests for exclusion or objections received.
- vi. **Settlement Administrator's Declaration.** No later than fourteen (14) calendar days after the Response Deadline, or on a date mutually agreed upon by the Parties and the Settlement Administrator, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel at the same time as the final approval motion is filed. Before the Final Approval hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

**E. Objections to Settlement.** The Class Notice will provide that the Class Members who wish to object to the Settlement must do so in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than the Response Deadline. The timeframe to submit an objection will not be increased for returned mailings.

- a. **Format.** Any Objections shall state: (a) the objecting person's full name, address, and telephone number; (b) the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing.
- b. **Notice of Intent to Appear.** Objecting Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector's own counsel. Objecting Class Members are permitted to appear regardless of whether they submitted a written objection.

**F. Request for Exclusion from the Settlement ("Opt-Out").** The Class Notice will provide that Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator a written

request for exclusion. The written request for exclusion must: (a) state the Class Member's name, address, telephone number, and the last four digits of the Class Member's social security number or employee identification number; (b) state the Class Member's intention to exclude themselves from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator; (d) be signed by the Class Member or his or her lawful representative; and (e) be postmarked no later than the Response Deadline.

- i. **Effect of "Opt-Out."** Any Class Member who returns a timely, valid, and executed request for exclusion will not participate in or be bound by the Settlement and subsequent judgment and will not receive an Individual Settlement Share or any benefit of this Settlement. If the Class Member is also an Aggrieved Employee as defined in this Agreement, however, he or she will still receive an Individual PAGA Settlement Share payment as approved by the Court. Aggrieved Employees have no right to opt-out of the PAGA Settlement.
- ii. **Confirmation of Authenticity.** If there is a question about the authenticity of a signed request for exclusion, the Settlement Administrator may demand additional proof of the Class Member's identity. Any Class Member who returns a timely, valid, and executed request for exclusion will not participate in or be bound by the Settlement and subsequent judgment and will not receive an Individual Settlement Share. A Class Member who does not complete and mail a timely request for exclusion will automatically be included in the Settlement, will receive an Individual Class Settlement Share, and be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the subsequent judgment, regardless of whether he or she has objected to the Settlement.
- iii. **Report.** No later than five (5) business days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notices mailed to Class Members, the number of Notices returned as undeliverable, the number of Notices re-mailed to Class Members, the number of re-mailed Notices returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion.

**G. Class Member and Aggrieved Employee Disputes.** If a Class Member or Aggrieved Employee who receives a Class Notice wishes to dispute the

number of work weeks listed on the Class Notice, the Class Member or Aggrieved Employee may notify the Settlement Administrator by mail or telephone no later than the Response Deadline and should produce any available supporting evidence, such as wage statements, offers of employment, termination letters, and/or other employment records, to the Settlement Administrator. The documentation should provide evidence of the dates the Class Member or Aggrieved Employee contends he or she worked for Defendant during the Class or PAGA Period. The Settlement Administrator shall then provide the documentation provided by the Class Member or Aggrieved Employee to Defendant. Defendant shall review its records, the documentation provided by the Class Member or Aggrieved Employee, and shall provide information to the Settlement Administrator in response to any such disputed claim. Defendant's records shall be presumed to be determinative, but the Settlement Administrator shall evaluate the evidence submitted by the Class Member or Aggrieved Employee and make the decision as to which dates should be applied. The determination by the Settlement Administrator shall be final and binding.

**H. No Solicitation of Objection or Requests for Exclusion.** Neither the Parties nor their respective counsel will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, request exclusion from the Settlement, or appeal from the Judgment.

**I. Settlement Website.** The Settlement Administrator shall establish a website to host documents relevant to this lawsuit and the proposed settlement. Such documents shall include: the operative complaint; this Joint Stipulation and Settlement Agreement, together with its exhibits; and the Class Notice.

**J. Motion for Final Approval.**

i. Class Counsel will file unopposed motions and memorandums in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Attorneys Fee Award; (2) the Cost Award; (3) Administrative Costs; (4) the Class Representative Enhancement Payments; and (5) PAGA Payment. Class Counsel will also move the Court for an order of Final Approval (and associated entry of Judgment) releasing and barring any Released Class and PAGA Claims of the Participating Class Members and LWDA.

ii. **Denial or Appeal of Final Approval.** If the Court does not grant Final Approval of the Settlement, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the

Settlement, including any obligation by Defendant to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Further, should this occur, the Parties agree they shall be equally responsible for the Settlement Administrator's Administration Costs through that date. An award by the Court of a lesser amount than sought by Plaintiff and Class Counsel for the Class Representative Enhancement Payments, Attorneys Fee Award, Cost Award, and Administration Costs award will not constitute a material modification to the Settlement within the meaning of this paragraph.

- iii. **Proposed Order and Judgment.** Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving of the Settlement and entering Judgment in accordance therewith. After entry of Judgment, the Court shall have continuing jurisdiction over the action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters, and (3) addressing such post-judgment matters as may be appropriate under Court rules and applicable law.

**K. Waiver of Right to Appeal.** Provided that the judgment is consistent with the terms and conditions of this Agreement, if Class Members do not timely object to the Settlement, then the Parties and their respective counsel waive any and all rights to appeal from the judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding.

**L. Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing Court vacates, reverses, or modifies the judgment such that there is a material modification to the Settlement Agreement, and that Court's decision is not completely reversed and the judgment is not fully affirmed on review by a higher Court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any alteration of the Gross Settlement Amount, an alteration in the calculation of the Net Settlement Amount, and any change to the calculation of the Individual Settlement Share.

**M. Disbursement of Settlement Shares and Payments.** Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court's

Final Approval Order and Judgment. The Settlement Administrator shall keep Defendant's Counsel and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Defendant's Counsel and Class Counsel. No person shall have any claim against Defendant, Defendant's Counsel, Plaintiff, Class Counsel, or the Settlement Administrator based on the distributions and payments made in accordance with this Agreement.

- i. **Funding the Settlement:** Defendant shall wire or otherwise provide to the Settlement Administrator the Gross Settlement Amount no later than six (6) months after the Court grants final approval or June 15, 2024, whichever is later.
  - ii. **Disbursement:** Within ten (10) business days after the Defendant provides the GSA to the Settlement Administrator, the Settlement Administrator shall disburse: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Net PAGA Settlement Amount to be Paid to Aggrieved Employees; (3) the Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (4) the Class Representative Enhancement Payments paid to the Class Representatives, as approved by the Court; (5) the Administration Costs, as approved by the Court; (6) the LWDA Payment to the LWDA; and (7) Defendant's portion of payroll taxes as the Class Members' current or former employer.
  - iii. **Qualified Settlement Fund or QSF:** The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations § 1.468B-1, 26 C.F.R. § 1.468B-1 *et seq.*, and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.
- N. **Settlement Administrator's Final Report.** Within ten (10) business days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds. The Parties shall file this declaration with the Court. The Settlement Administrator will provide any supplemental declaration required by the Court or the Parties.
- O. **Uncashed Checks.** Participating Class Members and Aggrieved Employees must cash or deposit their Individual Settlement Share checks

within one hundred and eighty (180) calendar days after the checks are mailed to them.

- i. **Reminder Postcard.** If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced.
- ii. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, cancel the checks. All funds associated with the Individual Settlement Share checks returned as undeliverable and funds associated with those checks remaining un-cashed shall be tendered to Legal Aid at Work. Legal Aid at Work is a nonprofit legal services organization that has been assisting low-income, working families for more than 100 years. Legal Aid at Work's Wage Protection Program represents low-wage workers who are the victims of wage violations. The wage claims made by Legal Aid at Work's clients are often the same type of claims made in wage-and-hour class actions brought by workers under the federal Fair Labor Standards Act and under California wage-and-hour laws.

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

- 64. **Release of Class Claims.** As of the Effective Final Settlement Date, Class Members who do not submit a timely and valid request for exclusion release the Released Parties from the Released Class Claims. Participating Class Members agree not to sue or otherwise make a claim against any of the Released Parties for any of the Released Class Claims.
- 65. **Release of PAGA Claims.** As of the Effective Final Settlement Date, the Released Parties shall be entitled to a release from the LWDA and Plaintiff (as representative of the State of California, the LWDA, and the general public) as to all Released PAGA Claims. Defendant will be entitled to assert this Settlement of the PAGA Claims in this Action as a defense to future claims against it for penalties by the LWDA or under the PAGA on behalf of the LWDA. The Released Parties will also be entitled to assert this release of PAGA Claims to assert claim or issue preclusion or other effects of this Settlement if any Aggrieved Employees bring a subsequent claim on behalf of

the LWDA concerning the same primary rights that were at issue in this Action. Aggrieved employees may not opt out of the PAGA Settlement.

- 66. Plaintiffs' Release of Claims and General Release.** As of the Effective Final Settlement Date, and in exchange for the Class Representative Enhancement Payments to the named Plaintiffs in an amount not to exceed \$7,500 each, Plaintiffs Manuel Balux Och and Pedro Garcia Alferez shall give the following general release of claims for themselves and their respective spouse, heirs, successors and assigns, forever release the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature whatsoever, from the beginning of time through the date of their signatures on this Agreement, known or unknown, suspected or unsuspected, whether in tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule, ordinance or regulation, including but not limited to all claims arising out of, based upon, or relating to their employment with Defendant or the remuneration for, or termination of, such employment. Plaintiffs' Release of Claims also includes a waiver of California Civil Code section 1542, which provides as follows:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

This release excludes any release of any claims not permitted to be released by law.

Also, in consideration for providing Defendant with this complete, general release, Defendant agrees to provide a neutral reference (dates of employment and last position held) in response to any inquiries by prospective employers of Plaintiffs.

## **67. Miscellaneous Terms**

- A. No Admission of Liability.** Defendant makes no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action, or that but for the Settlement, a Class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is

intended or will be construed as an admission by Defendant of liability or wrongdoing. This Settlement and Plaintiffs' and Defendant's willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement).

- B. No Effect on Employee Benefits.** The Class Representative Enhancement Payments and/or Individual Settlement Shares paid to Plaintiffs and Participating Class Members and/or Aggrieved Employees shall not be deemed to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacation, holiday pay, retirement plans, etc.) of Plaintiffs or the Participating Class Members or Aggrieved Employees. The Parties agree that any Class Representative Enhancement Payment and/or Individual Settlement Share paid to Plaintiffs or the Participating Class Members and/or Aggrieved Employees under the terms of this Agreement do not represent any modification of Plaintiffs' or Participating Class Members' and/or Aggrieved Employees' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant. Further, any Class Representative Enhancement Payment shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.
- C. Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
- D. Authorization to Enter Into Settlement Agreement.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents,

supplemental provisions, and assistance of the Court will be consistent with this Agreement.

- E. Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.
- F. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.
- G. Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.
- H. Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.
- I. No Prior Assignment.** Plaintiffs hereby represent, covenants, and warrants that he has not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- J. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
- K. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
- L. No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members and Aggrieved Employees will assume any such

tax obligations or consequences that may arise from this Agreement, and that Class Members and Aggrieved Employees shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any Class Member or Aggrieved Employee, such Class Member assumes all responsibility for the payment of such taxes.

**M. Jurisdiction of the Court.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.

**N. Invalidity of Any Provision; Severability.** Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.

**O. 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.

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

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#### IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: 3/7/2024

**MANUEL BALUX OCH**

DocuSigned by:  
  
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Dated: \_\_\_\_\_

**PEDRO GARCIA ALFEREZ**

Dated: \_\_\_\_\_

**SAC PROFLOORS**

\_\_\_\_\_  
Name:

Title:

Dated: 3/6/2024

**MARA LAW FIRM, PC**

DocuSigned by:  
  
4579A5166C10447 ...

David Mara, Esq.

Jill Vecchi, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: \_\_\_\_\_

**LAWYERS FOR EMPLOYEE AND  
CONSUMER RIGHTS**

\_\_\_\_\_  
Peter Horton, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

#### IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: \_\_\_\_\_

**MANUEL BALUX OCH**

\_\_\_\_\_

Dated: 3/6/2024

**PEDRO GARCIA ALFEREZ**

DocuSigned by:  
*Pedro Garcia*  
6C6ECD7FE32F427...

Dated: \_\_\_\_\_

**SAC PROFLOORS**

\_\_\_\_\_  
Name:

Title:

Dated: \_\_\_\_\_

**MARA LAW FIRM, PC**

\_\_\_\_\_  
David Mara, Esq.

Jill Vecchi, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: \_\_\_\_\_

**LAWYERS FOR EMPLOYEE AND  
CONSUMER RIGHTS**

\_\_\_\_\_  
Peter Horton, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

**IV. EXECUTION BY PARTIES AND COUNSEL**

The Parties and their counsel execute this Agreement.

Dated: \_\_\_\_\_

**MANUEL BALUX OCH**

\_\_\_\_\_

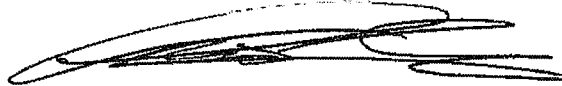
Dated: \_\_\_\_\_

**PEDRO GARCIA ALFEREZ**

\_\_\_\_\_

Dated: 3-5-24

**SAC PROFLOORS**



Name: Enrique Curbelo  
Title: CEO, President

Dated: \_\_\_\_\_

**MARA LAW FIRM, PC**

\_\_\_\_\_  
David Mara, Esq.

Jill Vecchi, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: \_\_\_\_\_

**LAWYERS FOR EMPLOYEE AND  
CONSUMER RIGHTS**

\_\_\_\_\_  
Peter Horton, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: March 6, 2024

**MELMED LAW GROUP P.C.**

A handwritten signature in blue ink, appearing to be 'J. Melmed', is written over a horizontal line.

Jonathan Melmed, Esq.

Laura Supanich

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: \_\_\_\_\_

**KROLOFF, BELCHER, SMART, PERRY &  
CHRISTOPHERSON APLC**

\_\_\_\_\_  
Kerry L. Krueger, Esq.

Attorneys for Defendant

Dated: \_\_\_\_\_

**MELMED LAW GROUP P.C.**

\_\_\_\_\_  
Jonathan Melmed, Esq.  
Laura Supanich  
Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: 3/7/2024

**KROLOFF, BELCHER, SMART, PERRY &  
CHRISTOPHERSON APLC**

  
\_\_\_\_\_  
Kerry L. Krueger, Esq.  
Attorneys for Defendant

# Exhibit *A*

CALIFORNIA SUPERIOR COURT, COUNTY OF ALAMEDA  
*Manuel Balux Och and Pedro Garcia Alferez, on behalf of themselves, all others similarly situated, and on  
behalf of the general public, Plaintiffs, v. Sac ProFloors, Defendant*  
Case No. 23CV031860 and Case No. 23CV039543 (“Complaints” or “Action”)

**NOTICE OF CLASS ACTION SETTLEMENT**

*A court authorized this notice. This is not a solicitation.  
This is not a lawsuit against you and you are not being sued.  
However, your legal rights are affected by whether you act or don’t act.*

**TO: All non-exempt, hourly employees of Sac ProFloors in the State of California from April 25, 2019 through December 15, 2023.**

The California Superior Court, County of Alameda has granted preliminary approval to a proposed settlement (“Settlement”) of the above-captioned actions (“Action”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Class” or “Class Members”):

All non-exempt, hourly employees of Sac ProFloors in the State of California from April 25, 2019 through December 15, 2023.

The purpose of this Notice is to provide a brief description of the claims alleged in the Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

**YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT.  
PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.**

**WHAT INFORMATION IS IN THIS NOTICE**

|                                                                                       |        |
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| 2. What Is This Case About? .....                                                     | Page 2 |
| 3. Am I A Class Member? Am I An Aggrieved Employee? .....                             | Page 2 |
| 4. How Does This Class Action Settlement Work? .....                                  | Page 3 |
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**1. Why Have I Received This Notice?**

Sac ProFloors’ (hereinafter referred to as “Defendant”) records indicate that you may be a Class Member. The settlement will resolve all Class Members’ Released Claims, as described in Section No. 9 below, from April 25, 2019 through December 15, 2023 (the “Class Period”).

A Preliminary Approval Hearing was held on [the date of Preliminary Approval], in the California Superior Court, County of Alameda. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court will hold a Final Fairness Hearing concerning the proposed settlement on [the date of final approval hearing], 2024 at [time a.m./p.m.], before Judge Brad Seligman, located at 1221 Oak Street, Oakland, CA 94612, Department 23.

## **2. What Is This Case About?**

A class action complaint against Defendant was filed in the Alameda County Superior Court on April 25, 2023 (Case No. 23CV031860). The complaint alleged the following causes of action against Defendant: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to adopt a compliant sick pay/paid time off policy; (6) knowing and intentional failure to comply with itemized employee wage statement provisions; (7) failure to pay all wages at the time of termination of employment; and (8) violation of Unfair Competition Law, on behalf of non-exempt, hourly employees.

A PAGA representative action complaint was filed against Defendant in the Alameda County Superior Court on July 27, 2023 (Case No. 23CV039543). The complaint sought civil penalties under the PAGA in relation to the following alleged violations suffered by allegedly similar aggrieved employees: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to pay all wages at the time of termination of employment; (6) knowing and intentional failure to comply with itemized employee wage statement provisions; and (7) failure to adopt a compliant sick pay/paid time off policy.

The two cases (Case No. 23CV031860 and 23CV039543) have been consolidated, with Case No. 23CV031860 serving as the lead case.

The Court has not made any determination as to whether the claims advanced by the Plaintiffs have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiffs or Defendant's; instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial.

Defendant expressly denies that it did anything wrong or that it violated the law and further deny any liability whatsoever to Plaintiffs or to the Class.

## **3. Am I A Class Member? Am I An Aggrieved Employee?**

You are a Class Member if you worked for Defendant in California as a non-exempt, hourly employee at any time from April 25, 2019 through December 15, 2023.

If you worked for Defendant in California as a non-exempt, hourly employee at any time from April 13, 2022 through December 15, 2023, you are also an "Aggrieved Employee" under the settlement.

#### **4. How Does This Class Action Settlement Work?**

Plaintiffs Manuel Balux Och and Pedro Garcia Alferez bring this action behalf of themselves and all other similarly situated individuals who worked for Defendant as a non-exempt, hourly employee in California at any time during the Class Period. Plaintiffs and these other individuals comprise a “Class” and are “Class Members.” The settlement of this Action resolves the Released Claims of all Class Members, as defined in the Settlement Agreement and Final Judgment, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiffs and Class Counsel believe the settlement is fair and reasonable. The Court must also review the terms of the settlement and determine if it is fair and reasonable to the Class. The Court file has the settlement documents, which explain the settlement in greater detail. The pleadings and other records in this litigation may be examined online on the Alameda County Superior Court’s website, known as “eCourt Public Portal,” at <https://eportal.alameda.courts.ca.gov>

After arriving at the website, click the “Search” tab at the top of the page, then select the Document Downloads link, enter the case number and click “Submit.” Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

#### **5. Who Are the Attorneys Representing the Parties?**

| <b>Attorneys for Plaintiffs and the Class</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>Attorneys for Defendant</b>                                                                                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>MARA LAW FIRM, PC</b><br/>David Mara<br/>dmara@maralawfirm.com<br/>Jill Vecchi<br/>jvecchi@maralawfirm.com<br/>2650 Camino Del Rio North, Suite 302<br/>San Diego, California 92108<br/>Telephone: (619) 234-2833</p> <p><b>LAWYERS FOR EMPLOYEE AND<br/>CONSUMER RIGHTS</b><br/>Peter Horton<br/>phorton@lfecr.com<br/>3500 West Olive Avenue, Floor 3<br/>Burbank, California 91505<br/>Telephone: (323) 375-5101</p> <p><b>MELMED LAW GROUP P.C.</b><br/>Jonathan Melmed<br/>jm@melmedlaw.com<br/>Laura Supanich<br/>lms@melmedlaw.com<br/>1801 Century Park East, Suite 850<br/>Los Angeles, California 90067<br/>Telephone: (310) 824-3828</p> | <p><b>KROLOFF, BELCHER, SMART, PERRY &amp;<br/>CHRISTOPHERSON, APLC</b><br/>Kerry L. Krueger<br/>7540 Shoreline Drive<br/>Stockton, California 95219<br/>Telephone: (209) 478-2000</p> |

The Court has decided that Mara Law Firm, PC, Lawyers for Employee and Consumer Rights, and Melmed Law Group P.C. are qualified to represent you and all other Class Members simultaneously.

You do not need to hire your own attorney because Class Counsel is working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

## **6. What Are My Options?**

The purpose of this Notice is to inform you of the proposed settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

**Important Note:** *Defendants will not retaliate against you in any way for either participating or not participating in this Settlement.*

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this Class Action and may receive a payment from the Settlement. You will be bound to the release of the Released Class Claims as defined in the Settlement Agreement and the Final Judgment. You will also give up your right to pursue the Released Class Claims as defined in Section No. 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may “opt out,” which will remove you from the Class and this Class Action. If the Court grants final approval of the Settlement, you will not receive a Settlement payment and you will not give up the right to sue Defendant and the Released Parties for the Released Class Claims. If you are an Aggrieved Employee, you will receive a portion of the PAGA, even if you opt-out of the settlement.
- **OBJECT:** You may assert a legal objection to the proposed settlement. If you would like to object, you may not opt out of this case.

## **7. How Do I Opt Out Or Exclude Myself From This Settlement?**

If you do not want to take part in the Settlement, you must mail a written Request for Exclusion to the Settlement Administrator. The written request for exclusion must: (a) state your name, address, telephone number, and social security number or employee identification number; (b) state your intention to exclude yourself from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator at [address]; (d) be signed by you or your lawful representative; and (e) be postmarked no later than [the Response Deadline].

If the Court approves the Settlement at the Final Approval Hearing, the Court will enter a Judgment. If you do not request exclusion from the Settlement, the Judgment will bind you to the terms of the Settlement. If you are an Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt-out of the settlement.

## **8. How Do I Object To The Settlement?**

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by submitting your objection in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than [the Response Deadline]. The objection must state: (a) the case name; (b) your full name, address, and telephone number; (c) the words “Notice of Objection” or “Formal Objection;” (d)

describe, in clear and concise terms, the legal and factual arguments supporting the objection; (e) list identifying witness(es) the objector may call to testify at the Final Approval hearing; and (f) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing. The objection will not be valid if it objects only to the appropriateness of the action or its merits.

Class Members may appear at the Final Approval Hearing, either in person or through the objector's own counsel. If the Court rejects the objection, he/she will receive an Individual Settlement Share payment and will be bound by the terms of the Settlement.

#### **9. *How Does This Settlement Affect My Rights? What are the Released Claims?***

If the proposed settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt out of the Settlement will be bound by the Court's Final Judgment and will release Defendant and the Released Parties<sup>1</sup> from the Released Class Claims:

The Released Class Claims include, for the entire Class Period, all claims that were pled or that could have been pled in the operative class complaint based upon the facts alleged in the Lawsuits including: (1) Failure to Pay All Straight Time Wages; (2) Failure to Pay All Overtime Wages; (3) Failure to Authorize and Permit Rest Periods; (4) Failure to Provide Meal Periods; (5) Failure to Provide Accurate and Complete Wage Statements; (6) Failure to Adopt A Compliant Sick Pay/Paid Time Off Policy; (7) Waiting Time Penalties; (8) Failure to Reimburse Business Expenses; (9) Failure to Timely Pay Wages During Employment; and (10) Violation of Unfair Competition Law based upon violations of the California Labor Code sections set forth herein.

Additionally, the LWDA will be bound by the Final Judgment and will release the Released Parties from the Released PAGA Claims. The Released PAGA Claims include all claims under the California Private Attorney General Act ("PAGA"), Cal. Lab. Code § 2698, *et seq.* to the extent such claims are predicated on claims that were or reasonably could have been alleged based on the claims, facts and/or allegations that were contained in Plaintiff's PAGA Letters.

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

The total maximum amount that Defendant could be required to pay under this Agreement shall be up to but no more than \$942,500 ("Gross Settlement Amount" or "GSA").

##### **A. Deductions from the Settlement**

The "Net Settlement Amount" or "NSA" means the portion of the Gross Settlement Amount, available for distribution to Class Members after the deduction of (1) the Class Representative Enhance Payments to the named Plaintiffs in an amount up to \$7,500 each, for prosecution of the Action, risks undertaken for the payment of attorneys' fees and costs, and a general release of all claims; (2) the Settlement Administration Costs to the Settlement Administrator in an amount estimated not to exceed \$INSERT; (3) a payment of \$50,000 allocated to the PAGA claims; and (4) payment to Class Counsel in an amount not to exceed \$313,852 (33 1/3% of the Gross Settlement Amount) for attorneys' fees and an amount not to exceed \$20,000 for litigation costs. All of these payments are subject to court approval.

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<sup>1</sup> "Released Parties" means Defendant Sac ProFloors, its subsidiaries, d/b/as, and affiliated entities, and each of its past or present officers, directors, employees and agents which could be jointly liable with Defendant for the claims alleged.

#### B. How Class Member Settlement Payments are Calculated

After deducting the above-referenced items, the remaining Net Settlement Amount, will be proportionately distributed amongst all Class Members who have not opted out. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked for Defendant, based on the Class Data provided by Defendant, divided by (ii) the total number of weeks worked by all Participating Class Members based on the same Class Data, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a work week for purposes of this calculation. Therefore, the value of each Class Member's Individual Settlement Share ties directly to the amount of weeks that he or she worked during the Class Period (April 25, 2019 through December 15, 2023).

#### C. How Aggrieved Employee Settlement Payments are Calculated

If you are an Aggrieved Employee under the settlement, you will also receive a portion of the PAGA Payment. Pursuant to PAGA, the LWDA will receive a payment of \$37,500 (75% of the \$50,000 total PAGA Payment). The remaining \$12,500 is the "Net PAGA Settlement Amount" or "NPSA" and will be proportionately distributed amongst all Aggrieved Employees. Each Aggrieved Employee will receive a proportionate share of the Net PAGA Settlement Amount that is equal to (i) the number of pay periods he or she worked for Defendant, based on the PAGA Data provided by Defendant, divided by (ii) the total number of pay periods worked by all Aggrieved Employees based on the same PAGA data, which is then multiplied by the Net PAGA Settlement Amount. One day worked in a given pay period will be credited as a pay period for purposes of this calculation. Therefore, the value of each Aggrieved Employee's Individual PAGA Settlement Share ties directly to the amount of pay periods that he or she worked during the PAGA Period (April 13, 2022 through December 15, 2023).

#### D. Your Estimated Settlement Payment

Although your exact share of the Net Settlement Amount as a Class Member cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$ [REDACTED], less taxes. This is based on the Class Data which shows you worked [REDACTED] workweeks during the Class Period.

If you are also an Aggrieved Employee, you will receive a share of the Net PAGA Settlement Amount. Based upon the calculation above, your approximate share of the Net PAGA Settlement Amount, is as follows: \$ [REDACTED]. This is based on the PAGA Data which shows you worked [REDACTED] pay periods during the PAGA Period.

#### E. Tax Treatment of Your Settlement Payments

Forty percent (40%) of each Individual Class Settlement Share is intended to settle each Class Member's claims for unpaid wages (the "Wage Portion"). The Wage Portion will be reduced by applicable payroll tax withholdings and deductions. Defendant's share of legally required payroll taxes for the Wage Portion will be calculated by the Settlement Administrator and paid by Defendants separately from the GSA. The Settlement Administrator will issue an IRS Form W-2 to each Participating Class Member with respect to the Wage Portion of his/her Individual Class Settlement Share.

Sixty percent (60%) of the Individual Class Settlement Share is intended to settle each Class Member's claims for interest and penalties/other payments. The Non-Wage Portion will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Participating Class Member an IRS Form 1099 with respect to the Non-Wage Portion of his/her Individual Class Settlement Share.

If you are an Aggrieved Employee, your Individual PAGA Settlement Share will be apportioned as 100% penalties. This will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Aggrieved Employee an IRS Form 1099 with respect to his/her Individual PAGA Settlement Share.

F. What Happens If You Don't Cash Your Check?

It is strongly recommended that upon receipt of your settlement check, you immediately cash it or cash it before the 180-day void date shown on each check. If any checks remain uncashed or not deposited by the expiration of the 180-day period, the Settlement Administrator will pay over the amount represented by the check to Legal Aid at Work.

**11. *How Will the Attorneys for the Class and the Class Representatives Be Paid?***

The attorneys for Plaintiffs and the Class will be paid from the Gross Settlement Amount. Subject to Court approval, the attorneys for Plaintiffs and the Class shall be paid an amount not to exceed 33 1/3% of the Gross Settlement Amount (\$313,852) for attorney fees and \$20,000 for litigation costs.

Defendant has paid all of their own attorneys' fees and costs.

Plaintiffs will also be paid, subject to Court approval, an amount not to exceed \$7,500 each, as an enhancement for the initiation of and prosecution of this case, the risks undertaken for the payment of costs in the event this case had been lost, and a general release of all claims.

**IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS**, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. You can also obtain documents related to this case and this settlement by visiting [administrator website], a website maintained by the Settlement Administrator. Please refer to the Sac ProFloors Class Action Settlement.

This Notice does not contain all of the terms of the proposed settlement or all of the details of these proceedings. For more detailed information, the pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known as "eCourt Public Portal," at <https://eportal.alameda.courts.ca.gov>

After arriving at the website, click the "Search" tab at the top of the page, then select the Document Downloads link, enter the case number and click "Submit." Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings. You may also contact Plaintiff's counsel, whose contact information is above, and they will provide you with a copy of the settlement documents or case documents free of charge.

**PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.**

# Exhibit 2

## ADDENDUM TO JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this Addendum to the Parties' Joint Stipulation and Settlement Agreement is made between Plaintiffs Manuel Balux Och and Pedro Garcia Alferez (hereinafter "Plaintiffs") on behalf of themselves and the Class and Defendant Sac ProFloors (hereinafter "Defendant") (collectively Plaintiffs and Defendant are referred to in this Agreement as the "Parties").

### I. AMENDMENT TO SETTLEMENT AGREEMENT

a. Section I, Paragraph 21 shall be amended to read as follows:

- i. **Funding of Settlement:** Defendants shall wire or otherwise provide to the Settlement Administrator the Gross Settlement Amount no later than ten (10) business days after the Effective Final Settlement Date.

b. Section III, Paragraph 63(M)(i) shall be amended to read as follows:

- i. **Funding the Settlement:** Defendant shall wire or otherwise provide to the Settlement Administrator the Gross Settlement Amount no later than ten (10) business days after the Effective Final Settlement Date.

### II. AMENDMENT TO NOTICE OF CLASS ACTION SETTLEMENT (EXHIBIT A)

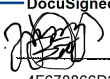
- a. The Notice of Class Action Settlement attached as Exhibit A to the Joint Stipulation and Settlement Agreement shall be amended in accordance with this Addendum.

### III. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

Dated: 5/2/2024

MANUEL BALUX OCH

DocuSigned by:  
  
4F678866D2F146E...

Dated: \_\_\_\_\_

PEDRO GARCIA ALFEREZ

## **ADDENDUM TO JOINT STIPULATION AND SETTLEMENT AGREEMENT**

Subject to final approval by the Court, this Addendum to the Parties' Joint Stipulation and Settlement Agreement is made between Plaintiffs Manuel Balux Och and Pedro Garcia Alferez (hereinafter "Plaintiffs") on behalf of themselves and the Class and Defendant Sac ProFloors (hereinafter "Defendant") (collectively Plaintiffs and Defendant are referred to in this Agreement as the "Parties").

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### **II. AMENDMENT TO NOTICE OF CLASS ACTION SETTLEMENT (EXHIBIT A)**

a. The Notice of Class Action Settlement attached as Exhibit A to the Joint Stipulation and Settlement Agreement shall be amended in accordance with this Addendum.

### **III. EXECUTION BY PARTIES AND COUNSEL**

The Parties and their counsel execute this Agreement.

Dated: \_\_\_\_\_

**MANUEL BALUX OCH**

\_\_\_\_\_

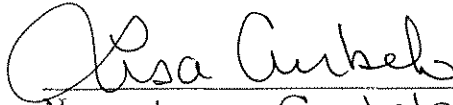
Dated: 5/2/2024

**PEDRO GARCIA ALFEREZ**

DocuSigned by:  
*Pedro Garcia*  
6C8ECD71E32F427...

Dated: 4/24/24

**SAC PROFLOORS**

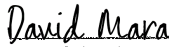


Name: Lisa Corbello  
Title: CFO

Dated: 5/2/2024

**MARA LAW FIRM, PC**

DocuSigned by:



~~David Mara~~, Esq.

Jill Vecchi, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: 5/2/2024

**LAWYERS FOR EMPLOYEE AND  
CONSUMER RIGHTS**



Peter Horton, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: \_\_\_\_\_

**MELMED LAW GROUP P.C.**

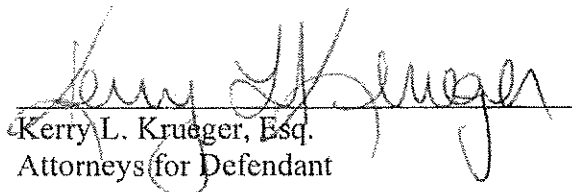
Jonathan Melmed, Esq.

Laura Supanich

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: \_\_\_\_\_

**KROLOFF, BELCHER, SMART, PERRY &  
CHRISTOPHERSON APLC**



Kerry L. Krueger, Esq.  
Attorneys for Defendant

Dated: \_\_\_\_\_

**SAC PROFLOORS**

\_\_\_\_\_  
Name:

Title:

Dated: \_\_\_\_\_

**MARA LAW FIRM, PC**

\_\_\_\_\_  
David Mara, Esq.

Jill Vecchi, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: \_\_\_\_\_

**LAWYERS FOR EMPLOYEE AND  
CONSUMER RIGHTS**

\_\_\_\_\_  
Peter Horton, Esq.

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: May 2, 2024

**MELMED LAW GROUP P.C.**



\_\_\_\_\_  
Jonathan Melmed, Esq.

Laura Supanich

Attorneys for Plaintiffs, on behalf of themselves, and  
the Settlement Class

Dated: \_\_\_\_\_

**KROLOFF, BELCHER, SMART, PERRY &  
CHRISTOPHERSON APLC**

\_\_\_\_\_  
Kerry L. Krueger, Esq.

Attorneys for Defendant

# Exhibit 3

**Westlaw Court Express**

**LEGAL BILLING REPORT**

VOLUME 14, NUMBER 3

December 2012

CA REGION

**BY REGION, BY FIRM**

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# California Report

| FIRM                                      |                     | GRADUATED | ADMITTED | STATE | RATE      | HOURS | TOTAL       |
|-------------------------------------------|---------------------|-----------|----------|-------|-----------|-------|-------------|
| Akin Gump Strauss Hauer & Feld LLP        |                     |           |          |       |           |       |             |
| Partner                                   | David P. Simonds    | 1993      | 1993     | CA    | \$ 825.00 | 8.10  | \$ 6,682.50 |
| Senior Counsel                            | Edward P. Christian | 1993      | 1993     | CA    | \$ 725.00 | 2.60  | \$ 1,885.00 |
| TOTAL                                     |                     |           |          |       |           | 10.70 | \$ 8,567.50 |
| U.S.B.C New York Southern                 |                     |           |          |       |           |       |             |
| Private Air/Inns Corp (12-11343 REG)      |                     |           |          |       |           |       |             |
| From the fee application covering         |                     |           |          |       |           |       |             |
| July 1, 2012 through October 31, 2012     |                     |           |          |       |           |       |             |
| NJ Ranking: 40                            |                     |           |          |       |           |       |             |
| Firm Size: 791                            |                     |           |          |       |           |       |             |
| U.S.B.C Delaware                          |                     |           |          |       |           |       |             |
| Trident Microsystems, Inc. (12-10063 CSS) |                     |           |          |       |           |       |             |
| From the fee application covering         |                     |           |          |       |           |       |             |
| October 1, 2012 through October 31, 2012  |                     |           |          |       |           |       |             |
| NJ Ranking: 2                             |                     |           |          |       |           |       |             |
| Firm Size: 3,348                          |                     |           |          |       |           |       |             |
| U.S.B.C New York Southern                 |                     |           |          |       |           |       |             |
| LightSquared, Inc (12-12080 SCC)          |                     |           |          |       |           |       |             |
| From the fee application covering         |                     |           |          |       |           |       |             |
| October 1, 2012 through October 31, 2012  |                     |           |          |       |           |       |             |
| NJ Ranking: .21                           |                     |           |          |       |           |       |             |
| Firm Size: 1,039                          |                     |           |          |       |           |       |             |

|                            |                     |      |      |    |           |        |               |
|----------------------------|---------------------|------|------|----|-----------|--------|---------------|
| DLA Piper LLP              |                     |      |      |    |           |        |               |
| Partner                    | Nate McQuirk        | 1999 | 1999 | CA | \$ 790.00 | 0.60   | \$ 474.00     |
| Partner                    | Richard Yankovich   | 1979 | 1979 | CA | \$ 780.00 | 39.40  | \$ 30,732.00  |
| Partner                    | Ann Lawrence        | 1999 | 2000 | CA | \$ 755.00 | 90.30  | \$ 68,176.50  |
| Partner                    | Heather Dunn        | 2000 | 2001 | CA | \$ 705.00 | 1.30   | \$ 916.50     |
| Partner                    | Jeffrey D. Aaronson | 1998 | 1998 | CA | \$ 650.00 | 12.70  | \$ 8,285.00   |
| Of Counsel                 | Ben Gipson          | 2002 | 2002 | CA | \$ 640.00 | 3.10   | \$ 1,984.00   |
| Associate                  | Bethand Pan         | 2004 | 2004 | CA | \$ 630.00 | 170.00 | \$ 107,100.00 |
| Associate                  | Diana M. Melzer     | 2008 | 2008 | CA | \$ 510.00 | 67.00  | \$ 34,170.00  |
| Associate                  | Natasha Heleth      | 2011 | 2011 | CA | \$ 470.00 | 1.80   | \$ 846.00     |
| Associate                  | Thia Bhanthall      | 2000 | 2000 | CA | \$ 400.00 | 4.10   | \$ 1,640.00   |
| TOTAL                      |                     |      |      |    |           | 390.30 | \$ 254,254.00 |
| Gibson Dunn & Crutcher LLP |                     |      |      |    |           |        |               |
| Associate                  | Virginia Pitt       | 2010 | 2010 | CA | \$ 445.00 | 19.20  | \$ 8,544.00   |
| Associate                  | Matthew Bouslog     | 2011 | 2011 | CA | \$ 395.00 | 12.60  | \$ 4,977.00   |
| TOTAL                      |                     |      |      |    |           | 31.80  | \$ 13,521.00  |

# California Report

## FIRM

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

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

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

## FIRM

Loeb & Loeb  
Partner Lance N. Jurich  
Partner Christopher W. Campbell  
Associate Ryan M. Audin  
Associate Jeanna C. Wanless  
Paraprofessional S. Steadman

| GRADUATED | ADMITTED | STATE | RATE      | HOURS  | TOTAL         |
|-----------|----------|-------|-----------|--------|---------------|
| 1987      | 1987     | CA    | \$ 695.00 | 1.50   | \$ 1,320.50   |
| 1999      | 2000     | CA    | 550.00    | 46.20  | 30,030.00     |
| 2007      | 2007     | CA    | 550.00    | 122.30 | 67,255.00     |
| 1993      | 1993     | CA    | 435.00    | 18.20  | 7,917.00      |
|           |          |       | 280.00    | 0.20   | 52.00         |
| TOTAL     |          |       |           |        | \$ 105,584.50 |

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

## FIRM

Pachtulski Stang Ziehl Young Jones & Weintraub  
Of Counsel James K. T. Hunter  
Partner Samuel R. Matzel  
Of Counsel Jeffrey Kandell  
Partner Mahira S. Pagay  
Partner Scotta McFarland  
Of Counsel Mary Lane  
Partner Nina Hong  
Associate Teddy M. Kapur  
Librarian Leslie A. Forrester  
Paraprofessional Felice Harrison

| GRADUATED | ADMITTED | STATE | RATE      | HOURS | TOTAL        |
|-----------|----------|-------|-----------|-------|--------------|
| 1976      | 1976     | CA    | \$ 745.00 | 0.10  | \$ 74.50     |
| 1985      | 1985     | CA    | 725.00    | 40.90 | 29,552.50    |
| 1984      | 1984     | CA    | 615.00    | 0.50  | 307.50       |
| 1997      | 1997     | CA    | 615.00    | 1.80  | 1,107.00     |
| 1980      | 1980     | CA    | 615.00    | 47.80 | 29,397.00    |
| 1976      | 1976     | CA    | 595.00    | 3.80  | 2,261.00     |
| 1995      | 1995     | CA    | 595.00    | 0.50  | 297.50       |
| 2004      | 2006     | CA    | 495.00    | 8.40  | 4,158.00     |
|           |          |       | 295.00    | 1.10  | 324.50       |
|           |          |       | 275.00    | 23.00 | 6,325.00     |
| TOTAL     |          |       |           |       | \$ 73,904.50 |

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

# California Report

## FIRM

Pedraza & Stang Ziehl Young Jones & Weintraub

|                  | GRADUATED | ADMITTED | STATE | RATE      | HOURS  | TOTAL        |
|------------------|-----------|----------|-------|-----------|--------|--------------|
| Partner          | 1979      | 1979     | CA    | \$ 975.00 | 0.80   | \$ 780.00    |
| Partner          | 1982      | 1983     | CA    | \$ 875.00 | 12.80  | \$ 11,200.00 |
| Of Counsel       | 1975      | 1976     | CA    | \$ 745.00 | 4.00   | \$ 2,980.00  |
| Partner          | 1983      | 1983     | CA    | \$ 745.00 | 50.80  | \$ 37,846.00 |
| Partner          | 1983      | 1984     | CA    | \$ 725.00 | 11.10  | \$ 8,047.50  |
| Of Counsel       | 1987      | 1987     | CA    | \$ 675.00 | 15.80  | \$ 10,462.50 |
| Of Counsel       | 1987      | 1987     | CA    | \$ 595.00 | 5.20   | \$ 3,094.00  |
| Of Counsel       | 1980      | 1980     | CA    | \$ 575.00 | 4.30   | \$ 2,472.50  |
| Associate        | 2004      | 2010     | CA    | \$ 525.00 | 31.00  | \$ 16,275.00 |
| Paraprofessional |           |          |       | 265.00    | 2.50   | \$ 862.50    |
| Paraprofessional |           |          |       | 265.00    | 7.70   | \$ 2,040.50  |
| Paraprofessional |           |          |       | 265.00    | 1.00   | \$ 265.00    |
| Case Management  |           |          |       | 185.00    | 5.40   | \$ 993.00    |
| Case Management  |           |          |       | 185.00    | 0.40   | \$ 74.00     |
| <b>TOTAL</b>     |           |          |       |           | 152.50 | \$ 57,198.50 |

## Paul Hastings LLP

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

## Seyfarth Shaw LLP

|              |      |      |    |           |       |              |
|--------------|------|------|----|-----------|-------|--------------|
| Counsel      | 1996 | 1996 | CA | \$ 580.00 | 2.40  | \$ 1,832.00  |
| Partner      | 1985 | 1985 | CA | \$ 620.00 | 1.50  | \$ 930.00    |
| Counsel      | 1997 | 1997 | CA | \$ 540.00 | 56.60 | \$ 30,564.00 |
| <b>TOTAL</b> |      |      |    |           | 60.50 | \$ 33,416.00 |

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

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

NJ Ranking: n/a  
Firm Size: 55

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

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

NJ Ranking: 30  
Firm Size: 851

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

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

NJ Ranking: 50  
Firm Size: 733

# California Report

## FIRM Sidley Austin LLP

|           | GRADUATED | ADMITTED | STATE | RATE      | HOURS  | TOTAL        |
|-----------|-----------|----------|-------|-----------|--------|--------------|
| Partner   | 1995      | 1995     | CA    | \$ 875.00 | 18.10  | \$ 12,217.50 |
| Associate | 2010      | 2010     | CA    | 450.00    | 117.50 | 53,065.00    |
| Associate | 2011      | 2011     | CA    | 355.00    | 41.00  | 14,555.00    |
| TOTAL     |           |          |       |           | 177.00 | \$ 79,827.50 |

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

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

NLI Ranking: 10  
Firm Size: 1,592

## Tenys LLP

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

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

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

NLI Ranking: n/a  
Firm Size: 236

***Westlaw Court Express***

***LEGAL BILLING REPORT***

VOLUME 14, NUMBER 3

December 2012

CA REGION

***BY BILLING RATE***

# California Rate Report

| PROFESSIONAL   | FIRM                    | GRADUATED | ADMITTED | STATE | RATE      | HOURS  | TOTAL       |
|----------------|-------------------------|-----------|----------|-------|-----------|--------|-------------|
| Partner        | John Cameron            | 1983      | 1983     | CA    | \$ 995.00 | 5.50   | \$ 5,472.50 |
| Partner        | Shelia Block            | 1974      | 1974     | CA    | \$ 995.00 | 0.40   | 398.00      |
| Partner        | Richard M. Pachulski    | 1979      | 1979     | CA    | \$ 975.00 | 0.80   | 780.00      |
| Partner        | Ira D. Kharasch         | 1982      | 1982     | CA    | \$ 875.00 | 12.80  | 11,200.00   |
| Partner        | J. A. Latham Jr.        | 1978      | 1978     | CA    | \$ 840.00 | 15.80  | 13,272.00   |
| Partner        | David P. Stronids       | 1983      | 1983     | CA    | \$ 825.00 | 9.10   | 6,682.50    |
| Partner        | Michael Rotszala        | 1977      | 1977     | CA    | \$ 810.00 | 0.50   | 405.00      |
| Partner        | Nate McKittick          | 1989      | 1989     | CA    | \$ 780.00 | 0.60   | 474.00      |
| Partner        | Richard Yankeiwich      | 1979      | 1979     | CA    | \$ 760.00 | 39.40  | 30,732.00   |
| Partner        | Ana Lawton              | 1989      | 1989     | CA    | \$ 755.00 | 50.30  | 68,176.50   |
| Of Counsel     | Jennifer S. Baldocchi   | 1983      | 1983     | CA    | \$ 755.00 | 152.40 | 115,062.00  |
| Of Counsel     | James K.T. Hunter       | 1976      | 1976     | CA    | \$ 745.00 | 0.10   | 74.50       |
| Of Counsel     | James K.T. Hunter       | 1976      | 1976     | CA    | \$ 745.00 | 4.00   | 2,980.00    |
| Partner        | John D. Fiero           | 1989      | 1989     | CA    | \$ 745.00 | 50.80  | 37,846.00   |
| Senior Counsel | Edward P. Christian     | 1985      | 1985     | CA    | \$ 725.00 | 2.60   | 1,885.00    |
| Partner        | Samuel R. Malzel        | 1985      | 1985     | CA    | \$ 725.00 | 40.90  | 29,632.50   |
| Partner        | Bruce Grohschal         | 1983      | 1984     | CA    | \$ 725.00 | 11.10  | 8,047.50    |
| Partner        | Heather Dunn            | 2000      | 2000     | CA    | \$ 705.00 | 1.30   | 916.50      |
| Partner        | Lance N. Jurth          | 1987      | 1987     | CA    | \$ 695.00 | 1.90   | 1,320.50    |
| Associate      | Jessica Bullock         | 2003      | 2003     | CA    | \$ 695.00 | 21.10  | 14,684.50   |
| Counsel        | Ellen Sueda             | 1983      | 1983     | CA    | \$ 675.00 | 2.40   | 1,632.00    |
| Of Counsel     | Henry Hochman           | 1987      | 1987     | CA    | \$ 675.00 | 16.50  | 10,462.50   |
| Partner        | Max C. Fischer          | 1985      | 1985     | CA    | \$ 675.00 | 18.10  | 12,217.50   |
| Partner        | Jeffrey D. Karson       | 1988      | 1988     | CA    | \$ 650.00 | 12.70  | 8,255.00    |
| Partner        | Christopher W. Campbell | 1989      | 1989     | CA    | \$ 650.00 | 46.20  | 30,030.00   |
| Of Counsel     | Ben Gibson              | 2002      | 2002     | CA    | \$ 640.00 | 3.10   | 1,984.00    |
| Associate      | Bertrand Pan            | 2004      | 2004     | CA    | \$ 630.00 | 170.00 | 107,100.00  |
| Partner        | Colleen M. Regan        | 1985      | 1985     | CA    | \$ 620.00 | 1.50   | 930.00      |
| Of Counsel     | Jeffrey Kamel           | 1984      | 1984     | CA    | \$ 615.00 | 0.50   | 307.50      |
| Partner        | Malhar S. Pargy         | 1984      | 1987     | CA    | \$ 615.00 | 1.60   | 1,107.00    |
| Partner        | Scott McFarland         | 1980      | 1980     | CA    | \$ 615.00 | 47.80  | 29,337.00   |
| Associate      | Melinda A. Gordon       | 2009      | 2009     | CA    | \$ 615.00 | 31.10  | 19,126.50   |
| Of Counsel     | Mary Lane               | 1976      | 1976     | CA    | \$ 595.00 | 3.90   | 2,261.00    |
| Partner        | Nina Hong               | 1986      | 1986     | CA    | \$ 595.00 | 0.90   | 595.00      |
| Of Counsel     | Gabriele Rohrer         | 1997      | 1997     | CA    | \$ 595.00 | 5.20   | 3,094.00    |

# California Rate Report

| PROFESSIONAL                      | FIRM                                          | GRADUATED | ADMITTED | STATE | RATE      | HOURS  | TOTAL       |
|-----------------------------------|-----------------------------------------------|-----------|----------|-------|-----------|--------|-------------|
| Of Counsel                        | Pachulski Stang Ziehl Young Jones & Weintraub | 1980      | 1980     | CA    | \$ 575.00 | 4.30   | \$ 2,472.50 |
| William Ramseyer                  | Paul Hastings LLP                             | 2007      | 2008     | CA    | \$ 575.00 | 191.70 | 104,477.50  |
| Robert E. Zivver                  | Tony's LLP                                    | 2007      | 2007     | CA    | \$ 555.00 | 110.00 | 62,150.00   |
| Adam Siverts                      | Loeb & Loeb                                   | 2007      | 2007     | CA    | \$ 550.00 | 122.30 | 67,265.00   |
| Ryan M. Aulich                    | Seyfarth Shaw LLP                             | 1997      | 1997     | CA    | \$ 40.00  | 56.60  | 30,854.00   |
| Holger Basch                      | Pachulski Stang Ziehl Young Jones & Weintraub | 2004      | 2010     | CA    | \$ 525.00 | 31.00  | 16,275.00   |
| John W. Lucas                     | DLA Piper LLP                                 | 2008      | 2008     | CA    | \$ 510.00 | 87.00  | 34,170.00   |
| Diana M. Malzer                   | Tony's LLP                                    | 2008      | 2008     | CA    | \$ 500.00 | 0.50   | 250.00      |
| Madhew Akoy                       | Pachulski Stang Ziehl Young Jones & Weintraub | 2004      | 2008     | CA    | \$ 495.00 | 8.40   | 4,158.00    |
| Teddy M. Kumar                    | Paul Hastings LLP                             | 2009      | 2009     | CA    | \$ 485.00 | 87.10  | 42,243.00   |
| Liam M. Paez                      | DLA Piper LLP                                 | 2011      | 2011     | CA    | \$ 470.00 | 1.80   | 846.00      |
| Natasha Hsieh                     | Sidley Austin LLP                             | 2010      | 2010     | CA    | \$ 450.00 | 117.50 | 53,055.00   |
| Michael T. Gustafson              | Gibson Dunn & Crutcher, LLP                   | 2010      | 2010     | CA    | \$ 445.00 | 19.20  | 8,544.00    |
| Virginia FRI                      | Loeb & Loeb                                   | 1993      | 1993     | CA    | \$ 435.00 | 18.20  | 7,917.00    |
| Jeanne C. Wanlass                 | Kornfield, Nyberg, Bendes & Kuhner, P.C.      | 1987      | 1987     | CA    | \$ 425.00 | 16.90  | 7,182.50    |
| Eric A. Nyberg                    | DLA Piper LLP                                 | 2000      | 2000     | CA    | \$ 400.00 | 4.10   | 1,640.00    |
| Tina Bhattachali                  | Gibson Dunn & Crutcher, LLP                   | 2011      | 2011     | CA    | \$ 395.00 | 12.60  | 4,977.00    |
| Matthew Bourisog                  | Paul Hastings LLP                             | 2010      | 2010     | CA    | \$ 385.00 | 97.00  | 37,545.00   |
| Ji Hae Kim                        | Paul Hastings LLP                             | 2010      | 2010     | CA    | \$ 385.00 | 160.20 | 61,677.00   |
| Marlo C. Ortega                   | Sidley Austin LLP                             | 2011      | 2011     | CA    | \$ 355.00 | 41.00  | 14,555.00   |
| Francis S. Lum                    | Tony's LLP                                    | 2000      | 2000     | CA    | \$ 305.00 | 0.80   | 264.00      |
| Clare Mauro                       | Tony's LLP                                    | 2000      | 2000     | CA    | \$ 305.00 | 43.90  | 13,389.50   |
| Bradley Tordick                   | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 295.00 | 1.10   | 324.50      |
| Leslie A. Forrester               | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 275.00 | 23.00  | 6,325.00    |
| Paraprofessional Felicia Harrison | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 265.00 | 2.50   | 662.50      |
| Paraprofessional Patricia Cuniff  | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 265.00 | 7.70   | 2,040.50    |
| Paraprofessional Louise Tuzchak   | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 265.00 | 1.00   | 265.00      |
| Paraprofessional Cheryl A. Krotts | Loeb & Loeb                                   | 2000      | 2000     | CA    | \$ 260.00 | 0.20   | 52.00       |
| Paraprofessional S. Steadman      | Tony's LLP                                    | 2000      | 2000     | CA    | \$ 260.00 | 28.20  | 7,332.00    |
| Paraprofessional Dianna Rajah     | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 185.00 | 5.40   | 595.00      |
| Case Manager Sharita Filman       | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 185.00 | 0.40   | 74.00       |
| Case Manager Dina K. Whaley       | Kornfield, Nyberg, Bendes & Kuhner, P.C.      | 2000      | 2000     | CA    | \$ 80.00  | 0.30   | 24.00       |
| Paraprofessional Nancy L. Nyberg  |                                               |           |          |       |           |        |             |

# Exhibit 4

1 DEBRA L. HURST (SBN 106118)  
2 KYLE VAN DYKE (SBN 171186)  
3 JULIE CORBO RIDLEY (SBN 234274)  
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Additional Counsel Listed After Signature Page  
Attorneys for Plaintiffs and the certified Class

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

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

Plaintiffs,

v.

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

Defendants.

CASE NO.: GIC834348

CLASS ACTION

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

Date: December 12, 2014

Time: 1:30 p.m.

Dept.: C-69

Judge: Hon. Katherine A. Bacal

Complaint Filed: August 16, 2004

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

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

11 **Professional Background**

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

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

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

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

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

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

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

1 (anti-SLAPP case). My declaration also has been favorably referenced by the  
2 following federal courts: *Prison Legal News v. Schwarzenegger* (9th Cir. 2010)  
3 608 F.3d 446, 455, in which the expert declaration referred to in that opinion is  
4 mine; *Antoninetti v. Chipotle Mexican Grill, Inc.* (9th Cir. 2012) Order filed Dec.  
5 26, 2012; *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D.Cal. 2013) No. M  
6 07-1827 SI, MDL, No. 1827, Report and Recommendation of Special Master re  
7 Motions for Attorneys' Fees etc., filed Nov. 9, 2012, adopted in relevant part, 2013  
8 U.S.Dist.LEXIS 49885; *Rosenfeld v. United States Dept. of Justice* (N.D. Cal.  
9 2012) 904 F.Supp.2d 988; *Stonebrae v. Toll Bros.* (N.D. Cal. 2011) 2011  
10 U.S.Dist.LEXIS 39832, at \*9 (thorough discussion), *aff'd* (9th Cir. 2013) 2013  
11 U.S.App.LEXIS 6369; *Hajro v. United States Citizenship & Immigration Service*  
12 (N.D.Cal 2012) 900 F.Supp.2d 1034, 1054; *Armstrong v. Brown* (N.D. Cal. 2011)  
13 2011 U.S.Dist.LEXIS 87428; *Californians for Disability Rights, Inc. v. California*  
14 *Dept. of Transportation* (N.D. Cal. 2010) 2010 U.S.Dist.LEXIS 141030; *Prison*  
15 *Legal News v. Schwarzenegger* (N.D. Cal. 2008) 561 F.Supp.2d 1095 (an earlier  
16 motion); *Oberfelder v. City of Petaluma* (N.D. Cal. 2002) 2002 U.S.Dist.LEXIS  
17 8635, *aff'd* (9th Cir. 2003) 2003 U.S.App.LEXIS 11371; *Bancroft v. Trizechahn*  
18 *Corp.*, C.D. Cal. No. CV 02-2373 SVW (FMOx), Order Granting Reasonable  
19 Attorneys' Fees etc., filed Aug. 14, 2006; *Willoughby v. DT Credit Corp.*, C.D.  
20 Cal. No. CV 05-05907 MMM (Cwx), Order Awarding Reasonable Attorneys' Fees  
21 After Remand, filed July 17, 2006; *A.D. v. California Highway Patrol* (N.D.Cal.  
22 2009) 2009 U.S.Dist.LEXIS 110743, *rev's'd on other grounds* (9th Cir. 2013) 712  
23 F.3d 446, *reaffirmed and additional fees awarded on remand* at 2013  
24 U.S.Dist.LEXIS 169275; *National Federation of the Blind v. Target Corp.*  
25 (N.D.Cal. 2009) 2009 U.S.Dist.LEXIS 67139. In addition, numerous trial courts  
26 have relied upon my testimony in unpublished fee orders.

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

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

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

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

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

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

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

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

6 **Court Awards**

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

17 11. Counsel's rates are also consistent with the following court awards  
18 from the Southern District of California<sup>1</sup>:

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

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

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

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

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

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

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

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

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

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

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

6 **2014**

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

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

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

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

**Whatley Kallas**

| <u>Years of Experience</u> | <u>Rate</u> |
|----------------------------|-------------|
| 27                         | 900         |
| 32                         | 800         |
| 33                         | 750         |
| 21                         | 700         |
| 10                         | 600         |
| 4                          | 400         |
| 2                          | 375         |
| Paralegal                  | 225         |
| Intern                     | 125         |

**Consumer Watchdog**

|    |       |
|----|-------|
| 35 | \$925 |
| 19 | 650   |
| 4  | 425   |

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

Partners: \$775-350

Associates: \$525-325

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

| <u>Years</u> | <u>Rate</u> |
|--------------|-------------|
| 39           | \$750       |
| 35           | 730         |
| 13           | 500         |
| 8            | 460         |
| 6            | 440         |

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

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

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

11 **2013 Rates**

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

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

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

hourly rates reasonable:

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

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

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

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

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

#### **2012 Rates**

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

**Zelle Hofman**

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

**Steyer, Lowenthal et al.**

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

**Cooper & Kirkham**

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

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

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

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

1 rates reasonable:

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

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

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

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

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

|            |     |
|------------|-----|
| 2000       | 570 |
| 2001       | 550 |
| 2002       | 520 |
| Law Clerks | 250 |
| Paralegals | 215 |

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

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

#### 2011 Rates

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

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

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

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

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

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

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

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

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

23 **2010 Rates**

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

2010 hourly rates reasonable:

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

#### **Rate Information from Surveys**

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

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

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

1           **Rates Charged by Other Law Firms**

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

11           **Altshuler Berzon LLP\*\***

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

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

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

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

**Altshuler Berzon LLP\*\***

|            |     |
|------------|-----|
| Paralegals | 215 |
|------------|-----|

**Arnold Porter LLP**

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

**The Arns Law Firm LLP \*\***

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

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

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

**Bingham McCutchen**

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

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

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

**Blood Hurst & O'Reardon \*, \*\***

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

**Blood Hurst & O'Reardon\*, \*\***

|            |     |
|------------|-----|
| 6          | 510 |
| 5          | 410 |
| 1          | 305 |
| Paralegals | 260 |

**Burson & Fisher\*\***

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

**Chavez & Gertler\***

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

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

**Coblentz Patch & Duffy**

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

**Cohelan Khoury & Singer**

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

**Cooper & Kirkham**

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

**Covington Burling**

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

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

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

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

**Covington Burling**

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

**Farella Braun & Martell LLP**

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

**Fenwick & West**

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

**Furth Firm LLP\*\***

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

**Furth Firm LLP\*\***

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

**Gibson Dunn & Crutcher LLP**

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

**Goldstein, Borgen, Dardarian & Ho\*\***

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

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

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

**Goldstein, Borgen, Dardarian & Ho\*\***

|    |     |
|----|-----|
| 30 | 700 |
| 24 | 650 |
| 18 | 600 |
| 17 | 600 |
| 16 | 550 |

**2010 Rates:**

Years of Experience      Rate

Partners

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

Of Counsel

|    |     |
|----|-----|
| 40 | 725 |
|----|-----|

Associates

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

Law Clerks

|            |         |
|------------|---------|
| Paralegals | 195     |
|            | 150-225 |

**Greenberg, Traurig, LLP**

**2010 Rates:**

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

**Greines, Martin, Stein & Richland**

**2012 Rates:**

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

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

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

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

**Hausfeld LLP\*\***

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

**Irell & Manella**

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

1 **Janssen Malloy LLP**

2 **2014 Rates:**

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

4 **Jones Day**

5 **2013 Rates:**

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

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

10 **2013 Rates:**

| <u>Years of Experience</u> | <u>Rate</u> |
|----------------------------|-------------|
| 44                         | \$925       |
| 27                         | 725         |
| 24                         | 725         |
| 7                          | 525         |
| 5                          | 475         |

15 **Keker & Van Nest, LLP**

16 **2010 Rates:**

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

20 **Kemnitzer, Barron & Krieg**

21 **2014 Rates:**

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

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

27 **2012 Rates:**

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

**Kiesel, Boucher, Larson LLP \*, \*\***

Associates 625-325

**Kingsley & Kingsley\*\***

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

**Kirkland & Ellis**

| <b><u>2013 Rates:</u></b> |                   |       |
|---------------------------|-------------------|-------|
|                           | Average Partner   | \$825 |
|                           | Highest Partner   | 995   |
|                           | Lowest Partner    | 670   |
|                           | Average Associate | 540   |
|                           | Highest Associate | 715   |
|                           | Lowest Associate  | 235   |

**Knapp, Petersen & Clarke**

| <b><u>2012 Rates:</u></b> | <b><u>Years of Experience</u></b> | <b><u>Rate</u></b> |
|---------------------------|-----------------------------------|--------------------|
|                           | 36                                | \$753              |
|                           | 9                                 | 554                |
|                           | 6                                 | 383                |

**Knobbe Martin Olson & Bear LLP**

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

**Latham & Watkins**

| <b><u>2013 Rates:</u></b> |                   |       |
|---------------------------|-------------------|-------|
|                           | Average Partner   | \$990 |
|                           | Highest Partner   | 1,100 |
|                           | Lowest Partner    | 670   |
|                           | Average Partner   | 895   |
|                           | Average Associate | 605   |
|                           | Highest Associate | 725   |
|                           | Lowest Associate  | 465   |

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

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

**Litt, Estuar, & Kitson, LLP\*\***

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

**Manatt, Phelps & Phillips**

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

**McKenna Long & Aldridge LLP**

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

**McKenna Long & Aldridge LLP**

|                         |     |
|-------------------------|-----|
| 5                       | 420 |
| Litigation Support Mgr. | 350 |
| Paralegals              | 225 |

**Minami Tamaki LLP**

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

**Morrison Foerster LLP**

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

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

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

**O'Melveny & Myers**

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

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

**Patton Boggs**

|                           |                            |             |
|---------------------------|----------------------------|-------------|
| <b><u>2010 Rates:</u></b> | <u>Years of Experience</u> | <u>Rate</u> |
|---------------------------|----------------------------|-------------|

**Patton Boggs**

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

**Pillsbury Winthrop Shaw Pittman LLP**

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

**Quinn Emanuel Urquhart & Sullivan**

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

**Quinn Emanuel Urquhart & Sullivan**

|                   |     |
|-------------------|-----|
| Highest Associate | 675 |
| Lowest Associate  | 320 |

**Reed Smith LLP**

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

**Robbins Geller Rudman & Dowd LLP \*, \*\***

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

**Rosen, Bien, Galvan & Grunfeld LLP**

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

**Rosen, Bien, Galvan & Grunfeld LLP**

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

**2012 Rates:**

**Years of Experience**      **Rate**

**Partners**

|    |       |
|----|-------|
| 50 | \$860 |
| 32 | 760   |
| 28 | 640   |
| 15 | 610   |

**Of Counsel**

|    |     |
|----|-----|
| 29 | 570 |
|----|-----|

**Associates**

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

|            |         |
|------------|---------|
| Paralegals | 215-280 |
|------------|---------|

|                                        |     |
|----------------------------------------|-----|
| Litigation Support/<br>Paralegal clerk | 150 |
|----------------------------------------|-----|

|                    |     |
|--------------------|-----|
| Law Clerk/Students | 240 |
|--------------------|-----|

|                 |    |
|-----------------|----|
| Word Processing | 80 |
|-----------------|----|

**2011 Rates:**

**Years of Experience**      **Rate**

**Partners**

|    |       |
|----|-------|
| 49 | \$840 |
| 31 | 740   |
| 27 | 625   |
| 14 | 590   |

**Of Counsel**

|    |     |
|----|-----|
| 28 | 540 |
|----|-----|

**Associates**

|    |     |
|----|-----|
| 18 | 525 |
|----|-----|

|    |     |
|----|-----|
| 11 | 465 |
|----|-----|

|    |     |
|----|-----|
| 10 | 450 |
|----|-----|

**Rosen, Bien, Galvan & Grunfeld LLP**

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

**2010 Rates:**

Years of Experience      Rate

Partners

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

Associates

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

**Rudy, Exelrod, Zieff & Lowe LLP**

**2010 Rates:**

Years of Experience      Rate

Partners

|    |       |
|----|-------|
| 42 | \$725 |
| 32 | 725   |

**Rudy, Exelrod, Zieff & Lowe LLP**

|            |     |
|------------|-----|
| 15         | 625 |
| Associates |     |
| 21         | 495 |
| 13         | 485 |
| 8          | 450 |

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

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

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

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

**Sheppard, Mullin, Richter & Hampton**

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

**Sidley Austin**

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

**Skadden, Arps, Slate, Meagher & Flom**

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

1 **Skadden, Arps, Slate, Meagher & Flom**

|                   |     |
|-------------------|-----|
| Average Associate | 620 |
| Highest Associate | 845 |
| Lowest Associate  | 340 |

4 **Spiro Moore LLP\*\***

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

8 **Law Offices of Michael D. Thamer**

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

10 **Townsend and Townsend and Crew**

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

14 **Wilson Sonsini Goodrich & Rosati PC**

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

19 **Zelle Hofmann Voelbel & Mason, LLP\*\***

|                           |                            |             |
|---------------------------|----------------------------|-------------|
| <b><u>2012 Rates:</u></b> | <u>Years of Experience</u> | <u>Rate</u> |
|                           | Partners                   | Up to \$950 |
|                           | Associates                 | Up to \$540 |
|                           | Paralegals                 | Up to \$290 |
|                           | Law Clerks                 | Up to \$250 |

|                           |                            |             |
|---------------------------|----------------------------|-------------|
| <b><u>2012 Rates:</u></b> | <u>Years of Experience</u> | <u>Rate</u> |
|                           | Partners                   |             |
|                           | 38                         | \$800       |
|                           | 26                         | 685         |
|                           | 23                         | 650         |
|                           | 22                         | 640         |
|                           | Associates                 |             |
|                           | 9                          | 500         |

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

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

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

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

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

25 

26 Richard M. Pearl

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

2 Timothy D. Cohelan (Bar No. 60827)

3 Michael D. Singer (Bar No. 115301)

4 COHELAN KHOURY & SINGER

5 605 "C" Street, Suite 200

6 San Diego, CA 92101

7 Telephone: (619) 595-3001

**EXHIBIT A**

## **RESUME OF RICHARD M. PEARL**

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

### **EDUCATION**

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

### **BAR MEMBERSHIP**

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

### **EMPLOYMENT**

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

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

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

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

**RICHARD M. PEARL**

Page 2

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

**Director of Litigation (July 1977 to July 1982)**

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

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

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

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

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

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

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

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

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

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

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

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

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

**RICHARD M. PEARL**

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## **PUBLICATIONS**

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

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

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

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

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

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

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

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

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

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Effective Representation Before California Administrative Agencies (October 1986)

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations (March 1984)

*Settlers Beware/The Dangers of Negotiating Statutory Fee Cases* (September 1985) Los Angeles Lawyer

Program Materials on Remedies Training (Class Actions), sponsored by Legal Services Section, California State Bar, San Francisco (May 1983)

**RICHARD M. PEARL**

Page 4

Attorneys' Fees: A Legal Services Practice Manual (Legal Services Corporation 1981)

**PUBLIC SERVICE**

Member, Attorneys' Fee Task Force, California State Bar

Chairperson, Board of Directors, California Rural Legal Assistance Foundation

**REPRESENTATIVE REPORTED CASES**

*Alcoser v. Thomas*

(2011) 2011 Cal.App.Unpub.LEXIS 1180

*Boren v. California Department of Employment*

(1976) 59 Cal.App.3d 250

*Cabrera v. Martin*

(9th Cir. 1992) 973 F.2d 735

*Camacho v. Bridgeport Financial, Inc.*

(9th Cir. 2008) 523 F.3d 973

*Campos v. E.D.D.*

(1982) 132 Cal.App.3d 961

*Center for Biological Diversity v. County of San Bernardino*

(2010) 185 Cal.App.4th 866

*Committee to Defend Reproductive Rights v. A Free Pregnancy Center*

(1991) 229 Cal.App.3d 633

*David C. v. Leavitt*

(D. Utah 1995) 900 F.Supp. 1547

*Delaney v. Baker*

(1999) 10 Cal.4th 23

*Employment Development Dept. v. Superior Court (Boren)*

(1981) 30 Cal.3d 256

*Environmental Protection Information Center, Inc. v. Pacific Lumber Co.*

(N.D. Cal. 2002) 229 F. Supp.2d 993, *aff'd* (9th Cir. 2004) 103 Fed. Appx. 627

*Center for Biological Diversity*

(2010)

*Center for Biological Diversity*

**RICHARD M. PEARL**

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**Representative Reported Cases (cont.)**

*Flannery v Prentice*

(2001) 26 Cal. 4th 572

*Graham v. DaimlerChrysler Corp.*

(2004) 34 Cal. 4<sup>th</sup> 553

*Horsford v. Board of Trustees of Univ. of Calif.*

(2005) 132 Cal.App.4th 359

*Ketchum v. Moses*

(2001) 24 Cal.4th 1122

*Kievlan v. Dahlberg Electronics*

(1978) 78 Cal.App.3d 951, cert. denied (1979)  
440 U.S. 951

*Lealao v. Beneficial California, Inc.*

(2000) 82 Cal.App.4th 19

*Lewis v. California Unemployment Insurance Appeals Board*

(1976) 56 Cal.App.3d 729

*Local 3-98 etc. v. Donovan*

(N.D. Cal. 1984) 580 F.Supp. 714,  
Aff'd (9th Cir. 1986) 792 F.2d 762

*Mangold v. California Public Utilities Commission*

(9th Cir. 1995) 67 F.3d 1470

*Maria P. v. Riles*

(1987) 43 Cal.3d 1281

*Martinez v. Dunlop*

(N.D. Cal. 1976) 411 F.Supp. 5,  
aff'd (9th Cir. 1977) 573 F.2d 555

*McQueen, Conservatorship of*

(2014) 59 Cal.4<sup>th</sup> 602 (argued for *amici curiae*)

*McSomebodies v. Burlingame Elementary School Dist.*

(9th Cir. 1990) 897 F.2d 974

**RICHARD M. PEARL**

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**Representative Reported Cases (cont.)**

*McSomebodies v. San Mateo City School Dist.*  
(9th Cir. 1990) 897 F.2d 975

*Molina v. Lexmark International*  
(2013) 2013 Cal.App. Unpub. LEXIS 6684

*Moore v. Bank of America*  
(9<sup>th</sup> Cir. 2007) 2007 U.S. App. LEXIS 19597

*Moore v. Bank of America*  
(S.D. Cal. 2008) 2008 U.S. Dist. LEXIS 904

*Mora v. Chem-Tronics, Inc.*  
(S.D. Cal. 1999) 1999 U.S. Dist. LEXIS 10752,  
5 Wage & Hour Cas. 2d (BNA) 1122

*Nadaf-Rahrov v. Nieman Marcus Group*  
(2014) 2013 Cal.App. Unpub. LEXIS 6975

*Pena v. Superior Court of Kern County*  
(1975) 50 Cal.App.3d 694

*Ponce v. Tulare County Housing Authority*  
(E.D. Cal 1975) 389 F.Supp. 635

*Ramirez v. Runyon*  
(N.D. Cal. 1999) 1999 U.S. Dist. LEXIS 20544

*Rubio v. Superior Court*  
(1979) 24 Cal.3d 93 (amicus)

*Sokolow v. County of San Mateo*  
(1989) 213 Cal. App. 3d 231

*S.P. Growers v. Rodriguez*  
(1976) 17 Cal.3d 719 (amicus)

*Tongol v. Usery*  
(9th Cir. 1979) 601 F.2d 1091,  
on remand (N.D. Cal. 1983) 575 F.Supp. 409,  
revs'd (9th Cir. 1985) 762 F.2d 727

**RICHARD M. PEARL**

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**Representative Reported Cases (cont.)**

*Tripp v. Swoap*

(1976) 17 Cal.3d 671 (amicus)

*United States (Davis) v. City and County of San Francisco*

(N.D. Cal. 1990) 748 F.Supp. 1416, *aff'd in part*  
*and revs'd in part sub nom Davis v. City and County*  
*of San Francisco* (9<sup>th</sup> Cir. 1992) 976 F.2d 1536,  
*modified on rehearing* (9<sup>th</sup> Cir. 1993) 984 F.2d 345

*United States v. City of San Diego*

(S.D.Cal. 1998) 18 F.Supp.2d 1090

*Vasquez v. State of California*

(2008) 45 Cal.4th 243 (amicus)

*Velez v. Wynne*

(9<sup>th</sup> Cir. 2007) 2007 U.S. App. LEXIS 2194

**REFERENCES**

Furnished upon request.

**September 2014**

Furnished upon request

10/1/2011

**EXHIBIT B**

# LAFFEY MATRIX

History

Easy Link

Expert Opinion

See the Matrix

Contact us

Home

Link

| Year             | Adjustmt<br>Factor** | Paralegal/<br>Law<br>Clerk | Years Out of Law School * |       |       |       |       |
|------------------|----------------------|----------------------------|---------------------------|-------|-------|-------|-------|
|                  |                      |                            | 1-3                       | 4-7   | 8-10  | 11-19 | 20 +  |
| 6/01/13- 5/31/14 | 1.0244               | \$175                      | \$320                     | \$393 | \$567 | \$640 | \$771 |
| 6/01/12- 5/31/13 | 1.0258               | \$170                      | \$312                     | \$383 | \$554 | \$625 | \$753 |
| 6/01/11- 5/31/12 | 1.0352               | \$166                      | \$305                     | \$374 | \$540 | \$609 | \$734 |
| 6/01/10- 5/31/11 | 1.0337               | \$161                      | \$294                     | \$361 | \$522 | \$589 | \$709 |
| 6/01/09- 5/31/10 | 1.0220               | \$155                      | \$285                     | \$349 | \$505 | \$569 | \$686 |
| 6/01/08- 5/31/09 | 1.0399               | \$152                      | \$279                     | \$342 | \$494 | \$557 | \$671 |
| 6/01/07-5/31/08  | 1.0516               | \$146                      | \$268                     | \$329 | \$475 | \$536 | \$645 |
| 6/01/06-5/31/07  | 1.0256               | \$139                      | \$255                     | \$313 | \$452 | \$509 | \$614 |
| 6/1/05-5/31/06   | 1.0427               | \$136                      | \$249                     | \$305 | \$441 | \$497 | \$598 |
| 6/1/04-5/31/05   | 1.0455               | \$130                      | \$239                     | \$293 | \$423 | \$476 | \$574 |
| 6/1/03-6/1/04    | 1.0507               | \$124                      | \$228                     | \$280 | \$405 | \$456 | \$549 |
| 6/1/02-5/31/03   | 1.0727               | \$118                      | \$217                     | \$267 | \$385 | \$434 | \$522 |
| 6/1/01-5/31/02   | 1.0407               | \$110                      | \$203                     | \$249 | \$359 | \$404 | \$487 |
| 6/1/00-5/31/01   | 1.0529               | \$106                      | \$195                     | \$239 | \$345 | \$388 | \$468 |
| 6/1/99-5/31/00   | 1.0491               | \$101                      | \$185                     | \$227 | \$328 | \$369 | \$444 |
| 6/1/98-5/31/99   | 1.0439               | \$96                       | \$176                     | \$216 | \$312 | \$352 | \$424 |
| 6/1/97-5/31/98   | 1.0419               | \$92                       | \$169                     | \$207 | \$299 | \$337 | \$406 |
| 6/1/96-5/31/97   | 1.0396               | \$88                       | \$162                     | \$198 | \$287 | \$323 | \$389 |
| 6/1/95-5/31/96   | 1.032                | \$85                       | \$155                     | \$191 | \$276 | \$311 | \$375 |
| 6/1/94-5/31/95   | 1.0237               | \$82                       | \$151                     | \$185 | \$267 | \$301 | \$363 |

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

\* "Years Out of Law School" is calculated from June 1 of each year, when most law students graduate. "1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). "4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of

practice. An attorney who graduated in May 1996 would be in tier "1-3" from June 1, 1996 until May 31, 1999, would move into tier "4-7" on June 1, 1999, and tier "8-10" on June 1, 2003.

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

## **EXHIBIT C**

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

The National Law Journal

January 13, 2014 Monday

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**THE NATIONAL  
LAW JOURNAL**

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

Length: 1860 words

Byline: KAREN SLOAN

**Body**

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

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

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

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

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

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

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

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

Richard Pearl

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

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

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

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

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

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

#### THE ROLE OF GEOGRAPHY

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

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

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

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

#### BILLING SURVEY METHODOLOGY

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

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

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

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

Richard Pearl

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

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

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

#### Billing Rates at the Country's Priciest Law Firms

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

#### Billing Rates at the Country's Priciest Law Firms

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

Richard Pearl

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

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

Richard Pearl

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

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

#### THE FOUR-FIGURE CLUB

These 10 firms posted the highest partner billing rates.

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

#### THE FOUR-FIGURE CLUB

Contact Karen Sloan at [ksloan@alm.com](mailto:ksloan@alm.com)

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

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### **The Firms**

April 16, 2012 5:20 PM

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

Posted by Sara Randazzo

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

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

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

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

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

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

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

The report's key data points include:

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

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

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

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

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

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

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

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

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

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## On Sale: The \$1,150-Per-Hour Lawyer

*Lawyer Fees Keep Growing, But Don't Believe Them. Clients Are Demanding, and Getting, Discounts*

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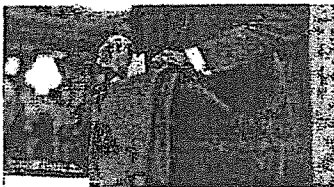
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By JENNIFER SMITH

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



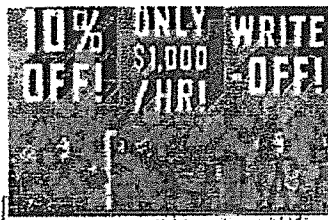
Top partners at leading U.S. law firms are charging more than ever — routinely \$1,150 or more an hour — but after discounts and write-offs the nosebleed rates aren't all they appear to be. Jennifer Smith reports. Photo: Getty Images.

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

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

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

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



James Kobaczewski

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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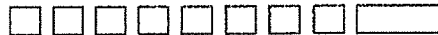
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# Exhibit 5

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# Exhibit 6

## SUMMARY OF TIME AND COSTS

*Manuel Balux Och and Pedro Garcia Alferez v. Sac ProFloors*  
Alameda County Superior Court, Case Number 23CV031860  
(Consolidated with Case No. 23CV039543)

**Total Attorneys' Hours: 298.7**

**Total Lodestar Fees: \$207,330.10**

**Total Litigation Expenses: \$19,053.55**

As of 8/19/24

| ATTORNEYS                                              | YEAR ADMITTED | HOURS | HOURLY RATE | TOTAL               |
|--------------------------------------------------------|---------------|-------|-------------|---------------------|
| <b>MARA LAW FIRM, PC</b>                               |               |       |             |                     |
| David Mara, Esq.                                       | 2004          | 144.5 | \$800       | \$115,600.00        |
| Jill Vecchi, Esq.                                      | 2014          | 117.2 | \$600       | \$70,320.00         |
| <b>MARA LAW FIRM, PC TOTAL:</b>                        |               |       |             | <b>\$185,920.00</b> |
| <b>MELMED LAW GROUP P.C.</b>                           |               |       |             |                     |
| Jonathan Melmed, Esq.                                  | 2013          | 2     | \$777       | \$1,554.00          |
| Laura M. Supanich, Esq.                                | 2017          | 4.3   | \$538       | \$2,313.40          |
| Rebecca Harteker, Esq.                                 | 2023          | 12.6  | \$437       | \$5,506.20          |
| <b>MELMED LAW GROUP P.C. TOTAL:</b>                    |               |       |             | <b>\$9,373.60</b>   |
| <b>LAWYERS FOR EMPLOYEE AND CONSUMER RIGHTS, APC</b>   |               |       |             |                     |
| Peter Horton, Esq.                                     | 2003          | 18.1  | \$665       | \$12,036.50         |
| <b>LAWYERS FOR EMPLOYEE AND CONSUMER RIGHTS TOTAL:</b> |               |       |             | <b>\$12,036.50</b>  |
| <b>TOTAL:</b>                                          |               |       |             | <b>\$207,330.10</b> |

| LITIGATION EXPENSES          |                    |
|------------------------------|--------------------|
| <b>MARA LAW FIRM, PC</b>     | \$17,276.80        |
| <b>MELMED LAW GROUP P.C.</b> | \$1,776.75         |
| <b>TOTAL COSTS</b>           | <b>\$19,053.55</b> |

# Exhibit 7