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10 Attorneys for Plaintiff JESSICA TEPPER, on behalf of herself,  
11 all others similarly situated, and on behalf of the general public

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF ORANGE**

14 JESSICA TEPPER on behalf of herself,  
15 all others similarly situated, and on  
16 behalf of the general public,

17 Plaintiffs,

18 v.

19 CHARLES & CYNITHA EBERLY,  
20 INC. DBA THE EBERLY COMPANY;  
21 and DOES 1-100,

22 Defendants.

Case No. 30-2024-01371238-CU-OE-CXC

*[Assigned for All Purposes to the  
Honorable William D. Claster; Dept. CX101]*

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

Date: June 13, 2025

Time: 9:00 a.m.

Reservation No.: 74569019

Complaint Filed: January 4, 2024

1 I, DAVID MARA, declare the following:

- 2 1. I am President of Mara Law Firm, PC, and counsel of record for Plaintiff and the aggrieved  
3 employees 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 actions  
10 and cases alleging violations of the Private Attorneys General Act of 2004 (“PAGA”).
- 11 5. I was co-class counsel in *Hohnbaum v. Brinker Restaurant Corp.* (San Diego County Superior  
12 Court, Case No. GIC834348) which was the underlying case in the California Supreme Court’s  
13 landmark decision in *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, in  
14 which the California Supreme Court delineated the scope of employer obligations to provide,  
15 and employee rights to receive, meal and rest periods under California law.
- 16 6. I am frequently called upon to author Amicus Curiae briefs on behalf of Consumer Attorneys  
17 of California (“CAOC”). For example, I authored the Amicus Curiae briefs on behalf of CAOC  
18 in *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, (The California Supreme  
19 Court ruling that, like meal periods, employers must relieve employees of all duty and  
20 relinquish all control to satisfactorily discharge its obligation to authorize and permit rest  
21 periods.); *Frlekin v. Apple, Inc.* (2020) 8 Cal.5th 1038 (The California Supreme Court ruling  
22 that the time spent on the employer’s premises waiting for, and undergoing, required exit  
23 searches of packages, bags, or personal technology devices voluntarily brought to work is  
24 compensable hours worked within the meaning of the Wage Orders.); *Oliver v. Superior Court*  
25 (2021) California Court of Appeal Case No. H049185 (A brief asking the California Court of  
26 Appeal for the Sixth Appellate District to determine whether mandatory drive time of personal  
27 vehicles should be considered hours worked within the meaning of the Wage Orders’ suffered  
28 or permitted test.). *Davidson v. O’Reilly Auto Enterprises, LLC* (9th Cir., 2020; Docket No.

1 18-56188) (a brief seeking Review *En Banc* of an order denying class certification in a wage  
2 and hour matter).

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

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

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

24 10. I have also been named as class counsel in numerous cases during the settlement process.  
25 Here is a non-exhaustive list of cases where I have been named as class counsel in cases  
26 during the settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo County Superior  
27 Court, Case No. CV-18-100); *Brian Davidson v. A&B Trucking Services, Inc.* (Kern County  
28 Superior Court Case No. BCV-16-102985); *Alex Vega, et al. v. Advance Beverage Co., Inc.*

(Kern County Superior Court, Case No. BCV-16-100848); *Jaime Ruiz v. Altura Centers for Health* (Kern County Superior Court, Case No. BCV-19-101577); *George Zamudio v. AmeriPride Service, Inc.* (Alameda County Superior Court, Case No. RG1809666); *Richard Hendricks v. Antonini Freight Express, Inc.* (San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-6999); *Alton Davis v. Apria Healthcare Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-00004724-CU-OE-CTL); *Alan Atchison v. Ashley Furniture Industries, Inc., et al.* (Central District of California, Case No. 17-cv-00528-JAK-SP); *Bernard Payton v. Atech Logistics, Inc.* (Sonoma County Superior Court, Case No. SCV 258595); *Ramon Jenkins v. Compass Group USA, Inc., et al.* (Yolo County Superior Court, Case No. CVCV-18-747); *Timothy Spikes, et al. v. Bear Trucking, Inc., et al.* (San Bernardino County Superior Court, Case No. CIVDS1715151); *Joshua Turpen v. Benjamin's Transfer Inc.* (Solano County Superior Court, Case No. FCS048845); *Cesar Mendoza v. Bi-Rite Food Service, Inc.* (San Mateo County Superior Court, Case No. 17CIV02044); *Terrance Bailey v. Blue Apron, LLC; et al.* (Northern District of California, Case No. 18-cv-07000-VC); *Jeffrey Weast v. California Aseptic Beverages, LLC* (San Bernardino County Superior Court, Case No. CIVDS1825256); *Michael Valentich v. Hub Construction Specialties, Inc.* (San Bernardino County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega Velazquez v. Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVDS1928062); *Adrian Diaz v. Keystone Automotive Operations, Inc.* (Riverside County Superior Court, Case No. RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba NCI Building Systems* (Eastern District of California, Case No. 18-cv-00948-AWI-SKO); *Larry Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case No. 30-2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San Bernardino County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw Industries, Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVSB2024674); *Joshua Rael v. Intercontinental Hotels Group Resources, Inc.* (Los Angeles County Superior Court, Case No. 19STCV16010); and *Aaron Romero v. Vitro Flat Glass, LLC* (Kern County Superior Court, Case No. BCV-21-101357).

- 1 11. Plaintiff sent her Notice of Labor Code Violations Pursuant to Labor Code § 2699.3 on or  
2 about October 20, 2023. In the letter, Plaintiff apprised the LWDA of her wage and hour  
3 claims against Defendant. A copy of Plaintiff's Notice to the LWDA is attached hereto as  
4 **Exhibit 6.**
- 5 12. On or about January 4, 2024, Plaintiff filed a complaint asserting claims for civil penalties  
6 under the Private Attorneys General Act of 2004 ("PAGA"). Plaintiff's Complaint alleges  
7 causes of action on behalf of Plaintiff and those similarly situated aggrieved employees  
8 under the PAGA for Defendant's alleged failure to pay all straight time wages, failure to  
9 pay all overtime wages, failure to provide lawful meal periods, failure to provide lawful rest  
10 periods, failure to provide compliant wage statements, failure to pay all wages due at  
11 termination, failing to pay wages twice per month, failing to adopt a compliant sick  
12 leave/absence control policy, and failure to reimburse business expenses.
- 13 13. After filing, the Parties conducted discovery. Defendant produced hundreds of pages of  
14 documents. These documents included Plaintiff's personnel file and policy documents that  
15 covered Plaintiff's and the aggrieved employees' employment with Defendant. Defendant  
16 also produced Plaintiff's time and pay records. These documents also included a 20%  
17 random sampling of records for aggrieved employees which were comprised of handwritten  
18 time records and Excel files that contained wage data. Plaintiff's Counsel reviewed and  
19 analyzed these records. In addition, Plaintiff provided her Counsel with hundreds of pages  
20 of documents, including text messages and emails from her employment with Defendant.  
21 Plaintiff's Counsel also talked with other aggrieved employees who provided Plaintiff's  
22 Counsel with additional documents and information. These documents included emails and  
23 text messages sent between Defendant and aggrieved employees.
- 24 14. The Parties attended mediation with respected wage and hour mediator David Rotman on  
25 September 22, 2024. The mediation concluded with a mediator's proposal that was  
26 ultimately accepted by the Parties. Thereafter, the Parties negotiated the Settlement  
27 Agreement they now ask the Court to approve. The Parties' Settlement Agreement is  
28 attached hereto as **Exhibit 1.**

1 15. Plaintiff contends that Defendant does not provide Plaintiff and the Aggrieved Employees  
2 with duty-free meal and rest periods because Plaintiff asserts that employees must always  
3 answer their phones when Defendant, prospective tenants, or current tenants call them.  
4 Plaintiff contends that this includes when employees are on meal and rest periods. In  
5 addition, Plaintiff asserts that employees always had to be available to let in outside vendors,  
6 including during meal and rest periods. Plaintiff further asserts that employees also always  
7 must be available should an emergency arise.

8 16. Defendant argues that it provides employees with lawful, off-duty meal and rest periods.  
9 Defendant further asserts that employees' schedules are flexible and employees can take  
10 meal and rest periods whenever they want. Defendant contends that employees work  
11 remotely at the apartment complexes they manage and can turn off their phones during meal  
12 and rest periods. Defendant asserts that employees schedule times for outside vendors to  
13 visit and can schedule these times around their meal and rest periods. Defendant contends  
14 that its meal and rest period policies are, and have been, lawful. Defendant contends that if  
15 litigation were to continue, it would file a motion for summary judgment on this issue and  
16 provide declarations from Aggrieved Employees which verify they received meal periods  
17 in accordance with California law.

18 17. Plaintiff contends that Defendant requires employees to record a set number of hours  
19 worked per pay period, regardless of how many hours they actually work. Plaintiff asserts  
20 that this is because employees are only allowed to record the number of hours stated in their  
21 contract with Defendant. Plaintiff asserts that any other hours must receive prior approval  
22 before they can be recorded. Plaintiff contends that Defendant requires employees to work  
23 additional hours for which their salary does not cover. Plaintiff asserts that employees must  
24 be available to handle any issues that arise even if it is outside of the hours stated in their  
25 contract.

26 18. Defendant argues that it pays for all hours worked. Defendant contends that employees do  
27 not have to work hours outside of what is specified in their contract. Defendant asserts that  
28 it pays employees for all hours worked and that employees are told to record all hours

1 worked. Defendant contends that employees' schedules are flexible, and employees can  
2 determine what hours to work each day depending on the needs of the apartment complex.  
3 Defendant asserts that when employees work over the number of hours in their contract,  
4 employees are told to submit those hours and are paid for those hours. As such, Defendant  
5 contends that it pays employees for all of the hours they work.

6 19. Plaintiff asserts that Defendant requires employees to use their personnel cell phones for  
7 business purposes. Plaintiff contends that employees are contacted by current and  
8 prospective tenants on their personnel cell phones. In addition, Plaintiff asserts that  
9 Defendant calls and texts employees on their personnel cell phones for business purposes  
10 such as to inform them of times when vendors will be arriving. Plaintiff contends that  
11 Defendant fails to reimburse employees for this expense. Defendant asserts that it  
12 reimburses employees for all business expenses, including the use of employees' personal  
13 cell phones.

14 20. Plaintiff also pursued claims for failure to provide accurate itemized wage statements and  
15 waiting time penalty claims. These claims are derivative of Plaintiff's unpaid wages claim.  
16 Should Plaintiff's unpaid wages claim fail, these claims would also fail.

17 21. In addition, Defendant contends that even if Plaintiff were successful in her unpaid wages  
18 claim, she would have to prove Defendant "willfully" failed to pay employees the  
19 appropriate wages due upon separation of employment. "A willful failure to pay wages  
20 within the meaning of Labor Code Section 203 occurs when an employer intentionally fails  
21 to pay wages to an employee when those wages are due. However, a good faith dispute that  
22 any wages are due will preclude imposition of waiting time penalties under Section 203."  
23 Cal. Code Regs. Tit. 8 § 13520. "A 'good faith dispute' that any wages are due occurs when  
24 an employer presents a defense, based in law or fact, which would preclude any recovery  
25 on the part of the employee. The fact that a defense is ultimately unsuccessful will not  
26 preclude a finding that a good faith dispute did exist." *Id.*

27 22. Defendant contends that any failure to pay wages due at the separation of employment was  
28 not willful. Defendant argues that it would not be liable for waiting time penalties because

1 a “good faith dispute” exists over the payment of those premium wages. *See* Cal. Code  
2 Regs. Tit. 8 § 13520; *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1201.

3 23. Further, Defendant contends that Plaintiff would also have to prove that Defendant  
4 “knowingly and intentionally” failed to comply with the wage statement requirements under  
5 Labor Code § 226. *See Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056.  
6 Defendant maintains that it reasonably, and in good faith believes that it was providing a  
7 complete and accurate wage statement in compliance with California law.

8 24. Defendant also argues that Plaintiff’s unpaid wages claim cannot form the basis of her wage  
9 statement claim. Defendant relies on the case *Maldonado v. Epsilon Plastics, Inc.* (2018)  
10 22 Cal.App.5th 1308, for the position that employees do not suffer injury under California  
11 Labor Code § 226(a) so long as the wage statements correctly reflected the hours worked  
12 and the pay received even if the pay is later determined to be inaccurate.

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

19 26. There are approximately 18 Aggrieved Employees who worked approximately 857 pay  
20 periods.

21 27. Plaintiff claims that there are six (6) potential violations under § 2699(f)(2) – failure to  
22 provide lawful meal breaks, failure to provide lawful rest breaks, failure to pay all wages  
23 owed, failure to reimburse for business expenses, failure to provide accurate itemized wage  
24 statements, and failure to pay wages owed at the time of termination<sup>1</sup> – of the Labor Code  
25 sections which give rise to PAGA penalties.

26 28. The PAGA allows the private enforcement of certain California Labor Code sections

27 <sup>1</sup> Plaintiff’s claims are wage statements and waiting time penalties are derivative of Plaintiff’s  
28 claim for failure to pay all wages.

1 relating to wage and hour violations. California courts have interpreted this language to  
2 require notice to the employer that an initial violation occurred before penalties for  
3 subsequent violations could be assessed. *See Amaral v. Cintas Corp. No. 2* (2008) 163  
4 Cal.App.4th 1157, 1210. Under *Amaral*, “subsequent” has a special meaning within the  
5 California Labor Code that triggers heightened statutory penalties only after an employer  
6 has learned that its conduct violates the Labor Code—that is, pursuant to *Amaral*, courts  
7 may reject a purely chronological understanding of the term “subsequent” and interpret its  
8 use in California Labor Code to require that “the employer has been notified that it is  
9 violated a Labor Code provision” before higher penalties are triggered. *Amaral*, 163  
10 Cal.App.4th at 1157, 1207–09. Each of Plaintiff’s claims, with the exception of Plaintiff’s  
11 claims waiting time penalties, occurred at least once in every pay period. Plaintiff’s claims  
12 for waiting time penalties only occurred in approximately 18 pay periods. Thus,  
13 Defendant’s maximum exposure under §2699(f)(2) is \$430,300:

14  $\$100 \times 5 \text{ PAGA violations} \times 857 \text{ pay periods} = \$428,500$

15  $\$100 \times 1 \text{ PAGA violations} \times 18 \text{ pay periods} = \$1,800$

16 Maximum Exposure: \$430,300

17 29. PAGA Counsel applies for an award of attorneys’ fees in the sum of \$66,660 (which is  
18 33.33% of the Gross Settlement Amount). The requested fee falls in the mid-range of  
19 percentage class fee awards, which commonly range from 20% to 50% of a common fund,  
20 and constitutes fair compensation for undertaking complex, risky, expensive, and time-  
21 consuming litigation on a contingent basis and compensates PAGA Counsel for their  
22 efforts, as well as the result achieved for the benefit of the State of California and the  
23 Aggrieved Employees.

24 30. PAGA Counsel has worked 155.7 hours to date on this case and have calculated the lodestar  
25 fee on those hours at \$113,695 at rates reflecting those currently earned in the marketplace.

26 31. All of the work and tasks performed by PAGA Counsel were reasonable and necessary to  
27 the prosecution of this case and are reflected in the result achieved.

28 32. All services were performed by PAGA Counsel on a contingent basis.

1 33. As PAGA Counsel's lodestar fee is in excess of their fee request, a multiplier on their  
2 lodestar fee is not sought herein.

3 34. PAGA Counsel's hourly rates are between \$600 and \$850 and are in line with rates typically  
4 approved in wage and hour class action and PAGA litigation and which rates have been  
5 approved by Courts in California in the Los Angeles, Sacramento, San Francisco, Alameda,  
6 Orange and San Diego County Superior Courts.

7 35. I devoted 81.1 hours to this case. The following is a summary of my tasks and activities  
8 performed in the litigation of this matter: initial case intake; research into new case; research  
9 into whether other cases are filed against potential new defendant; prepare personnel file  
10 request; pre-filing investigation and legal research; review and revise PAGA notice; draft  
11 and revise initial complaint; research and investigate legal issues throughout case;  
12 interoffice discussions throughout case; review discovery to be served on Defendant;  
13 conferences with Defendant's Counsel; analyze records produced by Defendant relating to  
14 its policies, pay-structures, and time keeping; review and revise mediation brief and  
15 mediation damage and exposure model; prepare for and attend mediation; review and revise  
16 the settlement agreement and the Notice; review and revise PAGA settlement approval  
17 motion and supporting papers; and draft declaration in support of approval.

18 36. My hourly rate is \$850. Based on my hourly rate and the hours expended, 81.1, my fee is  
19 \$68,935, which is reasonable and necessary to the successful litigation of this matter.

20 37. Jill Vecchi is a partner at the Mara Law Firm, PC. Ms. Vecchi has been a member of the  
21 bar since 2014. She has gained extensive experience handling wage and hour class actions  
22 and has been substantially involved in all phases of this litigation and the following wage  
23 and hour class actions: *Kenneth Cox v. 3PL Worx, et al.* (Yolo County Superior Court, Case  
24 No. CV-18-100); *Brian Davidson v. A&B Trucking Services, Inc.* (Kern County Superior  
25 Court Case No. BCV-16-102985); *Alex Vega, et al. v. Advance Beverage Co., Inc.* (Kern  
26 County Superior Court, Case No. BCV-16-100848); *Alton Davis v. Apria Healthcare*  
27 *Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-00004724-CU-OE-  
28 CTL); *Timothy Spikes, et al. v. Bear Trucking, Inc., et al.* (San Bernardino County Superior

1 Court, Case No. CIVDS1715151); *Terrance Bailey v. Blue Apron, LLC; et al.* (Northern  
2 District of California, Case No. 18-cv-07000-VC); *Jeffrey Weast v. California Aseptic*  
3 *Beverages, LLC* (San Bernardino County Superior Court, Case No. CIVDS1825256);  
4 *Michael Valentich v. Hub Construction Specialties, Inc.* (San Bernardino County Superior  
5 Court, Case No. JCCPDS4893); *Jose De Jesus Ortega Velazquez v. Hunter Landscape,*  
6 *Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVDS1928062); *Adrian*  
7 *Diaz v. Keystone Automotive Operations, Inc.* (Riverside County Superior Court, Case No.  
8 RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba NCI Building Systems* (Eastern  
9 District of California, Case No. 18-cv-00948-AWI-SKO); *Larry Perez v. The Nielsen*  
10 *Company (US), LLC* (Orange County Superior Court, Case No. 30-2021-01194324-CU-  
11 OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San Bernardino County Superior  
12 Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw Industries, Inc.; et al.* (San  
13 Bernardino County Superior Court, Case No. CIVSB2024674); *Joshua Rael v.*  
14 *Intercontinental Hotels Group Resources, Inc.* (Los Angeles County Superior Court, Case  
15 No. 19STCV16010); and *Aaron Romero v. Vitro Flat Glass, LLC* (Kern County Superior  
16 Court, Case No. BCV-21-101357).

17 38. Ms. Vecchi devoted 74.6 hours to this case. The following is a summary of her tasks and  
18 activities performed in the litigation of this matter: interoffice discussions throughout case;  
19 draft discovery to propound on Defendant; review analyze documents produced by  
20 Defendant; communications with Defendants' counsel; draft and revise stipulations; draft  
21 and revise mediation brief and damage model; prepare for and attend mediation; draft and  
22 revise settlement agreement; draft and revise settlement approval motion; and review  
23 Settlement Administrator's declaration.

24 39. Ms. Vecchi's hourly rate is \$600. Based on her hourly rate and the hours expended, 74.6,  
25 her fee is \$44,760 which is reasonable and necessary to the successful litigation of this  
26 matter.

27 40. PAGA Counsel seeks reimbursement of the litigation costs and expenses of \$15,277.02.  
28 These costs were all reasonable and necessary to the prosecution of this case and the results

- 1 achieved, and are fair, reasonable, and unopposed by Defendant.
- 2 41. I am unaware of any other actions, including individual, class, and PAGA actions, that may
- 3 be affected by this settlement.
- 4 42. A true and correct copy of the Westlaw Court's Express's Legal Billing Report, Volume
- 5 14, Number 3, California Region for December 2012 is attached as **Exhibit 2**.
- 6 43. A true and correct copy of the Declaration of Richard M. Pearl in *Hohnbaum v. Brinker*
- 7 *Restaurant Corp.* SDSC GIC834348 is attached as **Exhibit 3**.
- 8 44. A true and correct copy of the 2012 National Law Journal Survey of Hourly Billing Rates
- 9 for Partners and Associates is attached as **Exhibit 4**.
- 10 45. A true and correct copy of a Summary of Time and Costs is attached hereto as **Exhibit 5**.
- 11 This includes time records and a summary of costs.
- 12 46. The settlement approval motion and supporting documents were uploaded to the Labor
- 13 Workforce Development Agency. Attached hereto as **Exhibit 7** is a confirmation received
- 14 as a result of this upload.

15 I hereby declare under penalty of perjury under the laws of the State of California that the

16 foregoing is true and correct.

17 Dated: May 20, 2025

MARA LAW FIRM, PC

18 

19 David Mara, Esq.  
20 Attorneys for Plaintiff JESSICA TEPPER

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# Exhibit 1

## JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to approval by the Court, this Settlement Agreement is between Plaintiff Jessica Tepper (“Plaintiff”) on behalf of herself, all others similarly situated, and on behalf of the general public and Defendant Charles & Cynthia Eberly Inc. dba The Eberly Company (“The Eberly Company” or “Defendant”) (collectively referred to as the “Parties”).

### I. DEFINITIONS

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

- A. **Action**: *Jessica Tepper v. Charles & Cynthia Eberly Inc. dba The Eberly Company*, Orange County Superior Court Case No. 30-2024-01371238-CU-OE-CXC.
- B. **Administration Costs**: The costs incurred by the Settlement Administrator to administer this Settlement, which shall not exceed \$5,000. All Administration Costs shall be paid from the Gross Settlement Amount. Any amount not awarded by the Court or needed by the Settlement Administrator will become part of the Net Settlement Amount for distribution to Aggrieved Employees.
- C. **Aggrieved Employees**: All non-exempt salaried property managers who worked for Defendant The Eberly Company in California at any time from October 20, 2022, to November 23, 2024.
- D. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement**: The settlement agreement reflected in this document, titled “Joint Stipulation and Settlement Agreement.”
- E. **Attorney Fee Award**: The amount, not to exceed 33.33% of the Gross Settlement Amount (currently \$66,660), finally approved by the Court and awarded to Plaintiff’s Counsel. The Attorney Fee Award shall be paid from the Gross Settlement Amount and will not be opposed by Defendant. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Aggrieved Employees.
- F. **Cost Award**: The amount that the Court orders Defendant to pay Plaintiff’s Counsel for payment of actual litigation costs, which shall not exceed \$25,000. The Cost Award will be paid from the Gross Settlement Amount and will not be opposed by Defendant. The Cost Award is subject to Court approval. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Aggrieved Employees.

- G. **Counsel for Defendant:** Eric H. DeWames and Christopher Olsen of Michael Sullivan & Associates LLP.
- H. **Defendant:** Charles & Cynthia Eberly Inc. dba The Eberly Company.
- I. **Disbursement of the Settlement:** The dates on which the Settlement Administrator shall disburse the Gross and Net Settlement Amounts as instructed herein.
- J. **Effective Date:** The date the Court grants approval of the settlement.
- K. **Funding of Settlement:** The Gross Settlement Amount will be wired by Defendant to the settlement administrator within thirty (30) days of the Effective Date.
- L. **Final Judgment:** The final order entered by the Court approving this settlement.
- M. **Gross Settlement Amount or GSA:** The total value of the Settlement is a non-reversionary \$200,000. This is the maximum amount Defendant can be required to pay under this Settlement Agreement. The Gross Settlement Amount includes: (1) the Net Settlement Amount to be paid to Aggrieved Employees; (2) the Attorney Fee Award and Cost Award to Plaintiff's Counsel for attorneys' fees and costs, as approved by the Court; (3) the PAGA Representative Payment paid to the PAGA Representative, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the LWDA Payment to the LWDA, as approved by the Court. No portion of the Gross Settlement Amount will revert to Defendant for any reason.
- N. **Individual Settlement Share(s):** The amount payable to each Aggrieved Employee under the terms of this Agreement.
- O. **LWDA:** California Labor and Workforce Development Agency.
- P. **LWDA Payment:** Seventy-five percent (75%) of the Net Settlement Amount that shall be paid to the LWDA.
- Q. **Net Settlement Amount or NSA:** The NSA is the total amount of money available for payout to Aggrieved Employees and the LWDA, which is the GSA less the Attorney Fee Award, Cost Award, and Administration Costs.
- R. **PAGA:** The California Labor Code Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*).

- S. **PAGA Notice or Notice**: The Notice of PAGA Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval, which will accompany each Individual Settlement Share check.
- T. **PAGA Period**: October 20, 2022, to November 23, 2024.
- U. **PAGA Representative or Plaintiff**: Jessica Tepper.
- V. **PAGA Representative Payment**: The amount the Court awards to Plaintiff for conferring a benefit upon the State and Aggrieved Employees, which will not exceed \$5,000. This payment shall be paid from the GSA and is being offered in consideration for Plaintiff's efforts in litigating the Action and risks of incurring financial obligations to Defendant in the event Plaintiff was not successful in the Action and held to pay for Defendant's costs and/or attorney's fees. If the Court awards less than the amount requested, any amount not awarded will become part of the NSA for distribution to Aggrieved Employees.
- W. **Plaintiff's Counsel**: David Mara and Jill Vecchi of Mara Law Firm, PC.
- X. **Qualified Settlement Fund or QSF**: The Parties agree that the Gross Settlement Amount is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations § 1.4168B-1, 26 C.F.R. § 1.468B-1 *et seq.*, and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the 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.
- Y. **Released Claims**: Each PAGA Aggrieved Employee shall fully release and discharge Defendant and the Released Parties from any and all claims that were alleged or could have been alleged based on the claims, facts, and/or allegations contained in operative Complaint and in the PAGA Notice submitted by Plaintiff to the LDWA. The release shall be for the PAGA Period.
- Z. **Released Parties**: Defendants including their past, present, and future divisions, affiliates, parents, subsidiaries, predecessors, successors, assigns, members, shareholders, owners, officers, directors, employees, agents, trustees, attorneys, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, and privies.
- AA. **Settlement Administration**: The Settlement Administrator will conduct a skip trace for the address of all former employee Aggrieved Employees and run the names of all Aggrieved Employees through the National Change of Address ("NCOA") database to determine any updated addresses. The Settlement Administrator will mail the Individual Settlement Share checks and Notice by first class U.S. mail to all Aggrieved Employees. The Notice will inform

Aggrieved Employees of the resolution of the Action and their entitlement to the enclosed settlement payment.

**BB. Settlement Administrator:** The third party administrator agreed upon by Parties to administer this Settlement is APEX.

**CC. Superior Court:** Orange County Superior Court.

## **II. RECITALS**

- A.** Plaintiff sent her Notice of Labor Code Violations Pursuant to Labor Code § 2699.3 on October 20, 2023. In the letter, Plaintiff apprised the LWDA of her wage and hour claims against Defendant.
- B.** The Action was filed by Plaintiff in the Orange County Superior Court on January 4, 2024. The complaint alleged causes of action on behalf of Plaintiff and those similarly situated aggrieved employees under the PAGA for Defendant's alleged failure to pay all straight time wages, failure to pay all overtime wages, failure to provide lawful meal periods, failure to provide lawful rest periods, failure to provide compliant wage statements, failure to pay all wages due at termination, failing to pay wages twice per month, failing to adopt a compliant sick leave/absence control policy, and failure to reimburse business expenses.
- C.** After filing, the Parties conducted discovery. Defendant produced hundreds of pages of documents. These documents included policy documents that covered Plaintiff's and the aggrieved employees' employment with Defendant. These documents also included a sampling of time records for aggrieved employees. Defendant also produced Excel files that contained the wage data for a sampling of aggrieved employees.
- D.** The Parties attended mediation with respected wage and hour mediator David Rotman on September 22, 2024. The mediation concluded with a mediator's proposal that was ultimately accepted by the Parties.
- E.** After mediation, the Parties negotiated and finalized a Memorandum of Understanding.
- F. Benefits of Settlement to Aggrieved Employees.** Plaintiff and Plaintiff's Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiff and Plaintiff's Counsel also have taken into account the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiff and Plaintiff's Counsel have conducted extensive settlement negotiations. Based on the foregoing, Plaintiff and Plaintiff's Counsel believe the settlement set forth in

this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Aggrieved Employees.

- G. Defendant's Reasons for Settlement.** Defendant recognizes that the defense of the Action will be protracted and expensive. Substantial amounts of time, energy, and resources of Defendant have been and, unless this settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. 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.
- H. 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, and makes no concessions or admissions of liability of any sort. Defendant asserts a number of defenses to the claims, and has 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 Plaintiff against Defendant.
- I. Plaintiff's Claims.** Plaintiff asserts that Defendant's defenses are without merit. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Plaintiff, Aggrieved Employees, or Plaintiff's Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Action. However, in the event that this Settlement is finally approved by the Court, the Plaintiff, Aggrieved Employees, and Plaintiff's Counsel will not oppose Defendant's efforts to use this Agreement to prove that Plaintiff and Aggrieved Employees have resolved and are forever barred from re-litigating the Released Claims.

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

- A. Gross Settlement Amount.** Subject to the terms and conditions of this Agreement the Gross Settlement Amount that Defendant is obligated to pay under this Settlement Agreement is \$200,000.
  - 1. Escalator Provision:** It was estimated for purposes of mediation that there are approximately 18 PAGA Aggrieved Employees that worked approximately 1,325 pay periods between the start of the PAGA Period and the mediation. As such, this settlement is estimated to encompass approximately 18 PAGA Aggrieved Employees and approximately 1,325 pay periods. To the extent that the total number of PAGA Aggrieved Employees or pay periods increases by more than ten percent (10%) of this

estimate, the Gross Settlement Amount shall increase proportionately. Alternatively, in the event this escalator provision is triggered, Defendant shall have the option to adjust the end of the PAGA Period so as to have an earlier end date to limit the number of PAGA Aggrieved Employees or pay periods below the ten percent (10%) escalator threshold.

- B. Individual Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual Settlement Share from the NSA to each Aggrieved Employee.

**1. Calculation.**

- a. Individual Settlement Share Calculation.** Each Aggrieved Employee will receive a proportionate share of the NSA that is equal to (i) the number of pay periods he or she worked for Defendant in California during the PAGA Period based on the Database provided by Defendant, divided by (ii) the total number of pay periods worked by all Aggrieved Employees based on the same Database, which is then multiplied by the NSA. 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 Settlement Share ties directly to the amount of pay periods that he or she worked.

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

- C. Recipients of GSA Disbursement.** Subject to the terms and conditions of this Agreement, the Settlement Administrator shall disburse the GSA as directed later on herein to the following:

- 1. To Plaintiff's Counsel.** Plaintiff's Counsel will apply to the Court for a total Attorney Fee Award not to exceed one third (currently \$66,660) of the GSA and a Cost Award not to exceed \$25,000. The Settlement Administrator will pay the court-approved amounts for the Attorney Fee Award and Cost Award out of the GSA. Payroll tax withholding and deductions will not be taken from the Attorney Fee Award or the Cost Award. IRS Forms 1099 will be issued to Plaintiff's Counsel with respect to the Attorney Fee Award. In the event the Court does not approve the entirety of the application for the Attorney Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendant nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by

Plaintiff's Counsel for the Attorney Fee Award and/or Cost Award, the difference shall become part of the NSA and be available for distribution to Aggrieved Employees.

2. **To the Plaintiff:** In addition to Plaintiff's Individual Settlement Share, and subject to the Court's approval, PAGA Representative/Plaintiff Jessica Tepper will receive up to \$5,000. The Settlement Administrator will pay the PAGA Representative Payment out of the GSA. Payroll tax withholdings and deductions will not be taken from the PAGA Representative Payment. An IRS Form 1099 will be issued to Plaintiff with respect to the PAGA Representative Payment.
3. **To the Settlement Administrator.** The Settlement Administrator will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed \$5,000. This will be paid out of the GSA. 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 Aggrieved Employees.
4. **To the LWDA.** The Settlement Administrator will pay the LWDA Payment seventy-five percent (75%) of the Net Settlement Amount to the LWDA.
5. **To Aggrieved Employees.** The Settlement Administrator will pay Aggrieved Employees according to the Individual Settlement Share calculations set forth above.

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

## **E. Procedure for Approving Settlement.**

### **1. Motion for Settlement Approval.**

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

- 2. Notice and Disbursement to Aggrieved Employees.** After the Court enters its Approval Order, every Aggrieved Employee will be provided with a Notice accompanying his or her Individual Settlement Share check in accordance with the following procedure:

- a. **Database.** Within fifteen (15) days after the Effective Date, Defendant shall deliver to the Settlement Administrator an electronic database, which will list for each Aggrieved Employee: (1) first and last name; (2) last known mailing address; (3) social security number; and (4) the total number of pay periods during which the Aggrieved Employee performed work during the PAGA Period as an Aggrieved Employee (“Database”). If any or all of this information is unavailable to Defendant, Defendant will so inform Plaintiff’s Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon how to deal with the unavailable information. The Database shall be based on Defendant’s payroll, personnel, and other business records. The Settlement Administrator will conduct a skip trace for the address of all Aggrieved Employees who are former employees of Defendant and an NCOA search on all addresses. The Settlement Administrator shall maintain the Database and all data contained within the Database as private and confidential.
- b. **Funding the Settlement:** The Gross Settlement Amount will be wired by Defendant to the settlement administrator within thirty (30) days of the Effective Date.
- c. **Settlement Administrator’s Disbursement Duties.** Subject to the Court approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court’s Approval Order and Judgment. The Settlement Administrator shall keep Defendant’s Counsel and Plaintiff’s Counsel apprised of all distributions from the GSA. The Settlement Administrator shall respond to questions from Defendant’s Counsel and Plaintiff’s Counsel.
- d. **Disbursement:** The Settlement Administrator will disburse the GSA within fifteen (15) days after funding, as instructed herein. The Settlement Administrator shall disburse: (1) the Net Settlement Amount to be paid to Aggrieved Employees; (2) the Attorney Fee Award and Cost Award to Plaintiff’s Counsel, as approved by the Court; (3) the PAGA Representative Payment, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the LWDA Payment.
- e. **Returned Notices and Checks.** If a Notice and Individual Settlement Check are returned because of an incorrect address, within five (5) days from receipt of the returned Notice, the Settlement Administrator will conduct a search for a more current address for the Aggrieved Employee and re-mail the Notice and Individual Settlement Share check to the Aggrieved Employee.

The Settlement Administrator will use the NCOA and skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Aggrieved Employee for whom a Notice and Individual Settlement Share check 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 the Notice and Individual Settlement Check to Aggrieved Employees for whom new addresses are found. If the PAGA Notice is re-mailed, the Settlement Administrator will note for its own records the date and address of each re-mailing.

- 3. Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, 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.
- 4. Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then this 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 GSA, an alteration in the calculation of the NSA, and any change to the calculation of the Individual Settlement Shares.
- 5. Final Report by Settlement Administrator.** Within ten (10) days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds.
- 6. Uncashed Checks.** Aggrieved Employees must cash or deposit their Individual Settlement Share checks within one hundred and eighty (180) calendar days after the checks are mailed to them.
  - a. Reminder Postcard.** If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless

the check is redeemed or deposited in the next ninety (90) days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced.

- b. Uncashed Checks.** If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder 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 Individual Settlement Share checks remaining un-cashed, shall be transmitted by the Settlement Administrator to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

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

**F. Release of Claims.** Upon the Effective Date, as defined above, Plaintiff, individually and as the representative acting as a proxy or agent of the LWDA, shall release the Released Claims, as defined above, against the Released Parties.

#### **G. Miscellaneous Terms**

- 1. 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 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, or has any liability to anyone under the claims asserted in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. This Settlement and Plaintiff's and Defendant's willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement).
- 2. No Effect on Employee Benefits.** The Individual Settlement Shares paid to Plaintiff and Aggrieved Employees shall not be deemed to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacation, holiday pay, retirement plans, etc.) of Plaintiff or the Aggrieved Employees. The Parties agree that any Individual Settlement Share paid to Plaintiff or the Aggrieved Employees under the terms of this Agreement do not represent any modification of Plaintiff's or Aggrieved Employees' previously credited

hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

3. **Integrated Agreement.** After this Agreement is signed 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.
4. **Authorization to Enter Into Settlement Agreement.** Plaintiff's Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event 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.
5. **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.
6. **Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Settlement Approval hearing to be conducted by the Court.
7. **Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.
8. **Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.

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

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

**16. Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties 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.

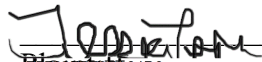
#### **IV. EXECUTION BY PARTIES AND COUNSEL**

The Parties and their counsel execute this Agreement.

Dated: 2/4/2025

**JESSICA TEPPER**

DocuSigned by:

  
Plaintiff

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

**CHARLES & CYNTHIA EBERLY INC.**

Defendant

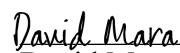
Name:

Title:

Dated: 2/4/2025

**MARA LAW FIRM, PC**

DocuSigned by:

  
David Mara, Esq.  
Jill Vecchi, Esq.  
Attorneys for Plaintiff

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

**MICHAEL SULLIVAN & ASSOCIATES LLP**

Eric H. DeWames, Esq.

Christopher Olsen, Esq.

Attorneys for Defendant

**15. 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.

**16. Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties 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.

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

The Parties and their counsel execute this Agreement.

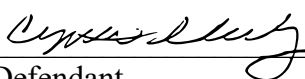
Dated: \_\_\_\_\_

**JESSICA TEPPER**

\_\_\_\_\_  
Plaintiff

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

**CHARLES & CYNTHIA EBERLY INC.**

  
\_\_\_\_\_  
Defendant

Name:

Title:

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

**MARA LAW FIRM, PC**

\_\_\_\_\_  
David Mara, Esq.  
Jill Vecchi, Esq.  
Attorneys for Plaintiff

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

**MICHAEL SULLIVAN & ASSOCIATES LLP**

\_\_\_\_\_  
Eric H. DeWames, Esq.  
Christopher Olsen, Esq.  
Attorneys for Defendant

# Exhibit *A*

CALIFORNIA SUPERIOR COURT, COUNTY OF ORANGE  
*Jessica Tepper v. Charles & Cynthia Eberly Inc. dba The Eberly Company*  
Case No. 30-2024-01371238-CU-OE-CXC

**NOTICE OF SETTLEMENT**

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

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

Based on the Company’s records, your Individual PAGA Payment is \$ [REDACTED]. This is based on the Company’s records showing that you worked [REDACTED] pay periods during the PAGA Period of October 20, 2022, through November 23, 2024.

**WHAT INFORMATION IS IN THIS NOTICE**

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

**1.     *Why Have I Received This Notice?***

Charles & Cynthia Eberly Inc. dba The Eberly Company’s (hereinafter referred to as “Defendant”) records indicate that you worked for Defendant as a non-exempt salaried property manager in the State of California at some time between October 20, 2022, through November 23, 2024.

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

**2.     *What Is This Case About?***

The action entitled *Jessica Tepper v. Charles & Cynthia Eberly Inc. dba The Eberly Company*, was commenced by Plaintiff Jessica Tepper (“Plaintiff”) in the Orange County Superior Court (Case Number 30-2024-01371238-CU-OE-CXC).

On October 20, 2023, Plaintiff provided notice to the California Labor and Workforce Development Agency (“LWDA”) of the Private Attorneys General Act of 2004 (“PAGA”) violations she alleged against Defendant.

On January 4, 2024, Plaintiff filed a PAGA complaint in the Orange County Superior Court against Defendant. Plaintiff alleges that Defendants violated the California Labor Code by failing to pay all straight and overtime

time wages, failing to provide lawful meal and rest periods, failing to provide accurate itemized wage statements, failing to pay all wages owed at termination, failing to adopt a complaint sick pay/paid time off policy and failing to provide written notice setting forth the amount of sick leave available, failing to pay employees twice per month, and failing to reimburse for business expenses.

The Court has not made any determination as to whether the claims advanced by Plaintiff have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendant; 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 denies any liability whatsoever.

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

| <b>Attorneys for Plaintiff Jessica Tepper</b>                                                                                                                                                         | <b>Attorneys for Defendant Cynthia Eberly Inc. dba The Eberly Company</b>                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <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, CA 92108<br>Telephone: (619) 234-2833 | <b>MICHAEL SULLIVAN &amp; ASSOCIATES LLP</b><br>Eric H. DeWames<br>Christopher Olsen<br>6203 San Ignacio Ave., Suite 110<br>San Jose, CA 95119<br>Telephone: (408) 627-4812 |

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

All non-exempt salaried property managers who worked for Defendant at any time from October 20, 2022, to November 23, 2024 (referred to in this notice as “Aggrieved Employees”) release the Released Parties from the Released Claims, as defined below.

Released Parties: Defendants including their past, present, and future divisions, affiliates, parents, subsidiaries, predecessors, successors, assigns, members, shareholders, owners, officers, directors, employees, agents, trustees, attorneys, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, and privies.

Released Claims: Each PAGA Aggrieved Employee shall fully release and discharge Defendant and the Released Parties from any and all claims that were alleged or could have been alleged based on the claims, facts, and/or allegations contained in operative Complaint and in the PAGA Notice submitted by Plaintiff to the LDWA. The release shall be for the PAGA Period.

The claims alleged against Defendant in the lawsuit and PAGA notice are failure to pay all straight and overtime time wages, failure to provide lawful meal and rest periods, failure to provide accurate itemized wage statements, failure to pay all wages owed at termination, failure to adopt a complaint sick pay/paid time off policy and failure to provide written notice setting forth the amount of sick leave available, failure to pay employees twice per

month, and failure to reimburse for business expenses. The PAGA Period is October 20, 2022, to November 23, 2024.

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

The total maximum amount that Defendant is required to pay under the settlement is \$200,000 (“Gross Settlement Amount” or “GSA”). The “Net Settlement Amount” or “NSA” means the portion of the Gross Settlement Amount after the deduction of (1) the PAGA Representative Enhancement Payment to Plaintiff in an amount of \$5,000, for prosecution of the Action; (2) the Settlement Administration Costs to the Settlement Administrator in the amount of \$1,500; and (3) payment to Plaintiff’s Counsel in the amount of \$66,660 (33.33% of the Gross Settlement Amount) for attorneys’ fees and an amount of \$15,277.02 for litigation costs. All of these payments were approved by the Court.

After deducting the above-referenced items, the remaining Net Settlement Amount, will be divided 75% to the LWDA, pursuant to California Labor Code § 2699, subdivision (i), for enforcement of labor laws, including the administration of this part, and for education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes; and 25% to the Aggrieved Employees. Therefore, the LWDA will receive \$83,672.23 and \$27,890.75 is left for distribution to Aggrieved Employees.

Each Aggrieved Employee will receive a proportionate share of the NSA that is equal to (i) the number of pay periods he or she worked for Defendant in California during the PAGA Period based on the data provided by Defendant, divided by (ii) the total number of pay periods worked by all Aggrieved Employees based on the same data, which is then multiplied by the NSA. 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 Settlement Share ties directly to the amount of pay periods that he or she worked.

The check included with this notice represents your settlement share based on this formula. For purposes of computing taxes, one-hundred percent (100%) of the amount of money you received is considered to be a civil penalty and has not been subjected to tax withholding.

It is strongly recommended that upon receipt of your Individual Settlement Share check, you immediately cash it or cash it before the **180-day** void date shown on each check. Funds represented by settlement checks returned as undeliverable and those settlement checks remaining un-cashed for more than 180 days after issuance will be transmitted to California State Controller’s Office Unclaimed Property Fund in the name of the Aggrieved Employee.

**You will not be retaliated against for cashing the settlement check included with this notice.**

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

**IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS**, you may contact Plaintiff’s Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. Please refer to the Eberly settlement.

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

# Exhibit 2

**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             | 1993      | 1993     | CA    | \$ 825.00 | 8.10  | \$ 6,682.50 |
|                                           | David P. Simonds    | 1993      | 1993     | CA    | \$ 725.00 | 2.60  | \$ 1,885.00 |
|                                           | Senior Counsel      | 1993      | 1993     | CA    | \$ 725.00 | 10.70 | \$ 8,567.50 |
|                                           | Edward P. Christian |           |          |       |           |       |             |
| TOTAL                                     |                     |           |          |       |           |       |             |
| 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              |                     | 1999 | 1999 | CA | \$ 790.00 | 0.60   | \$ 474.00     |
| Partner                    | Nate McQuirk        | 1979 | 1979 | CA | \$ 790.00 | 39.40  | \$ 30,732.00  |
| Partner                    | Richard Yankovich   | 1999 | 1999 | CA | \$ 790.00 | 90.30  | \$ 68,176.50  |
| Partner                    | Ann Lawrence        | 2000 | 2000 | CA | \$ 790.00 | 1.30   | \$ 102.70     |
| Partner                    | Heather Dunn        | 1998 | 1998 | CA | \$ 790.00 | 12.70  | \$ 10,013.00  |
| Partner                    | Jeffrey D. Aaronson | 2002 | 2002 | CA | \$ 840.00 | 3.10   | \$ 2,704.00   |
| Of Counsel                 | Ben Gibson          | 2004 | 2004 | CA | \$ 840.00 | 170.00 | \$ 142,800.00 |
| Associate                  | Bethand Pan         | 2008 | 2008 | CA | \$ 510.00 | 67.00  | \$ 34,170.00  |
| Associate                  | Diana M. Melzer     | 2011 | 2011 | CA | \$ 470.00 | 1.80   | \$ 846.00     |
| Associate                  | Natasha Heleth      | 2000 | 2000 | CA | \$ 400.00 | 4.10   | \$ 1,640.00   |
| Associate                  | Thia Bhanthall      | 2000 | 2000 | CA | \$ 400.00 | 390.30 | \$ 156,120.00 |
| TOTAL                      |                     |      |      |    |           |        |               |
| Gibson Dunn & Crutcher LLP |                     | 2010 | 2010 | CA | \$ 445.00 | 18.20  | \$ 8,190.00   |
| Associate                  | Virginia Pitt       | 2011 | 2011 | CA | \$ 395.00 | 12.60  | \$ 5,077.00   |
| Associate                  | Matthew Bouslog     | 2011 | 2011 | CA | \$ 395.00 | 31.80  | \$ 12,561.00  |
| TOTAL                      |                     |      |      |    |           |        |               |

# California Report

## FIRM

Kornfield, Nyberg, Bander & Kuhrer, 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 |
|           |          | CA    | 90.00     | 0.30  | 24.00       |
|           |          |       |           | 17.20 | \$ 7,206.50 |
| TOTAL     |          |       |           |       |             |

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

## Loeb & Loeb

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

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

## Pachtulski Stang Ziehl Young Jones & Weintraub

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

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

# California Report

## FIRM

Pedraza & Stang Ziehl Young Jones & Weintraub

|                  | GRADUATED | ADMITTED | STATE | RATE      | HOURS  | TOTAL        |
|------------------|-----------|----------|-------|-----------|--------|--------------|
| Partner          | 1979      | 1979     | CA    | \$ 975.00 | 0.80   | \$ 780.00    |
| Partner          | 1982      | 1983     | CA    | \$ 875.00 | 12.80  | \$ 11,200.00 |
| Of Counsel       | 1975      | 1976     | CA    | \$ 745.00 | 4.00   | \$ 2,980.00  |
| Partner          | 1983      | 1983     | CA    | \$ 745.00 | 50.80  | \$ 37,845.00 |
| Partner          | 1983      | 1984     | CA    | \$ 725.00 | 11.10  | \$ 8,047.50  |
| Of Counsel       | 1987      | 1987     | CA    | \$ 675.00 | 15.80  | \$ 10,452.50 |
| Of Counsel       | 1987      | 1987     | CA    | \$ 595.00 | 5.20   | \$ 3,094.00  |
| Of Counsel       | 1980      | 1980     | CA    | \$ 575.00 | 4.30   | \$ 2,472.50  |
| Associate        | 2004      | 2010     | CA    | \$ 525.00 | 31.00  | \$ 16,275.00 |
| Paraprofessional |           |          |       | 265.00    | 2.50   | \$ 862.50    |
| Paraprofessional |           |          |       | 265.00    | 7.70   | \$ 2,040.50  |
| Paraprofessional |           |          |       | 265.00    | 1.00   | \$ 265.00    |
| Case Management  |           |          |       | 185.00    | 5.40   | \$ 993.00    |
| Case Management  |           |          |       | 185.00    | 0.40   | \$ 74.00     |
| <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 | 55.60 | \$ 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

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

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

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

N.J. Ranking: 30  
Firm Size: 851

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

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

N.J. Ranking: 50  
Firm Size: 733

# California Report

## FIRM Sidley Austin LLP

|           | GRADUATED | ADMITTED | STATE | RATE      | HOURS  | TOTAL        |
|-----------|-----------|----------|-------|-----------|--------|--------------|
| Partner   | 1995      | 1995     | CA    | \$ 875.00 | 18.10  | \$ 12,217.50 |
| Associate | 2010      | 2010     | CA    | 450.00    | 117.50 | 53,065.00    |
| 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. AL Latham Jr.        | 1978      | 1978     | CA    | \$ 840.00 | 15.80  | 13,272.00   |
| Partner        | David P. Stronids       | 1983      | 1983     | CA    | \$ 825.00 | 9.10   | 6,682.50    |
| Partner        | Michael Rotszala        | 1977      | 1977     | CA    | \$ 810.00 | 0.50   | 405.00      |
| Partner        | Nate McKittick          | 1989      | 1989     | CA    | \$ 780.00 | 0.60   | 474.00      |
| Partner        | Richard Yankeiwich      | 1979      | 1979     | CA    | \$ 760.00 | 39.40  | 30,732.00   |
| Partner        | Ana Lawton              | 1989      | 1989     | CA    | \$ 755.00 | 50.30  | 68,176.50   |
| Of Counsel     | Jennifer S. Baldocchi   | 1983      | 1983     | CA    | \$ 755.00 | 152.40 | 115,062.00  |
| Of Counsel     | James K.T. Hunter       | 1976      | 1976     | CA    | \$ 745.00 | 0.10   | 74.50       |
| Partner        | John D. Fiero           | 1976      | 1976     | CA    | \$ 745.00 | 4.00   | 2,980.00    |
| Senior Counsel | Edward P. Christian     | 1989      | 1989     | CA    | \$ 745.00 | 50.80  | 37,846.00   |
| Partner        | Samuel R. Malzel        | 1985      | 1985     | CA    | \$ 725.00 | 2.60   | 1,885.00    |
| Partner        | Bruce Grohschal         | 1983      | 1983     | CA    | \$ 725.00 | 40.90  | 29,632.50   |
| Partner        | Heather Dunn            | 1983      | 1984     | CA    | \$ 705.00 | 11.10  | 8,047.50    |
| Partner        | Lance N. Jurth          | 1987      | 1987     | CA    | \$ 705.00 | 1.30   | 916.50      |
| Associate      | Jessica Bullock         | 2003      | 2003     | CA    | \$ 695.00 | 1.50   | 1,320.50    |
| Counsel        | Ellen Sueda             | 1983      | 1983     | CA    | \$ 695.00 | 2.40   | 1,664.50    |
| Of Counsel     | Henry Hochman           | 1987      | 1987     | CA    | \$ 675.00 | 15.50  | 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 | 45.20  | 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      | 1984     | CA    | \$ 615.00 | 1.60   | 1,107.00    |
| Partner        | Scott McFarland         | 1980      | 1980     | CA    | \$ 615.00 | 47.80  | 29,397.00   |
| 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 | 0.50   | 287.50      |
| Of Counsel     | Gabriele Rohrer         | 1997      | 1997     | CA    | \$ 595.00 | 5.20   | 3,094.00    |

# California Rate Report

| PROFESSIONAL                      | FIRM                                          | GRADUATED | ADMITTED | STATE | RATE      | HOURS  | TOTAL       |
|-----------------------------------|-----------------------------------------------|-----------|----------|-------|-----------|--------|-------------|
| Of Counsel                        | Pachulski Stang Ziehl Young Jones & Weintraub | 1980      | 1980     | CA    | \$ 575.00 | 4.30   | \$ 2,472.50 |
| William Ramseyer                  | Paul Hastings LLP                             | 2007      | 2008     | CA    | \$ 575.00 | 191.70 | 104,477.50  |
| Robert E. 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   |
| Mario C. Ortega                   | Sidley Austin LLP                             | 2011      | 2011     | CA    | \$ 355.00 | 41.00  | 14,555.00   |
| Francis S. Lum                    | Tony's LLP                                    | 2000      | 2000     | CA    | \$ 305.00 | 0.80   | 264.00      |
| Clare Mauro                       | Tony's LLP                                    | 2000      | 2000     | CA    | \$ 305.00 | 43.90  | 13,389.50   |
| Bradley Tordick                   | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 285.00 | 1.10   | 324.50      |
| Leslie A. Forrester               | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 275.00 | 23.00  | 6,325.00    |
| Paraprofessional Felicia Harrison | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 265.00 | 2.50   | 662.50      |
| Paraprofessional Patricia Cuniff  | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 265.00 | 7.70   | 2,040.50    |
| Paraprofessional Louise Tuzchak   | Pachulski Stang Ziehl Young Jones & Weintraub | 2000      | 2000     | CA    | \$ 265.00 | 1.00   | 265.00      |
| Paraprofessional Cheryl A. Krotz  | Loeb & Loeb                                   | 2000      | 2000     | CA    | \$ 260.00 | 0.20   | 52.00       |
| Paraprofessional S. Steadman      | Tony's LLP                                    | 2000      | 2000     | CA    | \$ 260.00 | 28.20  | 7,352.00    |
| 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 3

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

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

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

1                    **Whatley Kallas**

2                    Years of Experience                    Rate

3                    27                    900

4                    32                    800

5                    33                    750

6                    21                    700

7                    10                    600

8                    4                    400

9                    2                    375

10                    Paralegal                    225

11                    Intern                    125

12                    **Consumer Watchdog**

13                    35                    \$925

14                    19                    650

15                    4                    425

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

21                    Partners: \$775-350

22                    Associates: \$525-325

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

27                    Years                    Rate

28                    39                    \$750

                     35                    730

                     13                    500

                     8                    460

                     6                    440

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

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

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

11 **2013 Rates**

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

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

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

hourly rates reasonable:

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

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

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

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

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

#### **2012 Rates**

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

**Zelle Hofman**

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

**Steyer, Lowenthal et al.**

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

**Cooper & Kirkham**

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

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

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

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

1 rates reasonable:

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

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

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

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

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

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

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

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

#### 2011 Rates

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

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

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

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

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

PJH, Order dated November 9, 2011, a class action alleging that Best Buy discriminated against female, African American and Latino employees by denying them promotions and lucrative sales positions, in which the court approved a 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         |

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

**2010 Rates**

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

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   |

**Janssen Malloy LLP**

| <b><u>2014 Rates:</u></b> | <b><u>Years of Experience</u></b> | <b><u>Rate</u></b> |
|---------------------------|-----------------------------------|--------------------|
|                           | 33                                | \$775              |
|                           | Paralegals                        | 175                |

**Jones Day**

| <b><u>2013 Rates:</u></b> |                   |       |
|---------------------------|-------------------|-------|
|                           | Average Partner   | \$745 |
|                           | Highest Partner   | 975   |
|                           | Lowest Partner    | 670   |
|                           | Average Associate | 435   |
|                           | Highest Associate | 775   |
|                           | Lowest Associate  | 205   |

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

| <b><u>2013 Rates:</u></b> | <b><u>Years of Experience</u></b> | <b><u>Rate</u></b> |
|---------------------------|-----------------------------------|--------------------|
|                           | 44                                | \$925              |
|                           | 27                                | 725                |
|                           | 24                                | 725                |
|                           | 7                                 | 525                |
|                           | 5                                 | 475                |

**Keker & Van Nest, LLP**

| <b><u>2010 Rates:</u></b> | <b><u>Years of Experience</u></b> | <b><u>Rate</u></b> |
|---------------------------|-----------------------------------|--------------------|
|                           | Partners                          |                    |
|                           | 32                                | \$775              |
|                           | Other Partners                    | 525-975            |
|                           | Associates                        | 340-500            |
|                           | Paralegals/Support Staff          | 120-260            |

**Kemnitzer, Barron & Krieg**

| <b><u>2014 Rates:</u></b> | <b><u>Years of Experience</u></b> | <b><u>Rate</u></b> |
|---------------------------|-----------------------------------|--------------------|
|                           | 38                                | \$750              |
|                           | 32                                | 750                |
|                           | 8                                 | 475                |
|                           | 3                                 | 350                |
|                           | Senior Paralegal                  | 250                |

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

| <b><u>2012 Rates:</u></b> | <b><u>Years of Experience</u></b> | <b><u>Rate</u></b> |
|---------------------------|-----------------------------------|--------------------|
|                           | 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**

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**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**

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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*

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**Representative Reported Cases (cont.)**

*Flannery v Prentice*

(2001) 26 Cal. 4th 572

*Graham v. DaimlerChrysler Corp.*

(2004) 34 Cal. 4th 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.4th 602 (argued for *amici curiae*)

*McSomebodies v. Burlingame Elementary School Dist.*

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

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

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*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

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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

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|                  |                      |                            | Years Out of Law School * |       |       |       |       |
|------------------|----------------------|----------------------------|---------------------------|-------|-------|-------|-------|
| Year             | Adjustmt<br>Factor** | Paralegal/<br>Law<br>Clerk | 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 Farr & Gallagher                                                                                                                                                                  | New York        | 540                             | \$950             | \$1,090 | \$790         | \$580 | \$790   | \$350 |         |  |
| Cadwalader, Wickersham & Taft                                                                                                                                                             | New York        | 435                             | \$930             | \$1,050 | \$800         | \$605 | \$750   | \$395 |         |  |
| Weil, Gotshal & Manges                                                                                                                                                                    | New York        | 1,201                           | \$930             | \$1,075 | \$625         | \$600 | \$790   | \$300 |         |  |
| Quinn Emanuel Urquhart & Sullivan                                                                                                                                                         | New York        | 697                             | \$915             | \$1,075 | \$810         | \$410 | \$675   | \$320 |         |  |
| Wilmer Cutler Pickering Hale and Dorr                                                                                                                                                     | Washington      | 961                             | \$905             | \$1,250 | \$735         | \$290 | \$695   | \$75  |         |  |
| Dechert                                                                                                                                                                                   | New York        | 803                             | \$900             | \$1,095 | \$670         | \$530 | \$735   | \$395 |         |  |
| Andrews Kurth                                                                                                                                                                             | Houston         | 348                             | \$890             | \$1,090 | \$745         | \$528 | \$785   | \$265 |         |  |
| Hughes Hubbard & Reed                                                                                                                                                                     | New York        | 344                             | \$890             | \$995   | \$725         | \$555 | \$675   | \$365 |         |  |
| Irell & Manella                                                                                                                                                                           | Los Angeles     | 164                             | \$890             | \$975   | \$800         | \$535 | \$750   | \$395 |         |  |
| Proskauer Rose                                                                                                                                                                            | New York        | 746                             | \$880             | \$950   | \$725         | \$465 | \$675   | \$295 |         |  |
| White & Case                                                                                                                                                                              | New York        | 1,900                           | \$875             | \$1,050 | \$700         | \$525 | \$1,050 | \$220 |         |  |

Richard Pearl

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

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

Richard Pearl

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

| FIRM NAME         | LARGEST AVERAGE |                                 | PARTNER ASSOCIATE |              |       |         |       |       |
|-------------------|-----------------|---------------------------------|-------------------|--------------|-------|---------|-------|-------|
|                   | U.S. OFFICE*    | FULL-TIME EQUIVALENT ATTORNEYS* | HOURLY RATES      | HOURLY RATES |       |         |       |       |
|                   |                 |                                 | AVERAGE           | HIGH         | LOW   | AVERAGE | HIGH  | LOW   |
| 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%)

### Classification

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

Language: ENGLISH

Publication-Type: Newspaper

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

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Richard Pearl

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### **The Firms**

April 16, 2012 5:20 PM

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

Posted by Sara Randazzo

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

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

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

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

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

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

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

The report's key data points include:

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

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

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

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

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

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

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

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

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

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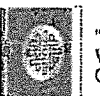
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## On Sale: The \$1,150-Per-Hour Lawyer

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

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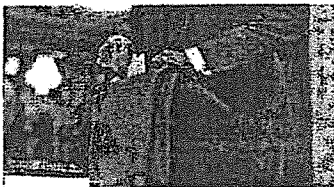
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By JENNIFER SMITH

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.



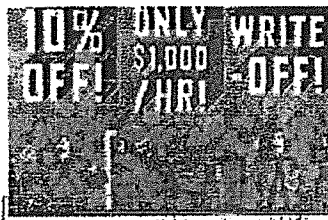
Top partners at leading U.S. law firms are charging more than ever — routinely \$1,150 or more an hour — but after discounts and write-offs the nosebleed rates aren't all they appear to be. Jennifer Smith reports. Photo: Getty Images.

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

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

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

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

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

Write to Jennifer Smith at [jennifer.smith@wsj.com](mailto:jennifer.smith@wsj.com)

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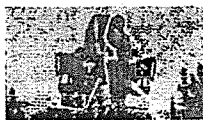
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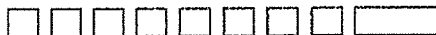
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# Exhibit 5

**MARA LAW FIRM, PC, SUMMARY OF TIME AND COSTS**

*Jessica Tepper v. Charles & Cynthia Eberly dba The Eberly Company*  
Orange County Superior Court, Case Number 30-2024-01371238-CU-OE-CXC

**Total Attorneys' Hours: 115.7**

**Total Lodestar Fees: \$113,695**

**Total Litigation Expenses: \$15,277.02**

| ATTORNEYS         | YEAR<br>ADMITTED | HOURS | HOURLY<br>RATE | TOTAL     |
|-------------------|------------------|-------|----------------|-----------|
| MARA LAW FIRM, PC |                  |       |                |           |
| David Mara, Esq.  | 2004             | 81.1  | \$850          | \$68,935  |
| Jill Vecchi, Esq. | 2014             | 74.6  | \$600          | \$44,760  |
| TOTAL:            |                  |       |                | \$113,695 |

| LITIGATION EXPENSES |             |
|---------------------|-------------|
| MARA LAW FIRM, PC   | \$15,277.02 |
| TOTAL COSTS         | \$15,277.02 |

**Jessica Tepper v. Charles & Cynthia Eberly Inc. dba The Eberly Company**  
**Orange County Superior Court**  
**Case No. 30-2024-01371238-CU-OE-CXC**

**David Mara, Esq.**

| <b>Date</b> | <b>Task</b>                                                                                   | <b>Duration</b> | <b>Rate</b> | <b>Amount</b> |
|-------------|-----------------------------------------------------------------------------------------------|-----------------|-------------|---------------|
| 09-12-2023  | New client intake, telephone conference with potential client, and draft memo to file         | 1.70            | \$850.00    | \$1,445.00    |
| 09-12-2023  | Research into whether other cases are filed against The Eberly Company                        | 1.20            | \$850.00    | \$1,020.00    |
| 09-12-2023  | Draft retainer agreement and personnel file request for Jessica Tepper's review and signature | 1.10            | \$850.00    | \$935.00      |
| 09-13-2023  | Research into new defendant                                                                   | 1.20            | \$850.00    | \$1,020.00    |
| 09-16-2023  | Review signed retainer agreements                                                             | 0.10            | \$850.00    | \$85.00       |
| 09-27-2023  | Review Plaintiff's personnel file, conduct research, and analyze arbitration agreement        | 4.60            | \$850.00    | \$3,910.00    |
| 09-16-2023  | Discussion with Jill Vecchi about new case and case details and theories                      | 1.20            | \$850.00    | \$1,020.00    |
| 09-19-2023  | Email to Plaintiff                                                                            | 0.10            | \$850.00    | \$85.00       |
| 09-21-2023  | Review and reply to email from Plaintiff                                                      | 0.10            | \$850.00    | \$85.00       |
| 09-25-2023  | Review email from legal assistant Coley Hayes                                                 | 0.10            | \$850.00    | \$85.00       |
| 09-27-2023  | Review and reply to email from Plaintiff                                                      | 0.10            | \$850.00    | \$85.00       |
| 09-28-2023  | Review and reply to email from Plaintiff                                                      | 0.10            | \$850.00    | \$85.00       |
| 10-17-2023  | Review email from Plaintiff                                                                   | 0.10            | \$850.00    | \$85.00       |
| 10-20-2023  | Review and edit PAGA Notice                                                                   | 1.30            | \$850.00    | \$1,105.00    |
| 11-03-2023  | Review and reply to email from Plaintiff                                                      | 0.10            | \$850.00    | \$85.00       |
| 11-03-2023  | Review and reply to email from Plaintiff                                                      | 0.10            | \$850.00    | \$85.00       |
| 11-13-2023  | Review and reply to email from Plaintiff                                                      | 0.10            | \$850.00    | \$85.00       |
| 11-16-2023  | Review and reply to email from Plaintiff                                                      | 0.10            | \$850.00    | \$85.00       |
| 11-16-2023  | Review and reply to email from Plaintiff                                                      | 0.10            | \$850.00    | \$85.00       |
| 11-16-2023  | Review email from Plaintiff                                                                   | 0.10            | \$850.00    | \$85.00       |
| 01-04-2024  | Review and edit complaint                                                                     | 2.10            | \$850.00    | \$1,785.00    |
| 01-12-2024  | Review email from Plaintiff                                                                   | 0.10            | \$850.00    | \$85.00       |
| 01-25-2024  | Review and reply to email from Plaintiff                                                      | 0.10            | \$850.00    | \$85.00       |
| 01-26-2024  | Review and reply to email from Plaintiff                                                      | 0.10            | \$850.00    | \$85.00       |
| 01-30-2024  | Review email from Plaintiff                                                                   | 0.10            | \$850.00    | \$85.00       |
| 02-13-2024  | Review and revise discovery to propound on Defendant                                          | 1.10            | \$850.00    | \$935.00      |
| 02-13-2024  | Review and reply to email from Plaintiff                                                      | 0.10            | \$850.00    | \$85.00       |

|                     |                                                                                   |              |          |                    |
|---------------------|-----------------------------------------------------------------------------------|--------------|----------|--------------------|
| 02-13-2024          | Review written discovery propounded on Plaintiff and Defendant's Answer           | 1.80         | \$850.00 | \$1,530.00         |
| 03-12-2024          | Review email from Plaintiff                                                       | 0.10         | \$850.00 | \$85.00            |
| 03-20-2024          | Call with Defendant's Counsel                                                     | 0.20         | \$850.00 | \$170.00           |
| 03-20-2024          | Email to Defendant's Counsel memorializing call                                   | 0.10         | \$850.00 | \$85.00            |
| 03-26-2024          | Email to Defendant's Counsel following up on March 20, 2024 email                 | 0.10         | \$850.00 | \$85.00            |
| 04-03-2024          | Review and respond to email from Defendant's Counsel about mediators              | 0.10         | \$850.00 | \$85.00            |
| 04-15-2024          | Review emails from Jill Vecchi                                                    | 0.10         | \$850.00 | \$85.00            |
| 05-03-2024          | Discussion with Jill Vecchi regarding mediation dates                             | 0.20         | \$850.00 | \$170.00           |
| 09-12-2024          | Review and analyze mediation documents                                            | 5.60         | \$850.00 | \$4,760.00         |
| 09-13-2024          | Review and analyze mediation documents                                            | 6.20         | \$850.00 | \$5,270.00         |
| 09-16-2024          | Conduct research for mediation brief                                              | 4.30         | \$850.00 | \$3,655.00         |
| 09-16-2024          | Review and revise mediation brief                                                 | 2.10         | \$850.00 | \$1,785.00         |
| 09-16-2024          | Discussion with Jill Vecchi about mediation brief                                 | 0.60         | \$850.00 | \$510.00           |
| 09-16-2024          | Perform analysis of timecards                                                     | 3.20         | \$850.00 | \$2,720.00         |
| 09-16-2024          | Email to Defendant's Counsel regarding mediation                                  | 0.10         | \$850.00 | \$85.00            |
| 09-17-2024          | Email to Defendant's Counsel regarding mediation                                  | 0.10         | \$850.00 | \$85.00            |
| 09-17-2024          | Continue analysis of timecards                                                    | 7.30         | \$850.00 | \$6,205.00         |
| 09-17-2024          | Discussion with Jill Vecchi about mediation                                       | 0.60         | \$850.00 | \$510.00           |
| 09-18-2024          | Review updated mediation brief                                                    | 2.30         | \$850.00 | \$1,955.00         |
| 09-20-2024          | Perform meal period analysis on sampling                                          | 9.80         | \$850.00 | \$8,330.00         |
| 09-20-2024          | Review and revise supplement to mediation brief                                   | 2.30         | \$850.00 | \$1,955.00         |
| 09-20-2024          | Review email from mediator's office                                               | 0.10         | \$850.00 | \$85.00            |
| 09-23-2024          | Prepare for and attend mediation                                                  | 9.90         | \$850.00 | \$8,415.00         |
| 10-02-2024          | Review and revise Memorandum of Understanding                                     | 0.90         | \$850.00 | \$765.00           |
| 10-03-2024          | Review Defendant's revisions to Memorandum of Understanding                       | 0.50         | \$850.00 | \$425.00           |
| 12-03-2024          | Review and revise settlement agreement                                            | 2.40         | \$850.00 | \$2,040.00         |
| 02-04-2025          | Review and sign settlement agreement                                              | 0.60         | \$850.00 | \$510.00           |
| 04-01-2025          | Review and revise Notice of Settlement to send to Aggrieved Employees with checks | 0.50         | \$850.00 | \$425.00           |
| 05-19-2025          | Draft declaration in support of settlement approval motion                        | 1.70         | \$850.00 | \$1,445.00         |
| <b>Matter Total</b> |                                                                                   | <b>81.10</b> |          | <b>\$68,935.00</b> |

**Jessica Tepper v. Charles & Cynthia Eberly Inc. dba The Eberly Company**  
**Orange County Superior Court**  
**Case No. 30-2024-01371238-CU-OE-CXC**

**Jill Vecchi, Esq.**

| <b>Date</b> | <b>Task</b>                                                                                    | <b>Duration</b> | <b>Rate</b> | <b>Amount</b> |
|-------------|------------------------------------------------------------------------------------------------|-----------------|-------------|---------------|
| 09-16-2023  | Interoffice discussion about case                                                              | 1.20            | \$600.00    | \$720.00      |
| 10-20-2023  | Review intake notes, personnel file, and case file                                             | 1.10            | \$600.00    | \$660.00      |
| 10-20-2023  | Draft PAGA Notice                                                                              | 2.10            | \$600.00    | \$1,260.00    |
| 01-03-2024  | Draft complaint                                                                                | 3.20            | \$600.00    | \$1,920.00    |
| 01-04-2024  | Finalize complaint for filing                                                                  | 0.50            | \$600.00    | \$300.00      |
| 02-12-2024  | Draft Discovery to Propound on Defendant                                                       | 2.20            | \$600.00    | \$1,320.00    |
| 02-13-2024  | Review Defendant's answer to complaint                                                         | 0.40            | \$600.00    | \$240.00      |
| 02-13-2024  | Revise discovery to propound on Defendant                                                      | 0.70            | \$600.00    | \$420.00      |
| 02-15-2024  | Review discovery requests propounded on Plaintiff                                              | 0.70            | \$600.00    | \$420.00      |
| 03-05-2024  | Review Defendant's Deposition Objections                                                       | 0.20            | \$600.00    | \$120.00      |
| 03-12-2024  | Email to Defendant's Counsel regarding extension of time to respond to discovery               | 0.10            | \$600.00    | \$60.00       |
| 03-12-2024  | Review and respond to email from Defendant's Counsel regarding discovery extension             | 0.10            | \$600.00    | \$60.00       |
| 03-15-2024  | Review discovery propounded on Plaintiff and create summary of information needed              | 2.10            | \$600.00    | \$1,260.00    |
| 03-15-2024  | Call with Plaintiff                                                                            | 0.60            | \$600.00    | \$360.00      |
| 03-26-2024  | Call with putative class member                                                                | 0.40            | \$600.00    | \$240.00      |
| 04-04-2024  | Review and respond to email from Defendant's Counsel regarding mediators                       | 0.10            | \$600.00    | \$60.00       |
| 04-08-2024  | Email to Defendant's Counsel about mediators and discovery extensions                          | 0.10            | \$600.00    | \$60.00       |
| 04-09-2024  | Email to Defendant's Counsel following up on discovery extensions                              | 0.10            | \$600.00    | \$60.00       |
| 04-09-2024  | Review and respond to email from Defendant's Counsel regarding discovery extensions            | 0.10            | \$600.00    | \$60.00       |
| 04-11-2024  | Review documents provided by putative class member                                             | 0.60            | \$600.00    | \$360.00      |
| 04-12-2024  | Communication with Opposing Counsel - Follow up on availability for a mediation in July/August | 0.10            | \$600.00    | \$60.00       |
| 04-15-2024  | Case Management Conference - Review the Court's Case Management Order                          | 0.40            | \$600.00    | \$240.00      |
| 04-15-2024  | Email to David Mara                                                                            | 0.10            | \$600.00    | \$60.00       |
| 04-15-2024  | Email to David Mara                                                                            | 0.10            | \$600.00    | \$60.00       |
| 04-15-2024  | Stipulation - Draft Stipulation to Continue CMC                                                | 0.30            | \$600.00    | \$180.00      |
| 04-15-2024  | Email Defendant's Counsel regarding stipulation                                                | 0.10            | \$600.00    | \$60.00       |
| 04-15-2024  | Stipulation - Finalize and file stipulation                                                    | 0.10            | \$600.00    | \$60.00       |
| 04-16-2024  | Email signed stipulation and order to Defendant's Counsel                                      | 0.10            | \$600.00    | \$60.00       |
| 04-17-2024  | Email to Defendant's Counsel regarding mediation dates                                         | 0.10            | \$600.00    | \$60.00       |

|            |                                                                                                 |      |          |            |
|------------|-------------------------------------------------------------------------------------------------|------|----------|------------|
| 04-17-2024 | Email Defendant's Counsel a list of pre-mediation documents and data needed                     | 0.30 | \$600.00 | \$180.00   |
| 05-01-2024 | Review email from potential mediator's office                                                   | 0.10 | \$600.00 | \$60.00    |
| 05-02-2024 | Email Defendant's Counsel regarding mediation dates                                             | 0.10 | \$600.00 | \$60.00    |
| 05-03-2024 | Review and respond to email from Defendant's Counsel                                            | 0.10 | \$600.00 | \$60.00    |
| 05-03-2024 | Email potential mediator's office                                                               | 0.10 | \$600.00 | \$60.00    |
| 05-03-2024 | Interoffice discussion about mediation dates                                                    | 0.20 | \$600.00 | \$120.00   |
| 05-03-2024 | Email Defendant's Counsel re: Potential Mediation Dates                                         | 0.20 | \$600.00 | \$120.00   |
| 05-17-2024 | Email Defendant's Counsel following up on potential mediation dates                             | 0.10 | \$600.00 | \$60.00    |
| 05-20-2024 | Review and respond to email from Defendant's Counsel re: mediation dates                        | 0.10 | \$600.00 | \$60.00    |
| 05-23-2024 | Email to Defendant's Counsel regarding discovery extensions                                     | 0.10 | \$600.00 | \$60.00    |
| 05-28-2024 | Email Defendant's Counsel following up on email regarding discovery extensions                  | 0.10 | \$600.00 | \$60.00    |
| 05-29-2024 | Review email from Defendant's Counsel                                                           | 0.10 | \$600.00 | \$60.00    |
| 05-29-2024 | Email potential mediator's office                                                               | 0.10 | \$600.00 | \$60.00    |
| 05-29-2024 | Recalendar discovery due dates                                                                  | 0.10 | \$600.00 | \$60.00    |
| 06-05-2024 | Review and respond to email from Defendant's Counsel                                            | 0.10 | \$600.00 | \$60.00    |
| 06-05-2024 | Review and respond to email from potential mediator's office                                    | 0.10 | \$600.00 | \$60.00    |
| 06-05-2024 | Review and respond to email from Defendant's Counsel                                            | 0.10 | \$600.00 | \$60.00    |
| 06-05-2024 | Email mediator's office                                                                         | 0.20 | \$600.00 | \$120.00   |
| 06-05-2024 | Review email from mediator's office                                                             | 0.10 | \$600.00 | \$60.00    |
| 07-01-2024 | Case Administration                                                                             | 0.10 | \$600.00 | \$60.00    |
| 07-22-2024 | Email to Defendant's Counsel regarding timing of production of mediation documents and data     | 0.10 | \$600.00 | \$60.00    |
| 08-06-2024 | Email to Defendant's Counsel following up on when mediation documents and data will be produced | 0.10 | \$600.00 | \$60.00    |
| 08-12-2024 | Email to Defendant's Counsel following up on when mediation documents and data will be produced | 0.10 | \$600.00 | \$60.00    |
| 09-03-2024 | Email to Defendant's Counsel following up on when mediation documents and data will be produced | 0.10 | \$600.00 | \$60.00    |
| 09-06-2024 | Email to Defendant's Counsel following up on when mediation documents and data will be produced | 0.10 | \$600.00 | \$60.00    |
| 09-10-2024 | Draft Stipulation to Continue CMC                                                               | 0.30 | \$600.00 | \$180.00   |
| 09-10-2024 | Email to Defendant's Counsel following up on when mediation documents and data will be produced | 0.10 | \$600.00 | \$60.00    |
| 09-12-2024 | Review mediation documents                                                                      | 3.40 | \$600.00 | \$2,040.00 |
| 09-12-2024 | Email to Defendant's Counsel following up on data points for mediation                          | 0.10 | \$600.00 | \$60.00    |
| 09-12-2024 | Call with Client                                                                                | 0.20 | \$600.00 | \$120.00   |
| 09-13-2024 | Document Review                                                                                 | 4.00 | \$600.00 | \$2,400.00 |
| 09-16-2024 | Document Review                                                                                 | 0.40 | \$600.00 | \$240.00   |
| 09-16-2024 | Draft Mediation Brief                                                                           | 6.40 | \$600.00 | \$3,840.00 |
| 09-16-2024 | Finalize Stipulation                                                                            | 0.10 | \$600.00 | \$60.00    |
| 09-16-2024 | Interoffice Discussion About Mediation Brief                                                    | 0.60 | \$600.00 | \$360.00   |
| 09-17-2024 | Interoffice Discussion About Mediation                                                          | 0.60 | \$600.00 | \$360.00   |

|            |                                                                                    |      |          |            |
|------------|------------------------------------------------------------------------------------|------|----------|------------|
| 09-17-2024 | Attempted call to Defendant's Counsel                                              | 0.10 | \$600.00 | \$60.00    |
| 09-17-2024 | Revise Mediation Brief                                                             | 4.10 | \$600.00 | \$2,460.00 |
| 09-17-2024 | Revise Stipulation                                                                 | 0.10 | \$600.00 | \$60.00    |
| 09-17-2024 | Call with Defendant's Counsel                                                      | 0.10 | \$600.00 | \$60.00    |
| 09-17-2024 | Email to Defendant's counsel regarding stipulation to continue CMC                 | 0.10 | \$600.00 | \$60.00    |
| 09-18-2024 | Revise Mediation Brief                                                             | 0.50 | \$600.00 | \$300.00   |
| 09-18-2024 | Email to Defendant's Counsel regarding mediation documents                         | 0.10 | \$600.00 | \$60.00    |
| 09-18-2024 | Email mediator the mediation brief                                                 | 0.10 | \$600.00 | \$60.00    |
| 09-19-2024 | Review and respond to email from Defendant's Counsel regarding mediation documents | 0.10 | \$600.00 | \$60.00    |
| 09-19-2024 | Email to Defendant's Counsel regarding mediation documents                         | 0.10 | \$600.00 | \$60.00    |
| 09-19-2024 | Review email from Defendant's Counsel regarding mediation documents                | 0.10 | \$600.00 | \$60.00    |
| 09-19-2024 | Document Review                                                                    | 3.80 | \$600.00 | \$2,280.00 |
| 09-20-2024 | Document Review                                                                    | 0.50 | \$600.00 | \$300.00   |
| 09-20-2024 | Draft Supplement to Mediation Brief                                                | 1.50 | \$600.00 | \$900.00   |
| 09-20-2024 | Review and respond to email from Mediator's Office                                 | 0.10 | \$600.00 | \$60.00    |
| 09-20-2024 | Check ROA                                                                          | 0.10 | \$600.00 | \$60.00    |
| 09-23-2024 | Prepare for and Attend Mediation                                                   | 7.40 | \$600.00 | \$4,440.00 |
| 09-24-2024 | Review email from Defendant's Counsel re: MOU                                      | 0.10 | \$600.00 | \$60.00    |
| 09-24-2024 | Call with Client                                                                   | 0.30 | \$600.00 | \$180.00   |
| 09-24-2024 | Review Judge's Prior Settlement Approval Orders                                    | 0.30 | \$600.00 | \$180.00   |
| 09-26-2024 | Email to Defendant's Counsel following up on revisions to MOU                      | 0.10 | \$600.00 | \$60.00    |
| 09-30-2024 | Email to Defendant's Counsel following up on revisions to MOU                      | 0.10 | \$600.00 | \$60.00    |
| 10-01-2024 | Email to Defendant's Counsel following up on revisions to MOU                      | 0.10 | \$600.00 | \$60.00    |
| 10-02-2024 | Email to Defendant's Counsel following up on revisions to MOU                      | 0.10 | \$600.00 | \$60.00    |
| 10-07-2024 | Review and respond to email from client                                            | 0.10 | \$600.00 | \$60.00    |
| 10-07-2024 | Email to Defendant's Counsel following up on revisions to MOU                      | 0.10 | \$600.00 | \$60.00    |
| 10-08-2024 | Email to Defendant's Counsel following up on revisions to MOU                      | 0.10 | \$600.00 | \$60.00    |
| 10-08-2024 | Review email from client                                                           | 0.10 | \$600.00 | \$60.00    |
| 10-11-2024 | Email to Defendant's Counsel following up on revisions to MOU                      | 0.10 | \$600.00 | \$60.00    |
| 10-15-2024 | Email to Defendant's Counsel following up on revisions to MOU                      | 0.10 | \$600.00 | \$60.00    |
| 10-15-2024 | Email to Defendant's Counsel re: finalized MOU                                     | 0.10 | \$600.00 | \$60.00    |
| 10-15-2024 | Review and respond to email from client                                            | 0.10 | \$600.00 | \$60.00    |
| 10-18-2024 | Email to Defendant's Counsel re: finalized MOU                                     | 0.10 | \$600.00 | \$60.00    |
| 10-21-2024 | Email to Defendant's Counsel regarding discovery extensions                        | 0.10 | \$600.00 | \$60.00    |
| 10-22-2024 | Email to Defendant's Counsel regarding discovery extensions                        | 0.10 | \$600.00 | \$60.00    |
| 10-22-2024 | Send MOU to client                                                                 | 0.20 | \$600.00 | \$120.00   |

|            |                                                                                                     |      |          |            |
|------------|-----------------------------------------------------------------------------------------------------|------|----------|------------|
| 10-22-2024 | Call with Client                                                                                    | 0.20 | \$600.00 | \$120.00   |
| 10-23-2024 | Download and save MOU signed by Plaintiff                                                           | 0.10 | \$600.00 | \$60.00    |
| 10-24-2024 | Recalendar discovery deadlines                                                                      | 0.10 | \$600.00 | \$60.00    |
| 11-12-2024 | Email to Defendant's Counsel attaching signed MOU                                                   | 0.10 | \$600.00 | \$60.00    |
| 11-18-2024 | Draft Stipulation to Continue CMC                                                                   | 0.20 | \$600.00 | \$120.00   |
| 11-18-2024 | Email to Defendant's Counsel re: stipulation to continue CMC                                        | 0.10 | \$600.00 | \$60.00    |
| 11-19-2024 | Start Drafting Settlement Agreement                                                                 | 0.40 | \$600.00 | \$240.00   |
| 11-20-2024 | Email to Defendant's Counsel re: stipulation to continue CMC                                        | 0.10 | \$600.00 | \$60.00    |
| 11-20-2024 | Finalize Stipulation to Continue CMC                                                                | 0.10 | \$600.00 | \$60.00    |
| 11-20-2024 | Continue Drafting Settlement Agreement                                                              | 0.10 | \$600.00 | \$60.00    |
| 11-26-2024 | Continue Drafting Settlement Agreement                                                              | 0.30 | \$600.00 | \$180.00   |
| 11-27-2024 | Continue Drafting Settlement Agreement                                                              | 1.30 | \$600.00 | \$780.00   |
| 11-27-2024 | Email to Defendant's Counsel re: fully executed MOU                                                 | 0.10 | \$600.00 | \$60.00    |
| 11-27-2024 | Get administration quotes                                                                           | 0.10 | \$600.00 | \$60.00    |
| 12-01-2024 | Email to Defendant's Counsel following up on fully executed MOU                                     | 0.10 | \$600.00 | \$60.00    |
| 12-01-2024 | Review and revise draft of Settlement Agreement                                                     | 0.40 | \$600.00 | \$240.00   |
| 12-03-2024 | Email Defendant's Counsel draft of the settlement agreement and administration quotes               | 0.10 | \$600.00 | \$60.00    |
| 12-03-2024 | Review email from Defendant's Counsel's office with signed MOU and save MOU to file                 | 0.10 | \$600.00 | \$60.00    |
| 12-06-2024 | Review and respond to email from client                                                             | 0.10 | \$600.00 | \$60.00    |
| 12-16-2024 | Email to Defendant's Counsel re: revisions to the settlement agreement                              | 0.10 | \$600.00 | \$60.00    |
| 12-20-2024 | Email to Defendant's Counsel re: revisions to the settlement agreement                              | 0.10 | \$600.00 | \$60.00    |
| 01-06-2025 | Email to Defendant's Counsel following up on revisions to the settlement agreement                  | 0.10 | \$600.00 | \$60.00    |
| 01-21-2025 | Review and respond to email from Defendant's Counsel                                                | 0.10 | \$600.00 | \$60.00    |
| 01-27-2025 | Email to Defendant's Counsel re: settlement agreement                                               | 0.10 | \$600.00 | \$60.00    |
| 02-03-2025 | Email to Defendant's Counsel re: revisions to the settlement agreement                              | 0.10 | \$600.00 | \$60.00    |
| 02-04-2025 | Call with Client                                                                                    | 0.20 | \$600.00 | \$120.00   |
| 02-04-2025 | Finalize Settlement Agreement                                                                       | 0.20 | \$600.00 | \$120.00   |
| 02-04-2025 | Email to client                                                                                     | 0.10 | \$600.00 | \$60.00    |
| 02-11-2025 | Email to Defendant's Counsel re: signed settlement agreement                                        | 0.10 | \$600.00 | \$60.00    |
| 02-18-2025 | Email to Defendant's Counsel regarding discovery extensions                                         | 0.10 | \$600.00 | \$60.00    |
| 02-19-2025 | Draft Stipulation to Continue CMC                                                                   | 0.20 | \$600.00 | \$120.00   |
| 03-03-2025 | Call with Plaintiff                                                                                 | 0.10 | \$600.00 | \$60.00    |
| 03-12-2025 | Review and respond to email from client                                                             | 0.10 | \$600.00 | \$60.00    |
| 03-12-2025 | Create Settlement Summary                                                                           | 0.60 | \$600.00 | \$360.00   |
| 03-13-2025 | Draft settlement approval motion                                                                    | 2.80 | \$600.00 | \$1,680.00 |
| 03-13-2025 | Email to settlement administrator requesting declaration for filing with settlement approval motion | 0.10 | \$600.00 | \$60.00    |

|                     |                                                                                                      |              |          |                    |
|---------------------|------------------------------------------------------------------------------------------------------|--------------|----------|--------------------|
| 03-14-2025          | Review and edit settlement motion and review Court's prior tentative rulings                         | 1.00         | \$600.00 | \$600.00           |
| 03-17-2025          | Research for settlement approval motion                                                              | 1.50         | \$600.00 | \$900.00           |
| 03-17-2025          | Revise settlement approval motion                                                                    | 1.00         | \$600.00 | \$600.00           |
| 03-17-2025          | Draft Notice of Settlement to mail with PAGA settlement checks                                       | 0.50         | \$600.00 | \$300.00           |
| 03-19-2025          | Continue drafting Notice of Settlement                                                               | 0.80         | \$600.00 | \$480.00           |
| 04-01-2025          | Review and revise Notice of Settlement                                                               | 0.20         | \$600.00 | \$120.00           |
| 04-01-2025          | Email to Defendant's Counsel attaching Notice of Settlement                                          | 0.10         | \$600.00 | \$60.00            |
| 04-11-2025          | Email to Defendant's Counsel re: revisions to Notice of Settlement                                   | 0.10         | \$600.00 | \$60.00            |
| 04-14-2025          | Email to Defendant's Counsel re: revisions to Notice of Settlement                                   | 0.10         | \$600.00 | \$60.00            |
| 04-22-2025          | Email to Defendant's Counsel re: revisions to Notice of Settlement                                   | 0.10         | \$600.00 | \$60.00            |
| 04-22-2025          | Review and respond to email from Defendant's Counsel                                                 | 0.10         | \$600.00 | \$60.00            |
| 04-28-2025          | Review and revise settlement approval motion and review Court's requirements for settlement approval | 0.30         | \$600.00 | \$180.00           |
| 04-28-2025          | Email to Defendant's Counsel re: revision to Notice of Settlement and declaration from Defendant     | 0.10         | \$600.00 | \$60.00            |
| 04-29-2025          | Review and respond to email from Defendant's Counsel re: declaration from defendant                  | 0.30         | \$600.00 | \$180.00           |
| 05-04-2025          | Email to Defendant's Counsel re: receiving declaration from defendant                                | 0.10         | \$600.00 | \$60.00            |
| 05-08-2025          | Email to Defendant's Counsel re: receiving declaration from defendant                                | 0.10         | \$600.00 | \$60.00            |
| 05-13-2025          | Email to Defendant's Counsel re: receiving declaration from defendant                                | 0.10         | \$600.00 | \$60.00            |
| 05-15-2025          | Email to Defendant's Counsel re: receiving declaration from defendant                                | 0.10         | \$600.00 | \$60.00            |
| 05-16-2025          | Email to Defendant's Counsel re: receiving declaration from defendant                                | 0.10         | \$600.00 | \$60.00            |
| 05-16-2025          | Review Defendant's Declaration to File with Settlement Approval Motion                               | 0.10         | \$600.00 | \$60.00            |
| <b>Matter Total</b> |                                                                                                      | <b>74.60</b> |          | <b>\$44,760.00</b> |

**Jessica Tepper v. Charles & Cynthia Eberly dba The Eberly**  
**Orange County Superior Court**  
**Case No. 30-2024-01371238-CU-OE-CXC**

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|                    |                     |
|--------------------|---------------------|
| Attorney Service:  | \$ 180.16           |
| Court Fees:        | \$ 1,823.95         |
| Mediation:         | \$ 13,250.00        |
| Postage:           | \$ 22.91            |
| <b>TOTAL COSTS</b> | <b>\$ 15,277.02</b> |

# Exhibit 6

David Mara  
Jill Vecchi  
Grace Campbell  
Taylor Hanks  
Joann B. Gerrity  
Matthew Crawford



2650 Camino Del Rio North  
Suite 302, San Diego, CA 92108  
Phone: (619) 234-2833  
Fax: (619) 234-4048

MaraLawFirm.com

October 20, 2023

**Via Upload to the LWDA Website and U.S. Certified Mail**

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO  
LABOR CODE SECTION 2699.3**

TO: California Labor and Workforce Development Agency; Charles & Cynthia Eberly, Inc.  
dba The Eberly Company

*Jessica Tepper, on behalf of herself, others similarly situated, and the general public v. Charles  
& Cynthia Eberly, Inc. dba The Eberly Company*

**Factual Statement and Theories of Labor Code Violations**

Jessica Tepper is currently employed by Charles & Cynthia Eberly, Inc. dba The Eberly Company ("THE EBERLY COMPANY") as a non-exempt on-site property manager in California. Ms. Tepper's employment with THE EBERLY COMPANY is on-going.

Ms. Tepper gives notice of her intent to file a lawsuit for violations of the Private Attorneys General Act of 2004 ("PAGA") for THE EBERLY COMPANY's failure to comply with California's wage and hour requirements on behalf of herself and similarly aggrieved employees who worked as non-exempt on-site property managers for THE EBERLY COMPANY in California.

THE EBERLY COMPANY provides professional property management and investment services. THE EBERLY COMPANY manages approximately 100 properties in the greater Los Angeles area. THE EBERLY COMPANY employs hourly, non-exempt employees, such as Ms. Tepper, to provide on-site property management services.

**I. THE EBERLY COMPANY Fails to Pay All Straight Time Wages Owed**

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* sections 218 and 218.5 provide a right of action for nonpayment of wages. *California Labor Code* section 222 prohibits the withholding of part of a wage. *California Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum wage. *California Labor Code* section 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage. *California Labor Code*

section 1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. *California Labor Code* section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

THE EBERLY COMPANY has a continuous policy of not paying Ms. Tepper and the aggrieved employees for all hours worked. Specifically, THE EBERLY COMPANY requires Ms. Tepper and the aggrieved employees to only record 28 hours worked per week regardless of the number of hours actually worked. Ms. Tepper's and the aggrieved employees' salary only covers 28 hours per week. Yet, THE EBERLY COMPANY requires Ms. Tepper and the aggrieved employees to work additional hours for which their salary does not cover. For example, Ms. Tepper is required to be working when the complex is open. The complex is open from 9:00 a.m. to 5:00 p.m. As such, Ms. Tepper and the aggrieved employees are required to work hours for which they are not paid.

In addition, THE EBERLY COMPANY has a continuous policy of requiring Ms. Tepper and the aggrieved employees to be available 24/7 to provide services for THE EBERLY COMPANY, such as providing assistance to current tenants or fielding questions from prospective tenants. Ms. Tepper and the aggrieved employees must always be available to address emergencies such as a flood or fire or other safety issue. Ms. Tepper and the aggrieved employees must field calls from prospective tenants at all times, including during non-working hours. Ms. Tepper and the aggrieved employees must also contact and let in outside vendors, such as for maintenance and repairs or exterminators at all times, including during non-working hours. Ms. Tepper and the aggrieved employees must always be available to address any issues that arise. Ms. Tepper and the aggrieved employees are always working throughout the day. Ms. Tepper and the aggrieved employees are not paid for always being on call or work tasks performed during non-working hours.

Further, Ms. Tepper and the aggrieved employees were not relieved of all work duties and employer control during meal periods. THE EBERLY COMPANY would require Ms. Tepper and the aggrieved employees to clock out for meal period but continue working.

THE EBERLY COMPANY committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Ms. Tepper and the aggrieved employees. THE EBERLY COMPANY acted with malice or in conscious disregard of Ms. Tepper's and the aggrieved employees' rights.

These claims are for Ms. Tepper and all similarly aggrieved employees who worked as non-exempt on-site property managers at THE EBERLY COMPANY in California.

Ms. Tepper, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the

following provisions: sections 1194, 1194.2, 1197.1, and 1199.

## **II. THE EBERLY COMPANY Fails to Pay All Overtime Wages Owed**

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* section 510 states that eight (8) hours of labor constitutes a day's work. Any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek and the first eight (8) hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half (1.5) times the regular rate of pay for an employee.

THE EBERLY COMPANY failed to pay overtime when Ms. Tepper and the aggrieved employees worked over eight (8) hours per day and when employees worked over forty (40) hours per week. THE EBERLY COMPANY failed to pay Ms. Tepper and the aggrieved employees for all hours worked, including hours worked over eight (8) hours in a day and forty (40) hours in a week.

Ms. Tepper and the aggrieved employees were deprived of wages for all overtime hours worked because THE EBERLY COMPANY failed to pay them overtime wages for all overtime hours worked. This resulted in Ms. Tepper and the aggrieved employees not being paid all overtime wages owed to them.

THE EBERLY COMPANY has a continuous policy of not paying Ms. Tepper and the aggrieved employees for all hours worked. Specifically, THE EBERLY COMPANY requires Ms. Tepper and the aggrieved employees to only record 28 hours worked per week regardless of the number of hours actually worked. Ms. Tepper's and the aggrieved employees' salary only covers 28 hours per week. Yet, THE EBERLY COMPANY requires Ms. Tepper and the aggrieved employees to work additional hours for which their salary does not cover. For example, Ms. Tepper is required to be working when the complex is open. The complex is open from 9:00 a.m. to 5:00 p.m. As such, Ms. Tepper and the aggrieved employees are required to work hours for which they are not paid. When employees work over eight (8) hours in a day, these hours are owed at an overtime rate.

In addition, THE EBERLY COMPANY has a continuous policy of requiring Ms. Tepper and the aggrieved employees to be available 24/7 to provide services for THE EBERLY COMPANY, such as providing assistance to current tenants or fielding questions from prospective tenants. Ms. Tepper and the aggrieved employees must always be available to address emergencies such as a flood or fire or other safety issue. Ms. Tepper and the aggrieved employees must field calls from prospective tenants at all times, including during non-working hours. Ms. Tepper and the aggrieved employees must also contact and let in outside vendors, such as for maintenance and repairs or exterminators at all times, including during non-working hours. Ms. Tepper and the aggrieved employees must always be available to address any issues that arise. Ms. Tepper and the aggrieved employees are always working throughout the day. Ms. Tepper and the aggrieved employees are not paid for always being on call or work tasks performed during non-working hours. When employees work over eight (8) hours in a day, these hours are owed at an overtime rate.

Further, Ms. Tepper and the aggrieved employees were not relieved of all work duties and employer control during meal periods. THE EBERLY COMPANY would require Ms. Tepper and the aggrieved employees to clock out for meal period but continue working. When employees work over eight (8) hours in a day, these hours are owed at an overtime rate.

Ms. Tepper and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are for Ms. Tepper and all similarly aggrieved employees who worked as non-exempt on-site property managers at THE EBERLY COMPANY in California.

Ms. Tepper, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE) for violations of *California Labor Code* section 510.

### **III. THE EBERLY COMPANY Failed to Provide Lawful Meal Periods**

Under *California Labor Code* section 512, no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes. During this meal period of not less than thirty (30) minutes, the employee is to be completely free of the employer's control and must not perform any work for the employer. If the employee does perform work for the employer during the thirty (30) minute meal period, the employee has not been provided a meal period in accordance with the law. Also, the employee is to be compensated for any work performed during the thirty (30) minute meal period.

THE EBERLY COMPANY breached the legal duty to provide meal periods to employees by failing to provide employees with meal periods within the timeframes outlined by California law. Specifically, THE EBERLY COMPANY fails to provide Ms. Tepper and the aggrieved employees with meal periods within the first five (5) continuous hours of work. THE EBERLY COMPANY typically scheduled employees for four (4) to six (6) hour shifts. As such, employees whose shifts lasted longer than their scheduled five (5) to six (6) hours were not provided meal periods.

THE EBERLY COMPANY breached the legal duty to provide meal periods to on-site property managers by imposing a continuous and consistent policy of failing to provide sufficient staffing so that Ms. Tepper and the aggrieved employees could freely take their meal periods.

When Ms. Tepper and the aggrieved employees are able to take a meal period, Ms. Tepper and the aggrieved employees are not relieved of all duties and/or employer control during their meal periods. For example, Ms. Tepper and the aggrieved employees would have their meal period time interrupted. THE EBERLY COMPANY requires Ms. Tepper and the aggrieved employees to perform work tasks, such as answering calls from current tenants, answering calls from prospective tenants, addressing emergencies that arise, and working with outside vendors during meal period time. As such, Ms. Tepper and the aggrieved employees are not relieved of all work duties and employer control during meal periods.

Moreover, THE EBERLY COMPANY fails to record and/or maintain records of the time that Ms.

Tepper and the aggrieved employees take meal periods.

By failing to provide statutory meal periods, and by failing to provide compensation for unprovided meal periods, as alleged above, THE EBERLY COMPANY willfully violated the provisions of *California Labor Code* sections 226.7 and 512.

These claims are for Ms. Tepper and all similarly aggrieved employees who worked as non-exempt on-site property managers at THE EBERLY COMPANY in California.

Ms. Tepper, as a non-exempt employee who unlawfully was deprived of first and second meal periods, is an aggrieved employee with standing to bring an action under the PAGA. Ms. Tepper has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* sections 226.7 and 512.

#### **IV. THE EBERLY COMPANY Failed to Provide Lawful Rest Periods**

THE EBERLY COMPANY has had a consistent policy and/or practice of not providing duty free paid ten-minute paid rest periods for every four (4) hours worked, or a major fraction thereof, to Ms. Tepper and the aggrieved employees.

Industrial Welfare Commission Order No. 5-2001 section 12(A) states "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work week period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten minutes net rest time per four hours or major fraction thereof."

THE EBERLY COMPANY breached the legal duty to provide rest periods to employees by failing to provide employees with meal periods within the timeframes outlined by California law. Specifically, THE EBERLY COMPANY fails to provide Ms. Tepper and the aggrieved employees with a net ten (10) minute rest period for every four (4) hours worked, or a major fraction thereof.

THE EBERLY COMPANY failed to provide rest periods to Ms. Tepper and the aggrieved employees.

THE EBERLY COMPANY breached the legal duty to provide rest periods to employees by imposing a continuous and consistent policy of failing to provide sufficient staffing so that Ms. Tepper and the aggrieved employees could freely take their net ten (10) minute rest periods.

When Ms. Tepper and the aggrieved employees are able to take a rest period, Ms. Tepper and the aggrieved employees are not relieved of all duties and/or employer control during their rest periods. For example, Ms. Tepper and the aggrieved employees would have their rest period time interrupted. THE EBERLY COMPANY requires Ms. Tepper and the aggrieved employees to perform work tasks, such as answering calls from current tenants, answering calls from prospective tenants, addressing emergencies that arise, and working with outside vendors during rest period time. As such, Ms. Tepper and the aggrieved employees are not relieved of all work duties and employer control during rest periods.

By failing to provide rest periods for every four hours or major fraction thereof worked per day by non-exempt employees, and by failing to provide compensation for these unprovided rest periods, as alleged above, THE EBERLY COMPANY willfully violated the provisions of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 5-2001 section 12(A).

These claims are for Ms. Tepper and all similarly aggrieved employees who worked as non-exempt on-site property managers at THE EBERLY COMPANY in California.

Ms. Tepper, as a non-exempt employee who was unlawfully deprived of paid ten-minute rest periods, is an aggrieved employee with standing to bring an action under the PAGA. Ms. Tepper has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 and Industrial Welfare Commission Order No. 5-2001 section 20 for violations of *Labor Code* section 226.7 and Industrial Welfare Commission Order No. 5-2001 section 12(A).

**V. THE EBERLY COMPANY Failed to Pay All Wages Due at Termination and During Employment**

THE EBERLY COMPANY willfully failed to pay, in a timely manner, wages owed to the aggrieved employees who left THE EBERLY COMPANY'S employ or who were terminated.

The aggrieved employees who ended their employment with THE EBERLY COMPANY during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *California Labor Code* sections 201 through 203.

At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

During the relevant time period, THE EBERLY COMPANY intentionally and willfully failed to pay the aggrieved employees who are no longer employed by THE EBERLY COMPANY their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving THE EBERLY COMPANY'S employ.

THE EBERLY COMPANY has a continuous policy of not providing all earned wages to employees who are fired at the time of termination or who quit within seventy-two (72) hours of their leaving THE EBERLY COMPANY's employ.

As outlined above, THE EBERLY COMPANY has a continuous policy of not paying aggrieved employees for all hours worked. Specifically, THE EBERLY COMPANY requires aggrieved employees to only record 28 hours worked per week regardless of the number of hours actually worked. Aggrieved employees' salary only covers 28 hours per week. Yet, THE EBERLY

COMPANY requires aggrieved employees to work additional hours for which their salary does not cover. In addition, THE EBERLY COMPANY has a continuous policy of requiring aggrieved employees to be available 24/7 to provide services for THE EBERLY COMPANY, such as providing assistance to current tenants or fielding questions from prospective tenants. Aggrieved employees must always be available to address emergencies such as a flood or fire or other safety issue. Aggrieved employees must field calls from prospective tenants at all times, including during non-working hours. Aggrieved employees must also contact and let in outside vendors, such as for maintenance and repairs or exterminators at all times, including during non-working hours. Aggrieved employees must always be available to address any issues that arise. Aggrieved employees are always working throughout the day. Aggrieved employees are not paid for always being on call or work tasks performed during non-working hours. Further, aggrieved employees were not relieved of all work duties and employer control during meal periods. THE EBERLY COMPANY would require aggrieved employees to clock out for meal period but continue working. As such, aggrieved employees were not paid all wages owed at the termination of employment.

Moreover, aggrieved employees are informed and believe and thereon allege that THE EBERLY COMPANY failed to pay all meal and rest period premium wages owed to the aggrieved employees at the time of their termination.

THE EBERLY COMPANY'S failure to pay the aggrieved employees who are no longer employed by THE EBERLY COMPANY their wages, that were earned and unpaid, at the time of termination or within seventy-two (72) hours of their leaving THE EBERLY COMPANY'S employ, is in violation of *California Labor Code* sections 201 and 202.

*California Labor Code* section 203 provides that when an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until action is commenced; but the wages shall not continue for more than thirty (30) days.

These claims are for all aggrieved employees who worked as non-exempt on-site property managers at THE EBERLY COMPANY in California.

Ms. Tepper, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of sections 201 through 203.

#### **VI. THE EBERLY COMPANY'S Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions**

Section 226(a) of the *California Labor Code* requires THE EBERLY COMPANY to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Ms. Tepper and the aggrieved employees.

*California Labor Code* section 226 subdivision (a) requires that THE EBERLY COMPANY, at

the time of each payment of wages, “furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee... (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than the social security number, (8) the name and address of the legal entity that is the employer...(9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate and the corresponding number of hours worked at each hourly rate by the employee...”

*California Labor Code* section 226, subdivision (a) also requires that “deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California” to itemize in wage statements and to accurately report the total hours worked and total wages earned.

In addition, *California Labor Code* section 204(b) requires that “all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.” An employer complies with *California Labor Code* section 226(a) “if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.”

THE EBERLY COMPANY has knowingly and intentionally failed to comply with *California Labor Code* section 226(a) on each and every wage statement provided to Ms. Tepper and the other aggrieved employees.

THE EBERLY COMPANY knowingly and intentionally did not itemize the total hours worked on wage statements as *California Labor Code* section 226, subsection (a), requires. In every pay period during the period of the relevant statute of limitations, THE EBERLY COMPANY knowingly and intentionally did not include the total hours worked on wage statements. THE EBERLY COMPANY therefore knowingly and intentionally failed to itemize the total hours worked on Ms. Tepper’s and the aggrieved employees’ wage statements.

THE EBERLY COMPANY knowingly and intentionally did not itemize all applicable hourly rates in effect during the pay period on wage statements as *California Labor Code* section 226, subsection (a), requires. In every pay period during the period of the relevant statute of limitations, THE EBERLY COMPANY knowingly and intentionally did not include all applicable hourly rates in effect during the pay period on wage statements. THE EBERLY COMPANY therefore knowingly and intentionally failed to itemize all applicable hourly rates in effect during the pay period on Ms. Tepper’s and the aggrieved employees’ wage statements.

As outlined above, THE EBERLY COMPANY has a continuous policy of not paying Ms. Tepper and similarly aggrieved employees for all hours worked. Specifically, THE EBERLY COMPANY requires Ms. Tepper and the aggrieved employees to only record 28 hours worked per week regardless of the number of hours actually worked. Ms. Tepper's and the aggrieved employees' salary only covers 28 hours per week. Yet, THE EBERLY COMPANY requires Ms. Tepper and the aggrieved employees to work additional hours for which their salary does not cover. For example, Ms. Tepper is required to be working when the complex is open. The complex is open from 9:00 a.m. to 5:00 p.m. In addition, THE EBERLY COMPANY has a continuous policy of requiring Ms. Tepper and the aggrieved employees to be available 24/7 to provide services for THE EBERLY COMPANY, such as providing assistance to current tenants or fielding questions from prospective tenants. Ms. Tepper and the aggrieved employees must always be available to address emergencies such as a flood or fire or other safety issue. Ms. Tepper and the aggrieved employees must field calls from prospective tenants at all times, including during non-working hours. Ms. Tepper and the aggrieved employees must also contact and let in outside vendors, such as for maintenance and repairs or exterminators at all times, including during non-working hours. Ms. Tepper and the aggrieved employees must always be available to address any issues that arise. Ms. Tepper and the aggrieved employees are always working throughout the day. Ms. Tepper and the aggrieved employees are not paid for always being on call or work tasks performed during non-working hours. Further, Ms. Tepper and the aggrieved employees were not relieved of all work duties and employer control during meal periods. THE EBERLY COMPANY would require Ms. Tepper and the aggrieved employees to clock out for meal period but continue working. These wages are not included on wage statements.

Moreover, THE EBERLY COMPANY failed to include all meal and rest period premiums that were owed to Ms. Tepper and the aggrieved employees on wage statements.

Throughout the statutory period, as a result of the knowing and intentional failure by THE EBERLY COMPANY to comply with itemized employee wage statement provisions, Ms. Tepper and the aggrieved employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

Further, in addition to any penalties levied upon THE EBERLY COMPANY for its failure to comply with *California Labor Code* section 226 subdivision (a)'s requirement to provide Ms. Tepper and the aggrieved employees accurate, itemized wage statements, *California Labor Code* section 226.3 assesses additional penalties for the failure to keep the records required in subdivision (a) of Section 226. *California Labor Code* section 226 subdivision (a) requires THE EBERLY COMPANY to maintain records that "accurately shows all of the information required by this subdivision." THE EBERLY COMPANY has violated its statutory duty to maintain records for Ms. Tepper and the aggrieved employees that contain all of the information under *California Labor Code* section 226(a)(1) through (9).

These claims are for Ms. Tepper and all similarly aggrieved employees who worked as non-exempt on-site property managers at THE EBERLY COMPANY in California.

Ms. Tepper, as a non-exempt employee who THE EBERLY COMPANY failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under

the PAGA. Ms. Tepper has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 2699.5 for violations of *California Labor Code* section 226 and 226.3.

## **VII. THE EBERLY COMPANY Failed to Reimburse Employees for Business Expenses**

Section 2802(a) of the *California Labor Code* requires "[a]n employer [to] indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties."

Ms. Tepper and the aggrieved employees incurred expenses in the discharge of their duties without receiving reimbursement from THE EBERLY COMPANY. These expenses include, but are not limited to, having to use their personal cell phones for business purposes. THE EBERLY COMPANY fails to reimburse Ms. Tepper and the aggrieved employees for this expense.

*California Labor Code* section 2802(a) entitles Ms. Tepper and the aggrieved employees to reimbursement for said necessary expenditures, plus interest and expenses.

These claims are for Ms. Tepper and all similarly aggrieved employees who worked as non-exempt on-site property managers at THE EBERLY COMPANY in California.

Ms. Tepper is an aggrieved employee with standing to bring an action under the PAGA. Furthermore, Ms. Tepper satisfies all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 2802(a).

## **VIII. THE EBERLY COMPANY Failed to Provide Paid Sick Days**

Section 246(a) of the *California Labor Code* requires "[a]n employee who, on or after July 1, 2015, works in California for the same employer for thirty (30) or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section." *California Labor Code* section 246, subdivision (b)(1), provides, in pertinent part, "an employee shall accrue paid sick days at the rate of not less than one hour per every thirty (30) hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later."

*California Labor Code* section 246(b) requires "[a]n employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked...."

*California Labor Code* section 246(k) provides that, "[a]n employee may determine how much paid sick leave they need to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave."

*California Labor Code* section 246(i) requires that, "[a]n employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the

employee's payment of wages."

*California Labor Code* section 233(c) states: "An employer shall not deny an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventive care of a family member, or for any other reason specified in subdivision (a) of Section 246.5" *California Labor Code* section 233(d) provides relief for violations of this section, stating that "[a]ny employee aggrieved by a violation of this section shall be entitled to reinstatement and actual damages or one day's pay, whichever is greater, and to appropriate equitable relief."

*California Labor Code* section 234 further forbids employers from adopting an "absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233. An employee working under this policy is entitled to appropriate legal and equitable relief pursuant to Section 233.

THE EBERLY COMPANY fails to comply with these provisions. THE EBERLY COMPANY operates under an absence control policy that counts sick leave taken pursuant to Section 233 as an unexcused absence. Thus, THE EBERLY COMPANY's sick pay policy punishes employees for use of protected and appropriate sick leave. THE EBERLY COMPANY further fails to provide paid sick days for all hours worked in compliance with these sections.

In addition, THE EBERLY COMPANY does not provide employees with written notice that sets forth the amount of sick leave available for use, either in employees' itemized wage statements or in a separate writing provided to employees on the designated pay date.

These claims are for Ms. Tepper and all similarly aggrieved employees who worked as non-exempt on-site property managers at THE EBERLY COMPANY in California.

Ms. Tepper, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *California Labor Code* section 2699.5 for violations of section 246 and 247.5.

#### **IX. THE EBERLY COMPANY Underpaid Employees Every Pay Period**

Section 558(a) of the *California Labor Code* subjects any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty for every pay period for which the employee was underpaid, which includes the underpaid wages related to each violation.

Every pay period, THE EBERLY COMPANY failed to pay employees the legal minimum wage in violation of *California Labor Code* section 1197.1, and employees are entitled to underpaid wages pursuant to Section 558(a).

THE EBERLY COMPANY has had a continuous policy of not paying Ms. Tepper and similarly aggrieved employees for all hours worked, as outlined above.

Every pay period, THE EBERLY COMPANY failed to pay overtime when employees worked over eight (8) hours per day and when employees worked over forty (40) hours per week in violation of *California Labor Code* section 510, and employees are entitled to underpaid overtime wages pursuant to Section 558(a).

Every pay period, THE EBERLY COMPANY has had a consistent policy and/or practice of not providing meal periods to Ms. Tepper and all aggrieved employees and/or providing compensation in lieu thereof in violation of *California Labor Code* section 512, and employees are entitled to underpaid meal period premium wages pursuant to Section 558(a).

Every pay period, THE EBERLY COMPANY has had a consistent policy and/or practice of not providing rest periods to Ms. Tepper and the aggrieved employees and/or providing compensation in lieu thereof, and employees are entitled to underpaid rest period premium wages pursuant to Section 558(a).

Ms. Tepper and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

These claims are for Ms. Tepper and all similarly aggrieved employees who worked as non-exempt on-site property managers at THE EBERLY COMPANY in California.

Ms. Tepper, as a non-exempt employee who unlawfully was underpaid every pay period during her employment, is an aggrieved employee with standing to bring an action under the PAGA. Ms. Tepper has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *California Labor Code* section 558(a) for violations of *California Labor Code* sections 510 and 512 and California's labor laws.

#### **X. THE EBERLY COMPANY Failed to Pay Employees Twice Per Month**

Section 204(a) of the *California Labor Code* required THE EBERLY COMPANY to pay Ms. Tepper and the aggrieved employees twice during each calendar month.

*California Labor Code* section 204 subdivision (a) provides “[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid for between the 1st and 10th day of the following month.”

During the relevant time period, THE EBERLY COMPANY intentionally and willfully failed to pay Ms. Tepper and the aggrieved employees their wages, that were earned and unpaid, twice

during each calendar month.

THE EBERLY COMPANY'S failure to pay Ms. Tepper and the aggrieved employees their wages, that were earned and unpaid, twice during each calendar month, is in violation of *California Labor Code* section 204.

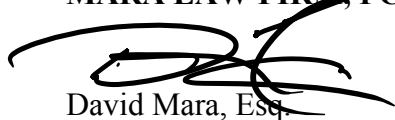
These claims are for Ms. Tepper and all similarly aggrieved employees who worked as non-exempt on-site property managers at THE EBERLY COMPANY in California.

Ms. Tepper, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of section 204.

**XI. Conclusion**

If after 65 days from the date of this letter, the LWDA does not take action or declines to intervene, Ms. Tepper will file a complaint alleging PAGA violations, as described above.

Respectfully submitted,  
**MARA LAW FIRM, PC**



David Mara, Esq.

Attn: PAGA Administrator  
**California Labor and Workforce Development Agency**  
455 Golden Gate Avenue, 9th Floor  
San Francisco, CA 94102  
*Via Web Submission*

**Charles Eberly**  
8383 Wilshire Boulevard, Suite 906  
Beverly Hills, California 90211  
*Agent for Service of Process for Defendant THE EBERLY COMPANY*  
*Via Certified Mail*

Case Name: **Jessica Tepper v. Charles & Cynthia Eberly, Inc. dba The Eberly Company**

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in the County of: San Diego, State of California.

I am over the age of 18 and not a party to the within action; my business address is:  
2650 Camino Del Rio North, Suite 302, San Diego, CA 92108

On October 20, 2023, I served the foregoing document(s) described as:

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE SECTION 2699.3**

On interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

ATTN: PAGA ADMINISTRATOR

**California Labor and Workforce  
Development Agency**

455 Golden Gate Avenue, 9th Floor  
San Francisco, CA 94102

*Via Web Submission and Certified Mail*

Charles Eberly

8383 Wilshire Boulevard, Suite 906  
Beverly Hills, California 90211

*Agent for Service of Process for Defendant  
THE EBERLY COMPANY*

*Via Certified Mail*

**[XX] (BY UNITED STATES CERTIFIED MAIL)** On October 20, 2023, I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses named above and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

**[XX] (BY ELECTRONIC SUBMISSION)** On October 20, 2023, I caused the documents to be sent to the persons at the electronic notification addresses of the parties named above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Dated: October 20, 2023

  
Coley Hayes

## Coley Hayes

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**From:** noreply@salesforce.com on behalf of LWDA DO NOT REPLY  
<lwdadonotreply@dir.ca.gov>  
**Sent:** Friday, October 20, 2023 12:41 PM  
**To:** Coley Hayes  
**Subject:** State of California - Department of Industrial Relations Customer Receipt / Purchase Confirmation

Thank you for your payment.

### Order Information

Merchant: State of California - Department of Industrial Relations

Case Number: LWDA-CM-988935-23

Order Number: ORD-000256806

Total:\$75.00

Card Type: Visa

Date: 10/20/2023

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### Billing Information

Name: David Mara

Email: chayas@maralawfirm.com

Billing Address:

2650 Camino Del Rio, N, Suite 302

San Diego, California

92108

# Exhibit 7