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11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 JANE ROES 1-2 *et al.*,  
14 Plaintiffs,  
15 v.  
16 SFBSC MANAGEMENT, LLC, *et al.*,  
17 Defendants.

Civil Case No. 14-cv-03616-LB

**PLAINTIFFS JANE ROE 1 AND JANE  
ROE 3'S NOTICE OF MOTION AND  
MOTION FOR AWARD OF  
ATTORNEYS' FEES AND COSTS AND  
SERVICE AWARDS; MEMORANDUM  
OF POINTS AND AUTHORITIES**

The Honorable Laurel Beeler

Date: November 17, 2022  
Time: 9:30 A.M.  
Courtroom: Courtroom C, 15th Floor  
450 Golden Gate Avenue  
San Francisco, California

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**NOTICE OF MOTION AND MOTION**

TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on November 17, 2022, at 9:30 a.m., or as soon thereafter as the matter may be heard, in Courtroom C of the Northern District of California, San Francisco Division, located at 450 Golden Gate Avenue, San Francisco on the 15th Floor, Plaintiffs Jane Roe 1 and Jane Roe 3 (“Plaintiffs”) will and hereby do move the Court, pursuant to Federal Rules of Civil Procedure 23(h), for an order awarding to The Tidrick Law Firm LLP \$1.3 million in attorneys’ fees and \$8,164.32 in incurred litigation costs, and enhancement payments to certain class members for their service and assistance to the Class: To Jane Roe 1 and Jane Roe 3, in the amount of \$5,000.00 each; and to Jane Roe 2, Jane Roe 10, Jane Roe 11, Jane Roe 12, Jane Roe 13, and Jane Roe 22, in the amount of \$3,000.00 each. The motion will be based on this Notice, the following Memorandum of Points and Authorities, the declarations of Steven G. Tidrick, Esq. and Richard Pearl, Esq., filed herewith, the other records, pleadings, and papers filed in this action, and any evidence or argument presented at the hearing on this motion.

DATED: September 6, 2022

Respectfully submitted,

THE TIDRICK LAW FIRM LLP



By:

STEVEN G. TIDRICK, SBN 224760  
JOEL B. YOUNG, SBN 236662

Attorneys for Plaintiffs Jane Roes 1-2 *et al.*

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Through this motion, Plaintiffs seek an order awarding to The Tidrick Law Firm LLP \$1.3 million in attorneys’ fees and \$8,164.32 in incurred litigation costs, and enhancement payments to certain class members for their service and assistance to the Class: To Jane Roe 1 and Jane Roe 3, in the amount of \$5,000.00 each; and to Jane Roe 2, Jane Roe 10, Jane Roe 11, Jane Roe 12, Jane Roe 13, and Jane Roe 22, in the amount of \$3,000.00 each.



1 **II. ACCOMPLISHMENTS ACHIEVED BY THE TIDRICK LAW FIRM DURING**  
2 **THE 8 YEARS LITIGATING ON BEHALF OF THE PUTATIVE CLASS**

3 Plaintiffs' counsel The Tidrick Law Firm LLP filed the first case that is presently before  
4 this Court *more than eight (8) years ago*, on August 8, 2014. The vast majority (about 69%) of  
5 the class members covered by the Settlement worked in the San Francisco clubs and therefore are  
6 the putative class for whom The Tidrick Law Firm LLP filed that original suit. *See* ECF No. 239-  
7 1 at 20 (¶ 69) (estimating that the Settlement Class is about 6,800 individuals); Order of Sept. 14,  
8 2017, ECF No. 178 at 13:5 (there were "approximately 4,681" individuals who worked at the San  
9 Francisco clubs from August 8, 2010 through April 14, 2017).<sup>1</sup> Because that original case was  
10 filed more than eight years ago, individuals who worked for the San Francisco clubs as early as  
11 August 8, 2010 will receive benefits from the settlement. *See id.* at ¶ 67(a).

12 During the more than eight (8) years of prosecuting this case, The Tidrick Law Firm LLP  
13 has obtained several significant favorable results for the putative class that ultimately led to this  
14 settlement, including: (1) an order by this Court allowing plaintiffs, including future plaintiffs and  
15 the putative class members, to proceed pseudonymously, and thus allowing them the ability to  
16 vindicate their rights while eliminating or minimizing the threat of personal embarrassment,  
17 social stigmatization, career harm, and physical harm, *see* ECF No. 32, published at 77 F. Supp.  
18 3d 990; (2) an order by this Court denying the motion to compel arbitration, allowing plaintiffs  
19 and the putative class members to vindicate their rights in court, with the right to a jury trial, a  
20 more favorable forum than arbitration, *see* ECF No. 53; and (3) a Ninth Circuit order affirming  
21 the Court's denial of the motion to compel arbitration, *see* ECF No. 104, published at 656  
22 Fed.Appx. 828. Moreover, The Tidrick Law Firm LLP was aggressive in filing an early motion to  
23 approve notice under *Hoffman-LaRoche v. Sperling*, 493 U.S. 165 (1989). (ECF No. 54.).

24 Because Defendant SFBSC Management LLC had already appealed the Court's order denying its  
25 motion to compel arbitration, the Court granted Defendant's motion for a stay and denied without  
26 prejudice Plaintiffs' motion for *Hoffman-LaRoche* notice, but importantly, the Plaintiffs' filing of

27 \_\_\_\_\_  
28 <sup>1</sup> Record citations refer to material in the Electronic Case File ("ECF"); pinpoint citations are to the  
ECF-generated page numbers at the top of the documents.

1 that early motion for *Hoffman–LaRoche* notice resulted in a tolling of the statute of limitations as  
 2 to all potential plaintiffs. *See* ECF No. 80 at 2:12-15.

3 This Court has previously assessed the quality of the lawyering of Steven Tidrick and Joel  
 4 Young of The Tidrick Law Firm LLP in this case. *See* ECF No. 178 at 21:1-3 & n.11 (“As the  
 5 court said in its previous orders and at hearings, the lawyers on both sides have done fine work.  
 6 Exceptional work, really.”) (citing ECF No. 53 at 12) (footnote citation omitted); ECF No. 182 at  
 7 9 (referring to the “great” work of Plaintiffs’ counsel and Defendants’ counsel, and stating, “I  
 8 know how hard they fought”); ECF No. 156 at 7:2-7 (transcript of April 13, 2017 hearing) (“*I*  
 9 *thought the lawyering was excellent in the case, like, truly excellent. I told you guys that at the*  
 10 *time, and I maintain my view that sort of hard-working, honest, earnest – that’s what you want*  
 11 *to see of advocacy in court. So I always think lawyers show up and they want to do a good job,*  
 12 *but you guys did a great job.*”) (emphasis added); ECF No. 53 at 12:25-13:2 (Order Denying  
 13 Arbitration) (“The closeness of this issue, and the precise analysis it evokes, testify to the fine  
 14 work of both sides’ lawyers. The court appreciates their quality discourse and has weighed their  
 15 arguments carefully. In the end, the plaintiffs have spoken more specifically; they have shown  
 16 that they signed their contracts under conditions in which ordinary people similarly situated  
 17 would detect “unequal bargaining power,” and would feel that they had no “real” chance to  
 18 negotiate, no “meaningful choice” but to sign.”); ECF No. 151 at 18:13-14 (“the court does not  
 19 doubt the diligence and effectiveness of counsel for the plaintiffs and the defendants, for the  
 20 reasons described on the record”); ECF No. 151 at 13:8-9 (concluding that Mr. Tidrick and Mr.  
 21 Young “are experienced class-action litigators [who are] well versed in wage-and-hours law”);  
 22 ECF No. 151 at 19:14-15 (finding that Mr. Tidrick and Mr. Young “have sufficient qualifications,  
 23 experience, and expertise in prosecuting class actions”).<sup>2</sup>

24 The settlement that has resulted from this more than eight-year effort is an outstanding  
 25 outcome for the class, as discussed in Plaintiffs’ motion for preliminary approval (ECF No. 239),  
 26 which the Court granted (ECF No. 268), and as discussed in more detail below.

27 \_\_\_\_\_  
 28 <sup>2</sup> An updated summary of counsel’s experience is included in the Declaration of Steven G.  
 Tidrick, Esq., filed herewith, at ¶¶ 2-7.

1     **III.     ATTORNEYS’ FEES THAT THE COURT PREVIOUSLY APPROVED IN**  
2           **THIS CASE AND UPDATED ATTORNEYS’ FEES REQUEST**

3           The Declaration of Steven G. Tidrick, Esq. of June 12, 2017 (ECF No. 159-1) set forth  
4 the lodestar as of June 2017 for The Tidrick Law Firm (\$971,811) and Public Justice  
5 (\$106,513.40), *i.e.*, a combined lodestar of \$1,078,324.40 as of June 2017.

6           Having considered the motion filed on that date, this Court approved an award of the  
7 amounts of attorneys’ fees and costs requested at that time, *i.e.*, \$950,000 in attorneys’ fees  
8 and costs of \$4,884.81. *See* Order of September 14, 2017 (ECF No. 178).

9           With respect to attorneys’ fees, this Court ruled: “Based on the declarations submitted  
10 by the plaintiff’s counsel establishing a lodestar amount \$1,078,324, the court finds that fee  
11 award is supported by a lodestar cross-check. The billing rates are within normal and  
12 customary ranges for timekeepers with similar qualifications and experience in the San  
13 Francisco market.” *See id.*, ECF No. 178 at ECF 24:5-8 (footnote citation omitted).

14           The current lodestar of The Tidrick Law Firm LLP is \$1,354,643.20, which is the sum  
15 of the firm’s lodestar as of June 2017, *i.e.*, \$971,811 (which was calculated based on the  
16 firm’s hourly rates then in effect) plus \$382,832.20, which is the value of the work that the  
17 firm has performed after June 2017 (calculated based on the firm’s current hourly rates), as  
18 detailed below. *See* Declaration of Steven G. Tidrick, Esq. (“Tidrick Decl.”), filed herewith,  
19 ¶ 15. ***As explained below, the calculation of the firm’s lodestar is conservative because the***  
20 ***firm’s current hourly rates have been applied only to work performed after June 2017.***

21           The amount of attorneys’ fees requested for The Tidrick Law Firm LLP, \$1.3 million,  
22 equates to 96% of the firm’s lodestar (*i.e.*, a negative multiplier of 0.96), and equates to 20%  
23 of the gross value of the settlement. *See* Tidrick Decl. ¶ 16.

24           Public Justice, which served as co-counsel in this case and recently withdrew as  
25 counsel, has requested that the value of its lodestar set forth in the June 12, 2017 motion  
26 papers, *i.e.*, \$106,513.40, revert to the class members. *See id.* ¶ 17.

27     **IV.     SETTLEMENT TERMS RELEVANT TO THIS MOTION**

28           Court’s June 30, 2022 order (ECF No. 268) granted preliminary approval of the class-

1 wide Settlement Agreement, an agreement which gives the Court discretion to award Attorneys'  
2 Fees and Expenses to compensate Class Counsel for their fees, costs, and expenses. *See*  
3 Settlement Agreement § 10.2. The Settlement states: “Class Counsel will apply to the Court for  
4 an award of: (1) attorneys’ fees in an amount that does not exceed thirty-five percent (35%) of the  
5 Settlement Consideration; and (2) up to eighty thousand dollars (\$80,000) in Litigation  
6 Expenses.” *See* Settlement Agreement § 10.1.

7 The Settlement provides: “The disposition of Class Counsels’ applications for an  
8 Attorneys’ Fees and Expense Award is within the sound discretion of the Court. Any disapproval  
9 or modification by the Court of such applications shall not: a) affect the enforceability of the  
10 Settlement or this Agreement, b) provide any of the Parties with the right to terminate the  
11 Settlement or this Agreement, or c) impose any obligation on the Defendants to increase the  
12 Settlement Consideration extended in connection with the Settlement, including but not limited to  
13 the total amount of the Cash Pool as provide for herein.” *See* Settlement Agreement § 10.2.

14 The Settlement Consideration is at least \$6.5 million. *See* Order of June 30, 2022, ECF  
15 No. 268 at 9:9-11 (“The total Settlement Consideration is at least \$6.5 million (all non-  
16 reversionary), divided into a Cash Pool of \$4 million, a Dance Fee Pool of \$500,000, and changed  
17 business practices valued at a minimum of \$2,000,000.”). *See* Supplemental Brief, ECF No. 263  
18 at 4:28-5:4.

19 Because the Settlement Consideration is at least \$6.5 million, attorneys’ fees of 35%  
20 would be at least \$2,275,000. The Settlement Agreement also gives the Court discretion to award  
21 enhancement payments to certain class members. *See* Settlement Agreement § 10.4. The  
22 requested enhancement payments to certain class members for their service and assistance to the  
23 Class are warranted: To Jane Roe 1 and Jane Roe 3, in the amount of \$5,000.00 each; and to Jane  
24 Roe 2, Jane Roe 10, Jane Roe 11, Jane Roe 12, Jane Roe 13, and Jane Roe 22, in the amount of  
25 \$3,000.00 each. *See* ECF No. 239-1 at 80:2-8

## 26 **V. ARGUMENT**

### 27 **A. Plaintiffs’ Counsel Are Entitled to Recover Fees from the Common Fund**

28 Federal Rule of Civil Procedure 23 provides that, “[i]n a certified class action, the court

1 may award reasonable attorney’s fees and nontaxable costs that are authorized by law or by the  
2 parties’ agreement.” Fed. R. Civ. Proc. 23(h). Rule 23(h) applies to requests for attorney’s fees  
3 for settled class actions. *See Staton v. Boeing Co.*, 327 F.3d 938, 964 (9th Cir. 2003) (explaining  
4 that “[a]ttorneys’ fees provisions included in proposed class action agreements are, like every  
5 other aspect of such agreements, subject to the determination whether the settlement is  
6 ‘fundamentally fair, adequate and reasonable’”). According to the Ninth Circuit, in order to  
7 protect the due-process rights of unnamed class members, any such request must be filed prior to  
8 the deadline to object to the settlement. *In re Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 988,  
9 994-95 (9th Cir. 2010) (“*In re Mercury*”). *See also Weeks v. Kellogg Co.*, 2011 U.S. Dist. LEXIS  
10 155472, at \*80 (C.D. Cal. Nov. 23, 2011) (applying *In re Mercury* and holding that the filing of a  
11 fee petition one week before the objection deadline comported with due process). The present  
12 motion, filed on September 6, 2022, complies with *In re Mercury*.

13 With regard to the merits of the Motion, in analyzing Rule 23(h) fee requests, courts  
14 “‘have an independent obligation to ensure that the award, like the settlement itself, is reasonable,  
15 even if the parties have already agreed to an amount.’” *Vandervort v. Balboa Capital Corp.*, 2014  
16 U.S. Dist. LEXIS 46174 (C.D. Cal. Mar. 27, 2014) (quoting *In re Bluetooth Headset Prods.*  
17 *Litig.*, 654 F.3d 936, 941 (9th Cir. 2011)).

18 The U.S. Supreme Court “has recognized consistently that a litigant or a lawyer who  
19 recovers a common fund . . . is entitled to a reasonable attorney’s fee from the fund as a whole.”  
20 *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *Staton*, 327 F.3d at 967 (same). For  
21 purposes of determining a reasonable fee, “‘courts have discretion to employ either the lodestar  
22 method or the percentage-of-recovery method.’” *Greko v. Diesel U.S.A., Inc.*, 2013 U.S. Dist.  
23 LEXIS 60114, at \*23 (N.D. Cal. Apr. 26, 2013). Generally speaking, though, “[t]he lodestar  
24 method is . . . preferable when calculating statutory attorney fees, whereas the percentage-of-  
25 recovery approach is appropriate when the fees will be drawn from a common fund.” *Clark v.*  
26 *Payless Shoesource, Inc.*, 2012 U.S. Dist. LEXIS 105187, at \*3-4 (W.D. Wash. July 27, 2012)  
27 (citing *In re Bluetooth Headset Prods. Litig.*, 654 F.3d at 941).

28 The Ninth Circuit has explained that, “[b]ecause the benefit to the class is easily

1 quantified in common-fund settlements, we have allowed courts to award attorneys a percentage  
2 of the common fund in lieu of the often more time-consuming task of calculating the lodestar.” *In*  
3 *re Bluetooth*, 654 F.3d at 942. *See also Elliott v. Rolling Frito-Lay Sales, LP*, 2014 WL 2761316,  
4 at \*9, 2014 U.S. Dist. LEXIS 83796, at \*25 (C.D. Cal. June 12, 2014) (“There are significant  
5 benefits to the percentage approach, including consistency with contingency fee calculations in  
6 the private market, aligning the lawyers’ interests with achieving the highest award for the class  
7 members, and reducing the burden on the courts that a complex lodestar calculation requires.”).

8 As explained by the Ninth Circuit, a “common fund” exists “when (1) the class of  
9 beneficiaries is sufficiently identifiable, (2) the benefits can be accurately traced, and (3) the fee  
10 can be shifted with some exactitude to those benefiting.” *In re Petition of Hill*, 775 F.2d 1037,  
11 1041 (9th Cir. 1985). According to the Supreme Court, “the[se] criteria are satisfied when each  
12 member of a certified class has an undisputed and mathematically ascertainable claim to part of a  
13 lump-sum [amount].” *Boeing Co.*, 444 U.S. at 479. Here, the Settlement Agreement creates a  
14 common fund, as the class of beneficiaries is sufficiently identifiable, the benefits can be  
15 accurately traced, and the fee can be shifted with some exactitude to those benefiting. As  
16 explained in more detail below, Class Counsel’s requested fee award amount is reasonable, and is  
17 significantly less than the lodestar.

#### 18 **B. The Requested Fees Are Within the Range of Approval**

19 The Ninth Circuit has stated that “25 percent of the fund [i]s the ‘benchmark’ award that  
20 should be given in common fund cases.” *Six (6) Mexican Workers v. Arizona Citrus Growers*,  
21 904 F.2d 1301, 1311 (9th Cir. 1990). That said, “the exact percentage varies depending on the  
22 facts of the case, and in ‘most common fund cases, the award exceeds that benchmark.’” *Johnson*  
23 *v. General Mills, Inc.*, 2013 U.S. Dist. LEXIS 90338, at \*20 (C.D. Cal. June 17, 2013) (quoting  
24 *Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482, 491 (E.D. Cal. 2010). Thirty percent is  
25 within the “usual range.” *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002). *See*  
26 *also In re Activision Sec. Litig.*, 723 F. Supp. 1373, 1377-78 (N.D. Cal. 1989) (stating that “nearly  
27 all common fund awards range around 30%”). When the Court awards fees above or below the  
28 benchmark, the “record must indicate the Court’s reasons for doing so.” *Glass v. UBS Fin. Servs.*,



1 2007 U.S. Dist. LEXIS 8476, at \*44 (N.D. Cal. Jan. 26, 2007) (citing *Powers v. Eichen*, 229 F.3d  
2 1249, 1256-57 (9th Cir. 2000)).

3 This Court and other courts have customarily approved payments of attorneys' fees  
4 amounting to one-third of the common fund, including in comparable wage-and-hour class  
5 actions, and judges in this district recognize a one-third fee as consistent with awards in similar  
6 cases. *See, e.g., Nucci v. Rite Aid Corp.*, No. 3:19-cv-01434-LB, 2022 U.S. Dist. LEXIS 94936, at  
7 \*16 (N.D. Cal. May 26, 2022) (granting final approval of a wage-and-hour class action settlement  
8 and awarding attorneys' fees of 33.33% of the total settlement amount and finding that this  
9 percentage is "in line with similar wage-and-hour cases where the results obtained were excellent  
10 and the risks were great"); *Zamora v. Lyft, Inc.*, No. 3:16-cv-02558-VC, 2018 WL 4657308, at \*3  
11 (N.D. Cal. Sept. 26, 2018) (one-third award is "consistent with the Ninth Circuit authority and the  
12 practice in this District."); *see also Wren v. RGIS Inventory Specialists*, No. 06-CV-5778-JCS,  
13 2011 U.S. Dist. LEXIS 38667, at \*79-\*80 (N.D. Cal. Apr. 1, 2011) (awarding fees of over 40%  
14 of the settlement fund where class counsel created a gross settlement fund of \$27 million on  
15 behalf of more than 62,000 class members in a wage-and-hour case); *Bennett v. SimplexGrinnell*  
16 *LP*, No. 11-cv-01854-JST, 2015 U.S. Dist. LEXIS 192870, at \*19-21 (N.D. Cal. Sep. 3, 2015)  
17 (approving attorneys' fees of approximately 38.8% of the settlement fund in wage-and-hour class  
18 action settlement); *Jones v. CertifiedSafety*, 3:17-cv-02229-EMC, ECF No. 232 (N.D. Cal. June  
19 1, 2020) (awarding fees based on one-third of the common fund in wage-and-hour class action);  
20 *Bergman v. Thelen LLP*, No. 3:08-cv-05322-LB, 2016 U.S. Dist. LEXIS 170861, at \*21 (N.D.  
21 Cal. Dec. 9, 2016) (employment class action); *Foster v. Adams & Assocs.*, No. 18-cv-02723-JSC,  
22 2022 U.S. Dist. LEXIS 25071, at \*27-29 (N.D. Cal. Feb. 11, 2022) (granting final approval of an  
23 ERISA class action settlement and awarding attorneys' fees of 33.3% of the total settlement  
24 amount); *Bautista-Perez v. Juul Labs, Inc.*, No. 20-CV-01613-HSG, 2022 WL 2239838, at \*9  
25 (N.D. Cal. June 22, 2022) (granting final approval of an employment class action settlement and  
26 awarding attorneys' fees of 30% of the total settlement amount). These similar cases further  
27 support Plaintiffs' attorney's fees request.

28 In this case, the Settlement Consideration is at least \$6.5 million. The requested fee award

1 to The Tidrick Law Firm LLP, \$1.3 million, is 20% of that amount. *See* Order of June 30, 2022,  
2 ECF No. 268 at 9:9-11 (“The total Settlement Consideration is at least \$6.5 million (all non-  
3 reversionary), divided into a Cash Pool of \$4 million, a Dance Fee Pool of \$500,000, and changed  
4 business practices valued at a minimum of \$2,000,000.”). *See* Supp. Brief, ECF No. 263 at 4:28-  
5 5:4.

6 Among the circumstances the Ninth Circuit has considered relevant in assessing  
7 reasonableness are: (1) the results achieved; (2) the riskiness of prosecuting the litigation;  
8 (3) whether counsel obtained benefits for the Class above and beyond the cash settlement fund  
9 itself; and (4) the financial burden carried by Plaintiffs’ counsel in prosecuting the case on a  
10 contingency basis. *Vizcaino*, 290 F.3d 1043 at 1048-50. In this case, all of those factors favor a  
11 finding that a fee award of up to 30% is reasonable.

12 First, Class Counsel have obtained favorable results over the course of the litigation,  
13 including (1) an order allowing plaintiffs, including future plaintiffs and the putative class  
14 members, to proceed pseudonymously, and thus allowing them the ability to vindicate their rights  
15 while eliminating or minimizing the threat of personal embarrassment, social stigmatization,  
16 career harm, and physical harm, *see* ECF No. 32, published at 77 F. Supp. 3d 990; (2) an order  
17 denying the motion to compel arbitration, allowing plaintiffs and the putative class members to  
18 vindicate their rights in court, with the right to a jury trial, a more favorable forum than  
19 arbitration, *see* ECF No. 53; and (3) a Ninth Circuit order affirming the Court’s denial of the  
20 motion to compel arbitration, *see* ECF No. 104, published at 656 Fed.Appx. 828. Those results  
21 ultimately led to this settlement, which is an outstanding outcome for the class, as discussed in  
22 Plaintiffs’ motion for preliminary approval (ECF No. 239), which the Court granted (ECF No.  
23 268). It is no exaggeration to predict that without using the class action process, the relief that  
24 members of the class were likely to achieve ranged from negligible to zero.

25 Second, prosecuting the litigation has been risky. This case is not one in which a  
26 substantial settlement and a recovery of a large attorneys’ fee was a foregone conclusion. *See*  
27 *Deposit Guar. Nat’l Bank v. Roper*, 445 U.S. 326, 338-39 (1980) (recognizing importance of  
28 incentivizing qualified attorneys to devote their time to complex, time-consuming cases in which



1 they risk nonpayment); *Vizcaino*, 290 F.3d at 1048 (“Risk is a relevant circumstance.”). The  
2 claims asserted are, to a large extent, complex, as reflected in the operative complaint. ECF No.  
3 239-1 at 154-201. There is the risk that Plaintiffs could lose on the merits, either on summary  
4 judgment or at trial. In many exotic dancer misclassification cases, plaintiffs have lost on the  
5 merits. In fact, the question of whether exotic dancers are misclassified has been litigated in San  
6 Francisco and was decided in the favor of one of the very same nightclubs in this case (Chowder  
7 House, Inc. d/b/a/ Hungry I). *See Buel v. Chowder House, Inc.*, 2006 WL 1545860 (Cal. App.  
8 June 7, 2006) (“On appeal, Buel contends that the jury erred in finding her to be an independent  
9 contractor. We conclude that the jury verdict was supported by substantial evidence and affirm.”).  
10 *See also Marlar v United States*, 151 F.3d 962, 966 (9th Cir. 1998) (“[t]he government has never  
11 contended that the dancers are employees as a matter of law, and for good reason: because the  
12 dancers have discretion in deciding for whom, when and how to perform, there is a serious  
13 question as to whether they are employees.”); *State ex rel. Roberts v. Acropolis McLoughlin, Inc.*,  
14 150 Or. App. 180, 192, 945 P.2d 647, 654 (1997) (“[c]onsidering the factors discussed, we  
15 conclude that they weigh in favor of the determination that the relationship between Acropolis  
16 and the dancers after 1993 was not one of employment.”); *Matson v. 7455, Inc.*, 2000 WL  
17 1132110, at \*4 (D. Or. Jan. 14, 2000) (“the plaintiff has failed to establish any material fact  
18 disputing her status as an independent contractor. Accordingly, her F.L.S.A. claim cannot survive  
19 summary judgment.”); *Hilborn v. Prime Time Club, Inc.*, 2012 WL 9187581, at \*1 (E.D. Ark.  
20 July 12, 2012) (finding that exotic dancers were not “employees” under the FLSA or state law,  
21 and granting summary judgment in favor of the defendant). In this case, numerous affirmative  
22 defenses have been pleaded that, if successful, could bar any recovery. ECF No. 63 (Answer to  
23 First Amended Complaint).

24 Moreover, there is the risk that no FLSA collective or Rule 23 class would be certified,  
25 the risk that an order certifying an FLSA collective or a Rule 23 class would be overturned on  
26 appeal, and the risk that a certified class would later be decertified, each of which is a significant  
27 risk in a case such as this. *See, e.g., David v. Bankers Life & Cas. Co.*, 2015 WL 3994975, at \*8  
28 (W.D. Wash. June 30, 2015) (granting defendant’s motion to decertify class in case alleging

1 misclassification of insurance agents as independent contractors, reasoning that “individualized  
2 fact questions” as to each agent’s work experience would “predominate over common ones.”);  
3 *Collins v. Barney’s Barn, Inc.*, 2013 WL 1668984, at \*1 (E.D. Ark. Apr. 17, 2013) (denying  
4 motion for conditional certification of an FLSA collective in a case alleging that exotic dancers  
5 were misclassified as independent contractors); *Edwards v. Publishers Circulation Fulfillment,*  
6 *Inc.*, 268 F.R.D. 181, 189 (S.D.N.Y. 2010) (declining to certify class of workers claiming to be  
7 employees where case required “an individualized assessment of [defendant’s] relationship” with  
8 each worker); *Carter v. Figueroa Grp., Inc.*, 2013 WL 5945725, at \*3 (Cal. Ct. App. Nov. 7,  
9 2013) (affirming denial of plaintiff’s motion for class certification in a case alleging  
10 misclassification of exotic dancers as independent contractors where “the weight of the evidence  
11 showed [the club] did not control the manner and means by which the dancers’ work was  
12 performed, and determined appellant failed to show ‘that common questions can be used to  
13 determine the degree of control exercised by Defendant over the dancers.’”); *Ali v. U.S.A. Cab*  
14 *Ltd.*, 176 Cal. App. 4th 1333, 1350, 1354 (2009) (affirming trial court’s order denying motion for  
15 class certification in case alleging misclassification of taxi drivers as independent contractors,  
16 reasoning that “[a]lthough the leases and training manuals [were] uniform, the [trial] court  
17 reasonably found the testimony of putative class members would be required on the issues of  
18 employment and fact of damage”).

19 Third, counsel obtained benefits for the class above and beyond the cash settlement fund.  
20 Changing industry practices has always been a major goal of this lawsuit. The changed business  
21 practices that would result from the settlement would represent a major step forward in the labor  
22 rights of exotic dancers, and would fulfill important goals of this lawsuit. The costs to the  
23 nightclubs, and the benefits to the exotic dancers, would be significant.

24 As part of the Settlement, Defendants agreed to convert all Class Members as employees  
25 in accordance with applicable law. Settlement at § 9.1 (ECF No. 239-1 at ECF page 92-93).  
26 Pursuant to this Settlement, such conversion has already taken place, with the conversion process  
27 having been completed by November 16, 2018. *Id.* The reason that the conversion predates the  
28 effective date of the Settlement is to ensure an end to the dispute and the corresponding

1 Settlement Class Period. Moreover, Defendants have agreed to provide certain “Enhanced Terms  
2 of Employment” through at least the two (2) year anniversary after the Final Approval Date. *Id.*  
3 These Enhanced Terms of Employment ensure that dancers receive at least 40% of any dance fees  
4 collected as a commission. *Id.*

5 Before the agreement was amended to increase the length of the Enhanced Terms of  
6 Employment from one to two years as a result of negotiations with the objectors (which increased  
7 the value of the settlement by at least \$1,000,000), the agreement originally valued the benefits to  
8 dancers from the changed business practices “at a minimum of \$1,000,000,” a valuation that was  
9 “significantly conservative” given that the defendants’ accountant estimated the changes to be  
10 worth over \$16 million per year (\$12,474,093 for the Enhanced Terms of Employment and  
11 \$3,819,807 for the conversion to employee status). *See* Preliminary Approval Order (ECF No.  
12 268 at 12-13) (citing Settlement Agreement, ECF No. 239-1 at 80 (¶ 5.2(c); Defs.’ Reply, ECF  
13 No. 249 at 18-19; Shindel Mem., Ex. 4 to Shindel. Decl., ECF No. 243 at 135–38).

14 Fourth, the financial burden carried by Plaintiffs’ counsel in prosecuting the case on a  
15 contingency basis has been significant. To date, Plaintiffs’ counsel have received no fees during  
16 the pendency of this action, which was filed more than eight years ago, on August 8, 2014, and  
17 they have also advanced costs, despite the risk of no recovery. *See* Tidrick Decl. ¶ 37.

18 The circumstances described above support an upward adjustment from the Ninth  
19 Circuit’s benchmark of 25 percent. *See, e.g., Hopkins v. Stryker Sales Corp.*, 2013 U.S. Dist.  
20 LEXIS 16939, at \*8-9 (N.D. Cal. Feb. 6, 2013) (discussing other wage-and-hour cases in which  
21 courts awarded attorneys’ fees of 33 1/3% or more, explaining that conducting the case “on an  
22 entirely contingent fee basis against a well-represented [d]efendant” supported an upward fee  
23 adjustment, and awarding Class Counsel attorneys’ fee award of 30 percent of the common fund);  
24 *Thieriot v. Celtic Ins. Co.*, 2011 U.S. Dist. LEXIS 44852 (N.D. Cal. Apr. 21, 2011) (“It is  
25 common practice to award attorneys’ fees at a higher percentage than the 25% benchmark in  
26 cases that involve a relatively small — i.e., under \$10 million — settlement fund.”); *In re*  
27 *Heritage Bond Litig.*, 2005 U.S. Dist. LEXIS 13555, at\*69 (C.D. Cal. June 10, 2005) (“Here, the  
28 Court notes that Plaintiffs’ counsel proceeded entirely on contingency basis, while paying for all

1 expenses incurred. There was no guarantee of any recovery, and thus, counsel was subjected to  
 2 considerable risk of no compensation for time or no reimbursement for expenses.”); *Boyd v. Bank*  
 3 *of Am. Corp.*, 2014 U.S. Dist. LEXIS 162880, at \*28-29 (C.D. Cal. Nov. 18, 2014) (“Both of the  
 4 firms representing the Class are small firms with fewer than fifteen attorneys. Firms of this size  
 5 face even greater risks in litigating large class actions with no guarantee of payment. The Court  
 6 finds that the considerable risk in this case due to the uncertain legal terrain, coupled with  
 7 Counsel’s contingency fee arrangement, weigh in favor of an increase from the benchmark  
 8 rate. . . . Decisions in analogous wage and hour suits have found awards of one third of the  
 9 common fund appropriate.”) (citing cases and ordering attorneys’ fee award of one-third of the  
 10 common fund).

11 Another factor favoring the requested attorneys’ fee award is that it equates to an amount  
 12 that is less than the lodestar, as discussed in more detail below. Thus, the requested fee award  
 13 results in a “negative multiplier,” which supports a finding that the requested fee award is  
 14 reasonable and fair. *See, e.g., Pierce v. Rosetta Stone, Ltd.*, 2013 U.S. Dist. LEXIS 138921, at  
 15 \*18, 2013 WL 5402120, at \*6 (N.D. Cal. Sept. 26, 2013) (finding that “the requested fee award  
 16 results in a so-called negative multiplier, which suggests that the percentage of the fund amount is  
 17 reasonable and fair”); *Hopkins*, 2013 U.S. Dist. LEXIS 16939, at \*9 (stating that in several cases  
 18 in which courts awarded 33 and 1/3 percent of the common fund, the requested fees were  
 19 “significantly less than the lodestar,” citing cases).

20 **C. The Lodestar “Cross-check” Confirms that the Requested Attorneys’ Fees**  
 21 **Are Reasonable**

22 When setting a fee award, courts can—and should—apply the alternative lodestar method  
 23 to provide “perspective on the reasonableness of a given percentage award.” *Vizcaino*, 290 F.3d at  
 24 1050. According to the Ninth Circuit, “[c]alculation of the lodestar, which measures the lawyers’  
 25 investment of time in the litigation, provides a check on the reasonableness of the percentage  
 26 award.” *Id.* “Lodestar calculations are determined by multiplying the number of hours reasonably  
 27 expended during the litigation by a reasonable hourly rate.” *In re Heritage Bond Litig.*, 2005 U.S.  
 28 Dist. LEXIS 13555, at \*19 (citing *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (1998)). It is

1 “common for a counsel’s lodestar figure to [then] be adjusted upward by some multiplier  
2 reflecting a variety of factors such as the effort expended by counsel, the complexity of the case,  
3 and the risks assumed by counsel.” *Id.* at \*71-72 (citing *In re Linerboard Antitrust Litig.*, 2004  
4 U.S. Dist. LEXIS 10532, 2004 WL 1221350, at \*16 (E.D. Pa. June 2, 2004) (recognizing that  
5 from 2001 to 2003, the average multiplier approved in common fund cases was 4.35, and during  
6 the 30 year period from 1973-2003, the average multiplier approved in common fund class  
7 actions was 3.89) (citing Stuart J. Logan, et al., *Attorney Fee Awards in Common Fund Class*  
8 *Actions*, 24 CLASS ACTION REPORTS 167 (2003)), disapproved on other grounds as stated in *In re*  
9 *ATM Fee Antitrust Litig.*, 686 F.3d 741, 755 n.7 (9th Cir. 2011)).

10 Here, based on detailed, contemporaneously-kept time records, The Tidrick Law Firm  
11 LLP’s unadjusted lodestar (*i.e.*, with no multiplier) is \$1,354,643.20, computed as a function of  
12 the hours and rates described in the declaration of Steven G. Tidrick, Esq., filed herewith, at  
13 ¶¶ 15, 18. That amount is the sum of the firm’s lodestar as of June 2017, *i.e.*, \$971,811 (which  
14 was calculated based on the firm’s hourly rates then in effect) plus \$382,832.20, which is the  
15 value of the work that the firm has performed after June 2017. *Id.* at ¶ 15. The calculation of the  
16 lodestar is conservative because the firm’s current hourly rates have been applied only to work  
17 performed after June 2017, as discussed in more detail below. *Id.* at ¶¶ 15, 32.

18 It is a common and accepted practice for fee awards to be determined based on current  
19 rates, *i.e.*, the attorneys’ rates at the time when a motion for fees is made, rather than the historical  
20 rate at the time when the work was performed. *See In re HPL Techs., Inc. Sec. Litig.*, 366 F.  
21 Supp. 2d 912, 919-20 (N.D. Cal. 2005) (explaining that the use of current rates “simplifies the  
22 calculation and accounts for the time value of money in that lead counsel ha[ve] not been paid  
23 contemporaneously”). This approach provides some compensation for the delay in being paid.  
24 *See, e.g., Wit v. United Behav. Health*, 2022 WL 45057, at \*5 (N.D. Cal. Jan. 5, 2022) (“the Court  
25 finds that Plaintiffs’ request that the lodestar be calculated using current rates to account for the  
26 nearly six-year delay in compensation is reasonable.”); *LeBlanc-Sternberg v. Fletcher*, 143 F.3d  
27 748, 764 (2nd Cir. 1998) (“[C]urrent rates, rather than historical rates, should be applied in order  
28 to compensate for the delay in payment . . . .”) (citing *Missouri v. Jenkins*, 491 U.S. 274, 283-84

1 (1989)); *Theme Promotions, Inc. v. News Am. Mktg. FSI, Inc.*, 731 F. Supp. 2d 937, 948 (N.D.  
 2 Cal. 2010) (“To compensate plaintiffs’ attorneys for the delay in payment of the attorney fees,  
 3 district courts have the discretion to either apply the attorneys’ current rates to all hours billed  
 4 during the course of the litigation or use the attorneys’ historical rates to which is added a prime  
 5 rate enhancement.”); *In re Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1305  
 6 (9th Cir. 1994) (“The district court has discretion to compensate delay in payment in one of two  
 7 ways: (1) by applying the attorneys’ current rates to all hours billed during the course of the  
 8 litigation; or (2) by using the attorneys’ historical rates and adding a prime rate enhancement.”).  
 9 Accordingly, the calculation of The Tidrick Law Firm LLP’s lodestar is conservative, because ***the***  
 10 ***lodestar for the work that the firm performed up through September 2017 has been calculated***  
 11 ***based on the firm’s hourly rates in effect as of September 2017; the firm’s current hourly rates***  
 12 ***have been applied only to work performed after September 2017.*** See Tidrick Decl. ¶¶ 15, 32. If  
 13 The Tidrick Law Firm LLP’s current hourly rates were applied to all hours worked by the firm in  
 14 this case from 2014 to the present, then its lodestar would be more than \$1.6 million (specifically,  
 15 \$1,638,485.50). *Id.* ¶ 32.

16 Both the hourly rates and the associated hours are reasonable. As to the rates, “[t]he  
 17 proper reference point in determining an appropriate fee award is the rates charged by private  
 18 attorneys in the same legal market as prevailing counsel.” *Rutti v. Lojack Corp.*, 2012 U.S. Dist.  
 19 LEXIS 107677, at \*30 (C.D. Cal. July 31, 2012) (quoting *Trevino v. Gates*, 99 F.3d 911, 925 (9th  
 20 Cir. 1996)). The rates charged by private attorneys in the same legal market, in turn, are the  
 21 “prevailing market rate[s] in the relevant community” for lodestar purposes. *Davis v. City of San*  
 22 *Francisco*, 976 F.2d 1536, 1547 (9th Cir. Cal. 1992) (quoting *Bouman v. Block*, 940 F.2d 1211,  
 23 1235 (9th Cir. 1991), cert. denied, 112 S.Ct. 640 (1991), and citing *Blum v. Stenson*, 465 U.S.  
 24 886, 895 (1984), vacated in part on other grounds by 984 F.2d 345 (9th Cir. 1993)). The relevant  
 25 community is “the forum district.” *Anderson v. Nextel Retail Stores, LLC*, 2010 U.S. Dist. LEXIS  
 26 71598 at \*6 (C.D. Cal. June 30, 2010) (quoting *Gates v. Deukmejian*, 987 F.2d 1392, 1405 (9th  
 27 Cir. 1992)). See also *Cuviello v. Feld Ent., Inc.*, No. 13-cv-04951-BLF, 2015 U.S. Dist. LEXIS  
 28 4155, 2015 WL 154197, at \*2 (N.D. Cal. Jan. 12, 2015) (“The Court has broad discretion in



1 setting the reasonable hourly rates used in the lodestar calculation.”); *Ketchum v. Moses*, 24 Cal.  
 2 4th 1122, 1132, 104 Cal. Rptr. 2d 377, 17 P.3d 735 (2001) (court can rely on its own experience);  
 3 *accord Open Source Sec. v. Perens*, 803 F. App’x 73, 77 (9th Cir. 2020).

4 The Tidrick Law Firm LLP’s hourly rates are comparable to, or lower than, rates charged  
 5 by other law firms in California prosecuting claims on behalf of workers and consumers. For  
 6 example, in *Nitsch v. DreamWorks Animation SKG Inc.*, 2017 WL 2423161, at \*9 (N.D. Cal.  
 7 June 5, 2017), an employment class action, the court found that hourly rates of up to \$1,200 per  
 8 hour—significantly above Class Counsel’s hourly rates here—for plaintiffs’ class action lawyers  
 9 based in California were “fair, reasonable, and market-based, particularly for the ‘relevant  
 10 community’ in which counsel work.” Similarly, in *Nucci v. Rite Aid Corp.*, Case No. 3:19-cv-  
 11 01434-LB, 2022 U.S. Dist. LEXIS 94936, at \*16 (N.D. Cal. May 26, 2022), the court approved  
 12 attorney hourly rates of up to \$1,005 and a paralegal rate of \$275, and found that “the billing rates  
 13 are normal and customary for timekeepers with similar qualifications and experience in the  
 14 relevant market.” *See id.* at ECF No. 132 (declaration of Hallie Von Rock, Esq.) at 26 (¶ 82). *See*  
 15 *also Fleming v. Impax Lab’ys Inc.*, 2022 U.S. Dist. LEXIS 125595, at \*28 (N.D. Cal. July 15,  
 16 2022) (approving attorney hourly rates of up to \$1,325 and paralegal hourly rates of up to \$425 in  
 17 a securities class action, and citing cases in this District approving attorney hourly rates of up to  
 18 \$1,600 and \$1,250 and paralegal rates of up to \$490); *Cottle v. Plaid Inc.*, 2022 WL 2829882, at  
 19 \*11 (N.D. Cal. July 20, 2022) (approving attorney hourly rates of up to \$1,025 and paralegal  
 20 hourly rates of up to \$425 in a consumer class action); *Foster v. Adams & Assocs.*, 2022 U.S.  
 21 Dist. LEXIS 25071, at \*24-25 (N.D. Cal. Feb. 11, 2022) (approving hourly rates of up to \$975 in  
 22 an ERISA class action); *Brown v. Google LLC*, 4:20-cv-03664-YGR (N.D. Cal.) at ECF No. 597-  
 23 1, ECF page 5 of 6 (request for reimbursement of attorneys’ fees incurred by Boies Schiller  
 24 Flexner LLP, Susman Godfrey L.L.P, and Morgan & Morgan filed on June 3, 2022 in the  
 25 Northern District of California showing partner hourly rates of \$1,020, \$800, \$725, \$775, \$1,030,  
 26 \$1,000, \$1,000, \$1,350, \$1,110, \$1,070, \$875, \$1,300, and \$1,950) (plaintiffs’ counsel in  
 27 consumer class action) (Tidrick Decl. Ex. 2).<sup>3</sup>

28 <sup>3</sup> *Cf. Hadsell v. City of Baldwin Park*, Los Angeles Super. Ct. No. BC548602 (partner rates of

1 Other courts have approved as reasonable the hours and hourly rates of The Tidrick Law  
 2 Firm LLP that were previously in effect. *See, e.g., Roe v. Jose Torres L.D. Latin Club Bar, Inc.*,  
 3 Case No. 3:19-cv-06088-LB (N.D. Cal.), Order of Aug. 27, 2020, ECF No. 34 at 16:22-23  
 4 (finding that “[t]he billing rates [of Mr. Tidrick at \$825/hour and Mr. Young at \$740/hour] are  
 5 normal and customary (and thus reasonable) for lawyers of comparable experience doing similar  
 6 work”); *Munoz v. Big Bus Tours Limited*, Case No. 3:18-cv-05761-SK (N.D. Cal.), Order of Feb.  
 7 12, 2020 (finding Mr. Tidrick’s hours and hourly rate of \$825/hour to be reasonable, and likewise  
 8 with respect to Mr. Young’s hours and hourly rate of \$740/hour, stating “the court finds that  
 9 Class Counsel’s hours and hourly rates are reasonable”); *Kinney v. National Express Transit*  
 10 *Servs. Corp.*, Case No. 2:14-cv-01615-TLN-DB (E.D. Cal. Jan. 23, 2018) (finding Mr. Tidrick’s  
 11 hours and hourly rate of \$825/hour to be reasonable, and likewise with respect to Mr. Young’s  
 12 hours and hourly rate of \$740/hour, stating “The Court finds that Class Counsel’s hours and  
 13 hourly rates are reasonable.”); *Jones v. San Diego Metro. Transit Sys.*, 2017 WL 5992360, at \*5  
 14 (S.D. Cal. Nov. 30, 2017) (finding Mr. Tidrick’s hours and hourly rate of \$825/hour to be  
 15 reasonable, and likewise with respect to Mr. Young’s hours and hourly rate of \$740/hour, stating  
 16 “The Court finds that counsel’s hours and hourly rates are reasonable.”); *Enamorado v. Lush, Inc.*,  
 17 Case No. RG19018678 (Alameda County Superior Court), Order of Feb. 18, 2020, at ¶ 5 (finding  
 18 Mr. Tidrick’s hours and hourly rate of \$825/hour to be reasonable, and likewise with respect to  
 19 Mr. Young’s hours and hourly rate of \$740/hour, stating “Plaintiff’s counsel’s hours and hourly  
 20 rates are reasonable”). The firm’s paralegal hours and hourly rate of \$180/hour have also been  
 21 approved as being reasonable. *See Kinney*, Case No. 2:14-cv-01615-TLN-DB (E.D. Cal. January  
 22 23, 2018); *Jones*, 2017 WL 5992360, at \*5. *See Tidrick Decl.* ¶ 20.

23 The declarations of Steven G. Tidrick, Esq. and Richard M. Pearl, Esq., filed herewith,  
 24 explain why the rates reflected in this motion for attorneys’ fees reflect a reasonable increase in  
 25 the hourly billing rates of the firm’s partners, the first such increase in their rates since September

26 \_\_\_\_\_  
 27 \$1,100 approved); *Indep. Living Center of S. Cal. v. Kent*, 2020 U.S. Dist. Lexis 13019 (C.D. Cal.  
 28 2020) (partner rates of \$1,025 approved); *Nozzi v. Housing Authority*, 2018 U.S. Dist. LEXIS  
 26049 (C.D. Cal. 2018) (partner rates of \$1,150 approved); *Banas v. Volcano Corp.* 47 F. Supp.  
 3d 957 (N.D. Cal. 2014) (approving partner rates of \$1,095 and paralegal rates of \$245-\$275).



1 2017. *See* Tidrick Decl. ¶¶ 22-28; Pearl Decl. ¶¶ 12-24.

2 The attorneys' fees requested here for The Tidrick Law Firm LLP, \$1.3 million, is about  
3 96% of the firm's lodestar, which is \$1,354,643.20. Thus, the requested fee award results in a  
4 "negative multiplier," which supports a finding that the requested percentage of the fund is  
5 reasonable and fair. *See, e.g., Pierce*, 2013 U.S. Dist. LEXIS 138921, at \*18, 2013 WL 5402120,  
6 at \*6 ("the requested fee award results in a so-called negative multiplier, which suggests that the  
7 percentage of the fund amount is reasonable and fair").

8 The facts here would warrant a positive multiplier. Indeed, the circumstances described  
9 above that support an upward adjustment from the Ninth Circuit's benchmark of 25 percent  
10 would also support a positive multiplier. For example, in *Boyd v. Bank of Am. Corp.*, 2014 U.S.  
11 Dist. LEXIS 162880 (C.D. Cal. Nov. 18, 2014), the court considered those same factors in  
12 approving a 30% award where the lodestar was significantly less than the amount requested, such  
13 that the court accepted a multiplier of 2.58. *See id.* at \*31 (finding that a multiplier of 2.58 is "not  
14 out of the range of fees awarded for class action settlements" and citing *Vizcaino v. Microsoft*  
15 *Corp.*, 290 F.3d 1043, 1051 n.6 (9th Cir. 2002) for its "finding [that] multiples ranging from one  
16 to four are frequently applied in common fund cases").

17 In cases where compensation is contingent on success, attorneys generally expect to  
18 receive significantly higher effective hourly rates, particularly where, as in this case, the result is  
19 uncertain. As the case law recognizes, this does not result in any undue "bonus" or "windfall." In  
20 the legal marketplace, a lawyer who assumes a significant financial risk on behalf of a client  
21 reasonably expects that his or her compensation will be significantly greater than if no risk was  
22 involved (for example, if the client paid the bill on a monthly basis), and that the greater the risk,  
23 the greater the "enhancement." Adjusting court-awarded fees upward in contingent fees cases to  
24 reflect the risk of recovering no compensation whatsoever for hundreds of hours of labor makes  
25 those fee awards consistent with the legal marketplace, and thus helps to ensure that meritorious  
26 cases will be prosecuted, important public policies will be enforced, and individuals with  
27 meritorious legal claims will be better able to obtain qualified attorneys.

28 For all these reasons, the attorneys' fee request of \$1.3 million for The Tidrick Law Firm

1 LLP—substantially lower than their lodestar—is therefore reasonable.

2 **D. Class Counsel’s Requested Expense Reimbursement Is Proper**

3 “The prevailing view is that expenses are awarded in addition to the fee percentage.”  
 4 *Jefferson v. H&M Hennes & Mauritz, L.P.*, 2013 U.S. Dist. LEXIS 2875, at \*9 (C.D. Cal. Jan. 7,  
 5 2013) (quoting 1 ALBA CONTE, ATTORNEY FEE AWARDS § 2:08 at 50–51). Counsel have  
 6 advanced costs incurred in this case. As reflected in the declaration of Steven G. Tidrick, the total  
 7 incurred litigation expenses are \$8,164.32, and do not include the modest, but real, expenses that  
 8 will be incurred in the future. These costs are reasonable. *See* Tidrick Decl. ¶ 39 & Ex. 3. *See*  
 9 *generally Odrick v. UnionBanCal Corp.*, 2012 WL 6019495, at \*6, 2012 U.S. Dist. LEXIS  
 10 171413, at \*17 (N.D. Cal. Dec. 3, 2012) (in a common-fund settlement, noting that class counsel  
 11 were seeking reimbursement of “costs for a retained expert, mediation, travel, copying, mailing,  
 12 legal research, and other litigation-related costs,” and concluding that “reimbursement of these  
 13 costs and expenses in their entirety is justified”); *Knight v. Red Door Salons, Inc.*, 2009 U.S. Dist.  
 14 LEXIS 11149, at \*20 (N.D. Cal. Feb. 2, 2009) (in a common-fund settlement, stating that class  
 15 counsel’s expenses “relate to online legal research, travel, postage and messenger services, phone  
 16 and fax charges, court costs, and the costs of travel”; that “[a]ttorneys routinely bill clients for all  
 17 of these expenses”; and that “it is therefore appropriate for counsel here to recover these costs  
 18 from the [s]ettlement [f]und”). The request should therefore be approved in full.

19 **E. The Requested Enhancement Payments Are Reasonable**

20 The court has discretion to award “enhancement,” “incentive,” or “service” awards to  
 21 compensate plaintiffs for work done on behalf of the class and in consideration of the risk  
 22 undertaken in prosecuting the action. *Rodriguez v. West Publ’g Corp.*, 563 F.3d 948, 958-59 (9th  
 23 Cir. 2009). Courts often assess the reasonableness of the award by taking into consideration: “(1)  
 24 the risk to the class representative in commencing a suit, both financial and otherwise; (2) the  
 25 notoriety and personal difficulties encountered by the class representative; (3) the amount of time  
 26 and effort spent by the class representative; (4) the duration of the litigation; and (5) the personal  
 27 benefit (or lack thereof) enjoyed by the class representative as a result of the litigation.” *Van*  
 28 *Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 299-300 (N.D. Cal. 1995) (approving incentive

1 award of fifty thousand dollars (\$50,000)). In this district, an incentive award of five thousand  
2 dollars (\$5,000) is presumptively reasonable. *See Pierce*, 2013 U.S. Dist. LEXIS 138921, at \*20,  
3 2013 WL 5402120, at \*6 (citations omitted).

4 Enhancement awards serve a function more than just reimbursement for time; they are to  
5 overcome the fear of reprisal, real or perceived. *See, e.g., Rodriguez*, 563 F.3d at 958-59 (such  
6 awards “are intended to compensate class representatives for work done on behalf of [a] class, to  
7 make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to  
8 recognize their willingness to act as a private attorney general”), vacated on other grounds, 688  
9 F.3d 645, 660 (9th Cir. 2012). Courts should consider “the risk to the class representative in  
10 commencing suit, both financial and otherwise,” as well as “the amount of time and effort spent  
11 by the class representative.” *Smith v. CRST Van Expedited, Inc.*, 2013 U.S. Dist. LEXIS 6049, at  
12 \*16, 2013 WL 163293 at \*6 (S.D. Cal. Jan. 14, 2013).

13 Enhancement payments to certain class members for their service and assistance to the  
14 class are warranted: To Jane Roe 1 and Jane Roe 3, in the amount of \$5,000.00 each; and to Jane  
15 Roe 2, Jane Roe 10, Jane Roe 11, Jane Roe 12, Jane Roe 13, and Jane Roe 22, in the amount of  
16 \$3,000.00 each. *See* ECF No. 239-1 at 80:2-8.

17 The declarations of Jane Roe 1 and Jane Roe 3 filed on June 12, 2017 (ECF Nos. 159-2  
18 and 159-4) describe the numerous activities they performed to support the litigation. Each of them  
19 spent significant amounts of personal time assisting in the prosecution of the lawsuit. Roe 1 spent  
20 at least 30 hours; Roe 3 spent approximately 20 hours. *See* Tidrick Decl., ECF No. 159-1, at 13  
21 (¶ 28).

22 The other plaintiffs for whom enhancement payments are requested, specifically, Jane Roe  
23 2, Jane Roe 10, Jane Roe 11, Jane Roe 12, Jane Roe 13, and Jane Roe 22, each spent 10 hours or  
24 more of personal time on such tasks as identifying witnesses, gathering documents, and providing  
25 information to Plaintiffs’ counsel relevant to the claims and defenses. *Id.* Enhancement payments  
26 to each of them in the amount of \$3,000 each is warranted. *See, e.g., Camp v. Progressive Corp.*,  
27 2004 U.S. Dist. LEXIS 19172, at \*23-24 (E.D. La. Sept. 23, 2004) (approving, as part of \$5.4  
28 million settlement, service awards of \$10,000 to the class representative, \$2,500 to any plaintiff

1 who gave a deposition, and \$1,000 to any plaintiff who assisted in preparing written discovery  
2 responses); *Arango v. Landry's, Inc.*, 2015 U.S. Dist. LEXIS 127869 (N.D. Ill. Aug. 27, 2015)  
3 (approving awards of \$1,000 each to plaintiffs who were deposed and answered interrogatories);  
4 *In re Bank of Am. Wage & Hour Empl. Litig.*, 2013 U.S. Dist. LEXIS 180056, at \*26 (D. Kan.  
5 Dec. 18, 2013) (\$1,000 to deponents; \$500 to plaintiffs who responded to interrogatories; and  
6 \$300 to plaintiffs who provided a declaration or responded to document requests); *UFCW Local*  
7 *880-Retail Food Employers Joint Pension Fund v. Newmont Min. Corp.*, 352 Fed. Appx. 232,  
8 233 (10th Cir. 2009) (incentive award may be appropriate based on risk incurred by the individual  
9 or any additional effort expended by the individual for the benefit of the lawsuit).

10 The enhancement payments requested are also justified because, in addition to spending  
11 time on the case, the plaintiffs also incurred personal risk, including risks undertaken for payment  
12 of attorneys' fees and costs and stigma in connection with future employment opportunities. *See,*  
13 *e.g., Graham v. Overland Solutions, Inc.*, 2012 U.S. Dist. LEXIS 130113, at \*22-23 (S.D. Cal.  
14 Sept. 12, 2012) (preliminarily approving settlement that requested service awards of \$25,000 each  
15 for class representatives in part because "risks undertaken for the payment of costs in the event  
16 this action had been unsuccessful" and "stigma upon future employment opportunities for having  
17 initiated an action against a former employer"); *Koehl v. Verio*, 142 Cal. App. 4th 1313, 1328  
18 (2006) (in wage and hour action where defendant prevailed at trial, named plaintiffs were held  
19 liable, jointly and severally, for defendant's attorneys' fees); *E.E.O.C. v. Peoplemark, Inc.*, 732  
20 F.3d 584 (6th Cir. 2013) (affirming district court's award of attorneys' fees to prevailing  
21 defendant, a temporary employment agency, in a case brought by the Equal Employment  
22 Opportunity Commission alleging that the defendant violated Title VII by denying employment  
23 opportunities to persons with felony records); *Murphy v. Bd. of Educ. of Rochester City Sch.*  
24 *Dist.*, 420 F. Supp. 2d 131 (W.D.N.Y. 2006) (awarding attorneys' fees to prevailing defendants in  
25 employment discrimination case brought by a teacher); *Harper v. City of Cleveland*, 2020 WL  
26 127683, at \*1 (N.D. Ohio Jan. 10, 2020) (awarding attorneys' fees to prevailing defendant in  
27 action brought by a former police officer alleging employment discrimination).

28 In light of the foregoing, the requested enhancement payments are reasonable.

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**VI. CONCLUSION**

Plaintiffs respectfully request that the Court grant Plaintiffs’ motion and enter the proposed order filed herewith.

DATED: September 6, 2022

Respectfully submitted,

THE TIDRICK LAW FIRM LLP



By:

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10 Attorneys for Plaintiffs Jane Roes 1-2 *et al.*

11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 JANE ROES 1-2 *et al.*,  
14 Plaintiffs,  
15 v.  
16 SFBSC MANAGEMENT, LLC, *et al.*,  
17 Defendants.

Civil Case No. 14-cv-03616-LB

**DECLARATION OF STEVEN G. TIDRICK, ESQ. IN SUPPORT OF PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS' FEES AND COSTS AND SERVICE AWARDS**

The Honorable Laurel Beeler

Date: November 17, 2022  
Time: 9:30 A.M.  
Courtroom: Courtroom C, 15th Floor  
450 Golden Gate Avenue  
San Francisco, California

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1 I, Steven G. Tidrick, declare:

2 1. I am a partner with The Tidrick Law Firm LLP, attorneys of record for  
3 Plaintiffs in the above-entitled action. I am licensed to practice before all of the courts of the  
4 State of California, the Commonwealth of Massachusetts, and the Cherokee Nation, all U.S.  
5 District Courts in the State of California, and the U.S. Court of Appeals for the First and Ninth  
6 Circuits. I have personal knowledge of the facts set forth herein and, if called as a witness, I  
7 could and would competently testify thereto.

8 2. The Tidrick Law Firm LLP, founded in 2008, concentrates its practice in class  
9 action litigation, other complex litigation, and arbitrations. The firm has represented numerous  
10 clients in employment, wage and hour, and consumer cases, including in class actions, PAGA  
11 representative actions, and in individual cases in court and in arbitration. The firm regularly  
12 engages in major complex litigation, and has significant experience in wage and hour class  
13 action lawsuits that are similar in size, scope, and complexity to this action.

14 3. Of particular relevance to this case, The Tidrick Law Firm LLP has significant  
15 experience representing workers in employment class actions and PAGA representative  
16 actions, as exemplified by our firm's appointment as Class Counsel in a lawsuit certified as a  
17 Rule 23(b)(3) class action on behalf of a class of more than three thousand individuals who  
18 were employed by the City and County of San Francisco as bus or train operators. In that case,  
19 after the court granted the plaintiffs' motion for class certification, we obtained a settlement of  
20 \$8 million. *See Stitt v. San Francisco Mun. Transp. Agency*, Case No. 4:12-cv-03704-YGR  
21 (N.D. Cal. July 19, 2017) (granting final approval of \$8 million settlement in wage-and-hour  
22 class action). *See also Zelko v. Maplebear, Inc.*, Case No. RG20062046 (Alameda Super. Ct.  
23 Aug. 12, 2021) (granting approval of \$5.43 million PAGA settlement); *Rai v. Santa Clara*  
24 *Valley Transp. Authority*, Case No. 5:12-cv-04344-PSG, ECF. No. 300 (N.D. Cal. May 17,  
25 2016) (granting final approval of \$4.2 million settlement in wage-and-hour class action). Our  
26 firm has also obtained settlements of \$1.5 million in *Brown v. In-N-Out Burgers*, Case No.  
27 RG12646351 (Alameda Super. Ct. July 7, 2017) (employment discrimination class action),  
28 and \$1.7 million in *Margulies v. Tri-County Metropolitan Transp. Dist. of Oregon*, Case No.



1 13-cv-00475-PK (D. Oregon Oct. 26, 2016) (wage-and-hour class action). In all of these  
2 cases, our firm served as lead plaintiffs' counsel or as the only plaintiffs' counsel. In addition  
3 to these examples, our firm has represented plaintiffs in many other employment class actions  
4 and PAGA representative actions, as discussed below.

5 4. The Tidrick Law Firm LLP also has significant class action trial experience. In  
6 one such case, we represented bus operators in a wage-and-hour class action against a private  
7 company, obtained class certification, took the case to trial, and obtained a unanimous jury  
8 verdict, which resulted in a judgment of \$870,834.26 (not including an additional amount for  
9 attorneys' fees) for a class of 84 bus operators, which yielded an average recovery of  
10 \$10,367.07 per class member. *See Robinson v. Open Top Sightseeing San Francisco, LLC*,  
11 Case No. 4:14-cv-00852-PJH, ECF No. 239 (N.D. Cal. Feb. 14, 2018). TopVerdict identified  
12 the judgment in that case as being the largest court award resulting from a class action trial in  
13 California in 2018. *See* <https://topverdict.com/lists/2018/california/50-court-awards>.

14 5. In all of the cases referenced above, our firm served as lead plaintiffs' counsel  
15 or as the only plaintiffs' counsel. In this declaration, I have singled out the cases referenced  
16 above because they are some publicly-available examples of our firm's experience  
17 prosecuting representative actions alleging employment law claims that are similar to this case  
18 in size, scope, or complexity. They are just a few examples of our firm's relevant experience.  
19 We have represented clients in many other cases where the cases or outcomes are confidential.  
20 Over the last fourteen years, our firm has prosecuted numerous individual employment cases  
21 in court and in arbitration, and more than twenty putative class actions and PAGA  
22 representative actions in which we served as lead plaintiffs' counsel or as the only plaintiffs'  
23 counsel. Our firm has obtained more than \$100 million in settlements and judgments.

#### 24 **Experience of Steven G. Tidrick, Esq.**

25 6. I am a graduate of Harvard College (A.B. *magna cum laude* 1994, Phi Beta  
26 Kappa) and Harvard Law School (J.D. 1999), where I was an editor of the *Harvard Law*  
27 *Review*. After graduation from law school I clerked for the Honorable M. Margaret  
28 McKeown, U.S. Court of Appeals for the Ninth Circuit (1999-2000). In 2000, upon



1 completion of my clerkship, I became a litigation associate in Boston, Massachusetts at the  
2 law firm of Foley, Hoag & Eliot LLP (later re-named Foley Hoag LLP), took the  
3 Massachusetts bar exam, and was admitted to the Massachusetts bar in 2001. I worked as a  
4 litigation associate at Foley Hoag until 2003, when I became an associate at Boies, Schiller &  
5 Flexner LLP (later re-named Boies Schiller Flexner LLP), in its Oakland, California office,  
6 and was admitted to the California Bar. From 2003 until 2007, my practice focused on  
7 complex civil litigation and class actions. In 2007, I switched from representing primarily  
8 defendants to representing primarily plaintiffs in class actions, when I became a partner at the  
9 law firm of Girard Gibbs LLP in San Francisco. I founded The Tidrick Law Firm in 2008 and  
10 since that time, my principal practice area has been and is representing plaintiffs in  
11 employment litigation. I am a member of the Federal Bar Association (the “FBA”) and the  
12 FBA’s Labor and Employment Law Section, the California Employment Lawyers Association  
13 (“CELA”), the Labor and Employment Law Section of California Lawyers Association, and  
14 the National Employment Law Project (“NELP”)’s Just Pay Community (also known as the  
15 Wage and Hour Clearinghouse), among other organizations.

#### 16 **Experience of Joel B. Young, Esq.**

17 7. My law partner Joel B. Young is a graduate of the University of California,  
18 Berkeley (B.A. 2000) and the University of California, Berkeley School of Law, Boalt Hall  
19 (J.D. 2004). He was admitted to the California Bar in June 2005 and is also admitted in  
20 various federal courts including the Northern District of California. Before joining The  
21 Tidrick Law Firm, Mr. Young was associated with Gunderson Dettmer LLP and Reed Smith  
22 LLP. Mr. Young is a former officer of the Charles Houston Bar Association. Mr. Young has  
23 worked with me on all of the firm’s class actions and PAGA representative actions. In light of  
24 his recognized leadership in the field of employment law, Mr. Young was selected to speak at  
25 the American Bar Association’s 15th Annual Section of Labor and Employment Law  
26 Conference in November 2021.

#### 27 **Paralegals Amanda McCaffrey, Christine Hulsizer, Erika Valencia, and Carrie McAfee**

28 8. Amanda McCaffrey received her bachelor’s degree from the University of

1 California, Berkeley, in 2013, graduating with High Distinction and Phi Beta Kappa. Before  
2 joining the firm, she was a civil case intern with another law firm where she drafted discovery  
3 requests, drafted trial briefs, and compiled discovery in cases including employment  
4 discrimination, wrongful termination, personal injury, social security, workers' compensation,  
5 and family law. After working on this case, she graduated from Stanford Law School.

6 9. Christine Hulsizer received her bachelor's degree with honors from Williams  
7 College in 2013. Before joining the firm, she was an English teaching assistant in Austria  
8 with the Austrian-American Educational Society (Fulbright Austria). After working on this  
9 case, she graduated from the University of California, Berkeley School of Law.

10 10. Erika Valencia received her bachelor's degree from the University of  
11 California, Berkeley, in 2013. As an undergraduate she was a member of the Latino Pre-Law  
12 Society. Before joining the firm, she was a Legal Intern at City Attorney's Office of Hayward,  
13 California.

14 11. Carrie McAfee received her bachelor's degree from Indiana University,  
15 Bloomington, in 2002, and earned a Paralegal Studies Certificate from Indiana University in  
16 2014. Before joining The Tidrick Law Firm, Ms. McAfee was employed by three other law  
17 firms and served as a Public Benefits Advocate for Americorps-Legal Corps.

18 **Attorneys' Fees That The Court Previously Approved in This Case**

19 12. My declaration of June 12, 2017 (ECF No. 159-1) set forth the lodestar of our  
20 law firm (\$971,811) and Public Justice (\$106,513.40), *i.e.*, a combined lodestar of  
21 \$1,078,324.40 as of June 2017.

22 13. Having considered the motion filed on that date, this Court approved an award  
23 of the amounts of attorneys' fees and costs requested at that time, *i.e.*, \$950,000 in attorneys'  
24 fees and costs of \$4,884.81. *See* Order of September 14, 2017 (ECF No. 178).

25 14. With respect to attorneys' fees, this Court ruled: "Based on the declarations  
26 submitted by the plaintiff's counsel establishing a lodestar amount \$1,078,324, the court finds  
27 that fee award is supported by a lodestar cross-check. The billing rates are within normal and  
28 customary ranges for timekeepers with similar qualifications and experience in the San

1 Francisco market.” *See id.*, ECF No. 178 at 24:5-8 (footnote citation omitted).

2 **Updated Attorneys’ Fees Request**

3 15. The current lodestar of The Tidrick Law Firm LLP is \$1,354,643.20, which is  
4 the sum of our firm’s lodestar as of June 2017, *i.e.*, \$971,811 (which was calculated based on  
5 our firm’s hourly rates then in effect) plus \$382,832.20, which is the value of the work that  
6 our firm has performed after June 2017 (calculated based on our firm’s current hourly rates),  
7 as detailed below. *As explained in paragraph 32 below, the calculation of our lodestar is*  
8 *conservative because we are applying our current hourly rates only to work performed after*  
9 *June 2017.*

10 16. Plaintiffs respectfully request that the Court award attorneys’ fees of \$1.3  
11 million to The Tidrick Law Firm LLP, which is 20% of the gross value of the settlement of  
12 \$6.5 million, and equates to 96% of our firm’s lodestar (*i.e.*, a negative multiplier of 0.96).

13 17. Public Justice, which served as our co-counsel in this case and recently  
14 withdrew as counsel, has requested that the value of its lodestar set forth in the June 12, 2017  
15 motion papers, *i.e.*, \$106,513.40, revert to the class members.

16 **Updated Lodestar of The Tidrick Law Firm LLP**

17 18. Based on detailed contemporaneous time records, the lodestar of The Tidrick  
18 Law Firm LLP for work performed in this action **after June 2017** is \$382,832.20, which is  
19 the sum of the following:

- 20 a. Partner Steven G. Tidrick, Esq., 171.1 hours multiplied by hourly rate of  
21 \$973/hour = \$166,480.30, for time spent: defending appeal; negotiating new  
22 settlement; client communications; revising motion for preliminary approval  
23 of settlement; reviewing objection; research re same; reviewing bankruptcy  
24 materials; research re same; revising supplemental brief regarding preliminary  
25 approval; drafting proposed order regarding preliminary approval; preparing  
26 for preliminary approval hearing; attending preliminary approval hearing;  
27 communicating with Simpluris, co-counsel, and Defendants’ counsel  
28 regarding settlement; conferences with J. Young; drafting motion for final

- 1 approval of settlement; communicating with Simpluris and counsel re same.
- 2 b. Partner Joel B. Young, Esq., 246.3 hours multiplied by hourly rate of
- 3 \$873/hour = \$215,019.90, for time spent: defending appeal; preparing for and
- 4 participating in mediation with Tripper Ortman; follow-up regarding same;
- 5 negotiating new settlement; communicating with clients; supervising
- 6 paralegal; communicating with potential settlement administrators regarding
- 7 bids; revising motion for preliminary approval of settlement; reviewing
- 8 objection; drafting declaration in support of preliminary approval; conferences
- 9 with S. Tidrick, co-counsel, and Defendants’ counsel.
- 10 c. Paralegal Carrie McAfee, 7.4 hours multiplied by hourly rate of \$180/hour
- 11 = \$1,332.00, for time spent: checking docket; preparing chronology; research
- 12 regarding defendant entities for bankruptcy questions; preparing tables of
- 13 contents and authorities.

14 19. As noted above, the amount of the attorneys’ fees requested for The Tidrick

15 Law Firm LLP, \$1,300,000.00, equates to 96% of our firm’s **total** lodestar of \$1,354,643.20.

16 **Reasonableness of the Hours and Hourly Rates**

17 20. Other courts have approved as being reasonable The Tidrick Law Firm LLP’s

18 hourly rates that went into effect in September 2017. *See, e.g., Roe v. Jose Torres L.D. Latin*

19 *Club Bar, Inc.*, Case No. 3:19-cv-06088-LB (N.D. Cal.), Order of Aug. 27, 2020, ECF No. 34

20 at 16:22-23 (finding that “[t]he billing rates [of our law firm, *i.e.*, my rate of \$825/hour and

21 Mr. Young’s rate of \$740/hour] are normal and customary (and thus reasonable) for lawyers

22 of comparable experience doing similar work”); *Munoz v. Big Bus Tours Ltd.*, Case No. 3:18-

23 cv-05761-SK (N.D. Cal.), Order of Feb. 12, 2020 (finding my hours and hourly rate of

24 \$825/hour to be reasonable, and likewise with respect to Mr. Young’s hours and hourly rate of

25 \$740/hour, stating “the court finds that Class Counsel’s hours and hourly rates are

26 reasonable”); *Kinney v. National Express Transit Servs. Corp.*, Case No. 2:14-cv-01615-TLN-

27 DB (E.D. Cal. Jan. 23, 2018) (finding my hours and hourly rate of \$825/hour to be reasonable,

28 and likewise with respect to Mr. Young’s hours and hourly rate of \$740/hour, stating “The

1 Court finds that Class Counsel’s hours and hourly rates are reasonable.”); *Jones v. San Diego*  
2 *Metro. Transit Sys.*, 2017 WL 5992360, at \*5 (S.D. Cal. Nov. 30, 2017) (finding my hours  
3 and hourly rate of \$825/hour to be reasonable, and likewise with respect to Mr. Young’s hours  
4 and hourly rate of \$740/hour, stating “The Court finds that counsel’s hours and hourly rates  
5 are reasonable.”); *Enamorado v. Lush, Inc.*, Case No. RG19018678 (Alameda County Super.  
6 Ct.), Order of Feb. 18, 2020, at ¶ 5 (finding my hours and hourly rate of \$825/hour to be  
7 reasonable, and likewise with respect to Mr. Young’s hours and hourly rate of \$740/hour,  
8 stating “Plaintiff’s counsel’s hours and hourly rates are reasonable”). Our firm’s paralegal  
9 hours and hourly rate of \$180/hour have also been found to be reasonable. *See Kinney*, Case  
10 No. 2:14-cv-01615-TLN-DB (E.D. Cal. January 23, 2018); *Jones*, 2017 WL 5992360, at \*5.

11 21. In earlier years, courts have approved as being reasonable The Tidrick Law  
12 Firm’s hourly rates that were previously in effect. *See, e.g., Williams v. SuperShuttle Int’l,*  
13 *Inc.*, 2015 U.S. Dist. LEXIS 19341, at \*5 (N.D. Cal. Feb. 12, 2015) (finding my hours and  
14 hourly rate of \$750/hour to be reasonable, and likewise with respect to Mr. Young’s hours and  
15 hourly rate of \$675/hour, stating “The Court finds that Class Counsel’s hours and hourly rates  
16 are reasonable”); *Bradford v. Lux Bus America Co.*, Case No. CGC-12-526030 (San Francisco  
17 Super. Ct.), Order of April 16, 2015, at 4:27-28 (finding my hours and hourly rate of  
18 \$750/hour to be reasonable, and likewise with respect to Mr. Young’s hours and hourly rate of  
19 \$675/hour, stating “The Court finds that Class Counsel’s hours and hourly rates are  
20 reasonable.”); *Armstrong v. Bauer’s Intelligent Transp., Inc.*, 2015 U.S. Dist. LEXIS 134863,  
21 at \*6 (N.D. Cal. Sept. 21, 2015) (finding my hours and hourly rate of \$750/hour to be  
22 reasonable, and likewise with respect to Mr. Young’s hours and hourly rate of \$675/hour,  
23 stating “The Court finds that Class Counsel’s hours and hourly rates are reasonable.”); *Rai v.*  
24 *Santa Clara Valley Transp. Auth.*, Case No. 5:12-cv-04344-PSG, ECF No. 300, ¶ 22 (N.D.  
25 Cal. May 17, 2016) (finding my hours and hourly rate of \$750/hour to be reasonable, and  
26 likewise with respect to Mr. Young’s hours and hourly rate of \$675/hour, stating “The Court  
27 finds that Class Counsel’s hours and hourly rates are reasonable.”).

28 22. The rates reflected in this fee application reflect a reasonable increase in the

1 hourly billing rates from the court-approved rates described in paragraph 20 above. The last  
2 time that our law firm's hourly rates increased was in September 2017. At that time, my  
3 hourly rate increased from \$750 to \$825, and Mr. Young's hourly rate increased from \$675 to  
4 \$740. Also at that time, the paralegal rate increased from \$165 to \$180.

5 23. During the timeframe between our law firm's last increase in hourly rates and  
6 the present (*i.e.*, from September 2017 to the present), our law firm has achieved the milestone  
7 of obtaining more than \$100 million in settlements and judgments. Also, in February 2018,  
8 because of our success in obtaining a unanimous jury verdict in a wage-and-hour class action  
9 trial in federal court, we obtained the judgment that TopVerdict identified as the largest court  
10 award resulting from a class action trial in California in 2018, as discussed above in  
11 paragraph 4. Moreover, in November 2021, my law partner Mr. Young was selected to speak  
12 at the American Bar Association's 15th Annual Section of Labor and Employment Law  
13 Conference, in light of his recognized leadership in the field of employment law. These are  
14 just three examples reflecting the growth in our experience and our reputation in the legal  
15 community subsequent to our law firm's last increase in hourly rates five years ago.

16 24. Moreover, during that time frame (from September 2017 to the present), prices  
17 for legal services have increased by 12.95%, according to the U.S. Bureau of Labor Statistics.  
18 Attached hereto as **Exhibit 1** is a true and correct copy of a summary of the increase of the  
19 Consumer Price Index for legal services during that time frame, which was printed from  
20 <https://www.in2013dollars.com/Legal-services/price-inflation/2017-to-2022?amount=100>  
21 (visited July 18, 2022).

22 25. The author of the leading California attorney fee treatise, Richard M. Pearl,  
23 Esq., has provided a declaration in which he provides his expert opinion that our firm's new  
24 "hourly rates are reasonable as they are well in line with the range of rates charged by and  
25 awarded to comparably qualified attorneys in this legal community for comparable services."  
26 *See* Declaration of Richard M. Pearl, Esq. ("Pearl Decl."), filed herewith, ¶ 16. Many federal  
27 courts have referenced Mr. Pearl's expert testimony favorably. *See id.* ¶ 9. Mr. Pearl's opinion  
28 in this case is based on (1) his long experience and expertise regarding attorneys' fees, as

1 noted in numerous reported cases; (2) numerous prior judicial determinations that our firm’s  
2 then-current rates were reasonable; (3) numerous recent judicial rate determinations listed in  
3 Exhibit B to his declaration; (4) the reported rates of numerous local law firms set out in  
4 Exhibit C to his declaration, which consists of data he has gathered from declarations,  
5 surveys, articles, and correspondence; (5) relevant surveys including The Real Rate Report by  
6 Wolters Kluwer and the Peer Monitor Public Rates survey. *See id.* at ¶¶ 17-24.

7 26. Mr. Pearl attests to his expert opinion that our new hourly rates reflect “only a  
8 very modest increase” over our hourly rates that courts have approved in prior years, and that  
9 the increase is “firmly justified by rate increases in the legal marketplace.” *See id.* at ¶ 18. (“In  
10 fact, listed billing rates, court awards, and published articles show that over the past four  
11 years, San Francisco area rates have risen an average of 4-6% per year. For example, in  
12 *Planned Parenthood Federation of America, Inc. v. Center for Medical Progress*, 2020 U.S.  
13 Dist. LEXIS 241035, at \*13 (N.D. Cal. Dec. 22, 2020), the district court applied a 25% rate  
14 increase for the period from 2016 to 2020. More recently, similar rate increases in the legal  
15 marketplace have been observed by commentators. *See, e.g., Aggressive Billing Rate*  
16 *Increases Appear Likely, but Can Clients Stomach It?* Maloney, *The American Lawyer* (Jan.  
17 24, 2022) (rates rose “nearly 4%” in 2021; Simons, *Big Law Should Raise Partner Billing*  
18 *Rates 10+ Percent Now*, *The Recorder* (Nov. 15, 2018) at 3 (“In a normal year, partner rates  
19 would go up around 5 or 6 percent”).” *See id.* at ¶ 18.

20 27. Therefore, in light of the trends in the legal marketplace, and in light of the  
21 additional half-decade of experience that Mr. Young and I have gained since the last time that  
22 our hourly rates increased, *i.e.*, since September 2017 (about five years ago), an increase of  
23 about eighteen percent (18%) in our hourly rates (*i.e.*, an increase from \$825 to \$973 for me,  
24 and an increase from \$740 to \$873 for Mr. Young) is reasonable at this time.

25 28. The hourly rates requested in this application are comparable to, or lower than,  
26 rates charged by other law firms in California prosecuting claims on behalf of workers and  
27 consumers. For example, in *Nitsch v. DreamWorks Animation SKG Inc.*, 2017 WL 2423161,  
28 at \*9 (N.D. Cal. June 5, 2017), an employment class action, the court found that hourly rates



1 of up to \$1,200 per hour—significantly above Class Counsel’s hourly rates here—for  
 2 plaintiffs’ class action lawyers based in California were “fair, reasonable, and market-based,  
 3 particularly for the ‘relevant community’ in which counsel work.” Similarly, in *Nucci v. Rite*  
 4 *Aid Corp.*, Case No. 3:19-cv-01434-LB, 2022 U.S. Dist. LEXIS 94936, at \*16 (N.D. Cal.  
 5 May 26, 2022), the court approved attorney hourly rates of up to \$1,005 and a paralegal rate  
 6 of \$275, and found that “the billing rates are normal and customary for timekeepers with  
 7 similar qualifications and experience in the relevant market.” *See id.* at ECF No. 132  
 8 (declaration of Hallie Von Rock, Esq.) at 26 (¶ 82). *See also Fleming v. Impax Lab ’ys Inc.*,  
 9 2022 U.S. Dist. LEXIS 125595, at \*28 (N.D. Cal. July 15, 2022) (approving attorney hourly  
 10 rates of up to \$1,325 and paralegal hourly rates of up to \$425 in a securities class action, and  
 11 citing cases in this District approving attorney hourly rates of up to \$1,600 and \$1,250 and  
 12 paralegal rates of up to \$490); *Cottle v. Plaid Inc.*, 2022 WL 2829882, at \*11 (N.D. Cal. July  
 13 20, 2022) (approving attorney hourly rates of up to \$1,025 and paralegal hourly rates of up to  
 14 \$425 in a consumer class action); *Foster v. Adams & Assocs.*, 2022 U.S. Dist. LEXIS 25071,  
 15 at \*24-25 (N.D. Cal. Feb. 11, 2022) (approving hourly rates of up to \$975 in an ERISA class  
 16 action). Attached hereto as **Exhibit 2** is a copy of a request for reimbursement of attorneys’  
 17 fees incurred by Boies Schiller Flexner LLP, Susman Godfrey L.L.P, and Morgan & Morgan  
 18 filed on June 3, 2022 in the Northern District of California showing partner hourly rates of  
 19 \$1,020, \$800, \$725, \$775, \$1,030, \$1,000, \$1,000, \$1,350, \$1,110, \$1,070, \$875, \$1,300, and  
 20 \$1,950 (plaintiffs’ counsel in consumer class action). *Cf. Hadsell v. City of Baldwin Park*, Los  
 21 Angeles Super. Ct. No. BC548602 (partner rates of \$1,100 approved); *Indep. Living Center of*  
 22 *S. Cal. v. Kent*, 2020 U.S. Dist. Lexis 13019 (C.D. Cal. 2020) (partner rates of \$1,025  
 23 approved); *Nozzi v. Housing Auth.*, 2018 U.S. Dist. LEXIS 26049 (C.D. Cal. 2018) (partner  
 24 rates of \$1,150 approved); *Banas v. Volcano Corp.* 47 F. Supp. 3d 957 (N.D. Cal. 2014)  
 25 (approving partner rates of \$1,095 and paralegal rates of \$245-\$275).

26 29. Moreover, in assessing reasonableness, courts often refer to the “*Laffey*”  
 27 matrix, “[a] widely recognized compilation of attorney . . . rate data” for the District of  
 28 Columbia, “so named because of the case that generated the index,” *Laffey v. Northwest*



1 *Airlines, Inc.*, 572 F. Supp. 354 (D.D.C. 1983). *In re Chiron Sec. Litig.*, 2007 WL 4249902 at  
 2 \*6 (N.D. Cal. Nov. 30, 2007). *See also Langer v. Dodaiton, Inc.*, 2015 U.S. Dist. LEXIS  
 3 64805, at \*36-39 & n.53 (C.D. Cal. May 18, 2015) (noting that the court “looks to the the  
 4 Laffey Matrix as merely another factor bearing on reasonableness”). Of course, several years  
 5 have passed since the *In re Chiron* decision, and when setting rates, courts should use  
 6 attorneys’ current rates, as discussed below. *See infra* ¶¶ 31-32. Therefore, after *In re Chiron*  
 7 was decided, an “adjusted” *Laffey* matrix has been published annually “using a methodology  
 8 advocated by economist Dr. Michael Kavanaugh” that “has been used by the United States  
 9 District Court for the District of Columbia to determine the amount of a reasonable fee.”  
 10 *Bywaters v. United States*, 670 F.3d 1221, 1226 n.4 (Fed. Cir. 2012). As explained by the  
 11 Federal Circuit, the adjusted *Laffey* matrix “more accurately reflects the prevailing rates for  
 12 legal services.” *Id.* *See also Hash v. United States*, 2012 WL 1252624, at \*22 (D. Idaho Apr.  
 13 13, 2012) (agreeing that the “adjusted” *Laffey* matrix “is the most accurate representation of  
 14 rates for legal services . . . giv[ing] weight to the Federal Circuit’s recent statement implying  
 15 acceptance of the use of the Updated *Laffey* Matrix”) (citing *Bywaters*, 670 F.3d at 1226 n.4);  
 16 *DL v. District of Columbia*, 267 F. Supp. 3d 55, 69 (D.D.C. 2017) (approving the  
 17 methodology of calculation and benchmarking for the Updated *Laffey* Matrix).

18 30. Mr. Pearl attests that the “LSI *Laffey* Matrix ([www.laffeymatrix.com](http://www.laffeymatrix.com)) rate for  
 19 attorneys with 20 or more years of experience is **\$919** per hour which when adjusted to  
 20 account for the rate differential between the Washington D.C. Area and the San Francisco Bay  
 21 Area equals **\$1,022** per hour” and that my rate of \$973 “is certainly in line with the LSI  
 22 *Laffey* Matrix.” *See* Pearl Decl. at ¶ 24.

23 31. The hourly rates set forth in the *Laffey* matrix reflect those rates that are  
 24 charged where full payment is expected promptly upon the rendition of the billing and without  
 25 consideration of factors other than hours and rates. If any substantial part of the payment were  
 26 to be contingent or deferred for any substantial period of time, the fee arrangement would  
 27 typically be adjusted so as to compensate the attorneys for those factors.

28 32. In my experience, fee awards are almost always determined based on current

1 rates, *i.e.*, based on the attorney’s rate at the time when a motion for fees is made, rather than  
 2 the historical rate at the time when the work was performed. This is a common and accepted  
 3 practice that provides some compensation to attorneys for the delay in being paid. *See, e.g.*,  
 4 *Wit v. United Behav. Health*, 2022 WL 45057, at \*5 (N.D. Cal. Jan. 5, 2022) (“the Court finds  
 5 that Plaintiffs’ request that the lodestar be calculated using current rates to account for the  
 6 nearly six-year delay in compensation is reasonable.”); *LeBlanc-Sternberg v. Fletcher*, 143  
 7 F.3d 748, 764 (2nd Cir. 1998) (“[C]urrent rates, rather than historical rates, should be applied  
 8 in order to compensate for the delay in payment . . . .”) (citing *Missouri v. Jenkins*, 491 U.S.  
 9 274, 283-84 (1989)); *Theme Promotions, Inc. v. News Am. Mktg. FSI, Inc.*, 731 F. Supp. 2d  
 10 937, 948 (N.D. Cal. 2010) (“To compensate plaintiffs’ attorneys for the delay in payment of  
 11 the attorney fees, district courts have the discretion to either apply the attorneys’ current  
 12 rates to all hours billed during the course of the litigation or use the attorneys’ historical  
 13 rates to which is added a prime rate enhancement.”); *In re Washington Pub. Power Supply*  
 14 *Sys. Sec. Litig.*, 19 F.3d 1291, 1305 (9th Cir. 1994) (“The district court has discretion to  
 15 compensate delay in payment in one of two ways: (1) by applying the attorneys’ current  
 16 rates to all hours billed during the course of the litigation; or (2) by using the attorneys’  
 17 historical rates and adding a prime rate enhancement.”). Accordingly, the calculation of our  
 18 law firm’s lodestar is conservative here, because ***the lodestar for the work that our law firm***  
 19 ***performed up through September 2017 has been calculated based on our hourly rates in***  
 20 ***effect as of September 2017; we are applying our current hourly rates only to work***  
 21 ***performed after September 2017.*** If our law firm’s current hourly rates were applied to all  
 22 hours worked by our law firm in this case from 2014 to the present, then our lodestar would  
 23 be **\$1,638,485.50**, which is the sum of the value of my hours (792.4 hours at \$973/hour =  
 24 \$771,005.20), Mr. Young's hours (973.1 hours at \$873/hour = \$849,516.30), Amanda  
 25 McCaffrey's hours (71.8 hours at \$180/hour = \$12,924.00), Christine Hulsizer's hours (7.4  
 26 hours at \$180/hour = \$1,332.00), Erika Valencia's hours (13.2 hours at \$180/hour =  
 27 \$2,376.00), and Carrie McAfee's hours (7.4 hours at \$180/hour = \$1,332.00).

28 33. In cases where compensation is contingent on success, attorneys are frequently

1 compensated at significantly higher effective hourly rates, particularly where, as in this case,  
2 the result is uncertain. As the case law recognizes, this does not result in any undue “bonus”  
3 or “windfall.” In the legal marketplace, a lawyer who assumes a significant financial risk on  
4 behalf of a client reasonably expects that his or her compensation will be significantly greater  
5 than if no risk was involved (for example, if the client paid the bill on a monthly basis), and  
6 that the greater the risk, the greater the “enhancement.” As Judge Virginia Phillips has stated,  
7 “Adjusting court-awarded fees upward in contingent fee cases to reflect the risk of recovering  
8 no compensation for hundreds of hours of work makes those fee awards consistent with the  
9 legal marketplace, and in so doing, helps to ensure that meritorious cases will be brought to  
10 enforce important public interest policies and that clients who have meritorious claims, but  
11 lack financial resources, will be better able to obtain qualified counsel.” *Jeter-Polk v. Casual*  
12 *Male Store, LLC*, 2016 WL 9450452, at \*8 (C.D. Cal. Mar. 4, 2016).

13 34. The attorneys’ fees request here for our law firm, \$1,300,000, is about 96% of  
14 our law firm’s lodestar, which is \$1,354,643.20. Thus, the requested fee award results in a  
15 “negative multiplier,” which supports a finding that the requested percentage of the total  
16 settlement value, 20%, is reasonable and fair.

17 35. The attorneys’ fees request is reasonable, among other reasons, because of  
18 risks associated with contingent-based representation. “It is an established practice to reward  
19 attorneys who assume representation on a contingent basis with an enhanced fee to  
20 compensate them for the risk that they might be paid nothing at all.” *Thieriot v. Celtic Ins.*  
21 *Co.*, 2011 WL 1522385 at \*6 (N.D. Cal. Apr. 21, 2011).

22 36. Courts have held that customary privately negotiated contingent percentages  
23 may be taken into account in determining a reasonable fee, and such percentages typically  
24 range from 33% to 40% of any recovery. *See, e.g., Lealao v. Beneficial California, Inc.*, 82  
25 Cal. App. 4th 19, 49-50 (2000) (“a trial court has discretion to adjust the basic lodestar  
26 through the application of a positive or negative multiplier where necessary to ensure that the  
27 fee awarded is within the range of fees freely negotiated in the legal marketplace in  
28 comparable litigation.”); *Fernandez v. Victoria Secret Stores, LLC*, 2008 WL 8150856, at \*16

1 (C.D. Cal. July 21, 2008) (“Awarding a percentage fee of 34% is supported by the fact that  
 2 typical contingency fee agreements provide that class counsel will recover 33% if the case is  
 3 resolved before trial and 40% if the case is tried.”). In my experience, privately negotiated  
 4 contingency agreements in employment matters in California typically range from 33% to  
 5 40% of any recovery. *See, e.g., Fernandez*, 2008 WL 8150856, at \*12, \*16 (“Cara Eisenberg  
 6 is an experienced employment law litigator, whose efforts have resulted in verdicts and  
 7 settlements in excess of \$10,000,000. . . . Eisenberg states that the retainer agreement between  
 8 counsel and plaintiffs provided for a 35% fee ‘pre-litigation’ and a 40% fee ‘post-  
 9 litigation.’”). *Cf. Cotchett, Pitre & McCarthy v. Universal Paragon Corp.*, 187 Cal. App. 4th  
 10 1405, 1415 (2010), *as modified on denial of reh’g* (Sept. 21, 2010) (“Contingency fees, in  
 11 Judge Westerfeld’s experience, typically range from 33 percent to 40 percent of a settlement  
 12 amount, and a contingency of 50 percent is not unconscionable.”); Lester Brickman, *Effective*  
 13 *Hourly Rates of Contingency-Fee Lawyers: Competing Data and Non-Competitive Fees*, 81  
 14 WASH. U.L.Q. 653, 659 n. 11 (“In some jurisdictions, standard contingency fee rates are 33%  
 15 if the case settles before trial, 40% if a trial commences, and 50% if the trial is completed”).

### 16 **Significant Billing Discretion Has Been Exercised**

17 37. Significant billing judgment has been exercised. In light of the duration of this  
 18 litigation, the billing is quite modest. Indeed, we staffed this case very efficiently.

19 38. Moreover, our law firm has not charged for attorney time spent on  
 20 administrative or clerical tasks. Nor have we charged for any time spent relating to the  
 21 preparation of Plaintiffs’ Motion for Attorneys’ Fees and Costs and Service Awards, even  
 22 though such work is compensable when applying for attorneys’ fees in connection with a class  
 23 action settlement. *See, e.g., Californians for Disability Rts. v. California Dep’t of Transp.*,  
 24 2010 WL 8746910, at \*16 (N.D. Cal. Dec. 13, 2010), *report and recommendation adopted*  
 25 *sub nom. Californians for Disability Rts., Inc. v. California Dep’t of Transp.*, 2011 WL  
 26 8180376 (N.D. Cal. Feb. 2, 2011) (“In the Ninth Circuit, it is well established that the time  
 27 spent by counsel in establishing the right to a fee award is compensable.”) (class action  
 28 settlement) (citing *Davis v. City & Cnty. of San Francisco*, 976 F.2d 1536, 1544 (9th Cir.

1 1992), *opinion vacated in part on denial of reh'g*, 984 F.2d 345 (9th Cir. 1993)); *Parks v.*  
 2 *Eastwood Ins. Servs., Inc.*, 2005 WL 6007833, at \*4 (C.D. Cal. June 28, 2005) (“time spent by  
 3 counsel in establishing the right to a fee award is compensable”) (settlement of FLSA  
 4 representative action), *aff'd in part, rev'd in part on other grounds, and remanded*, 240 F.  
 5 App'x 172 (9th Cir. 2007). *Cf. D'Emanuele v. Montgomery Ward & Co.*, 904 F.2d 1379,  
 6 1387-88 (9th Cir.1990); *Clark v. City of Los Angeles*, 803 F.2d 987, 992 (9th Cir. 1986); *In Re*  
 7 *Nucorp Energy, Inc.*, 764 F.2d 655, 659-660 (9th Cir. 1985).

### 8 Reimbursement of Costs

9 39. The Settlement Agreement permits a request for reimbursement for incurred  
 10 litigation costs. The attached **Exhibit 3** is a true and correct accounting of the total litigation  
 11 expenses incurred and advanced by our law firm in this matter, totaling \$8,164.32, and does  
 12 not include modest, but real, expenses that will be incurred by our law firm in the future in  
 13 this matter. All of these costs have been necessary to the prosecution of this litigation and  
 14 would normally have been billed to a client paying for counsel's services on a regular basis.  
 15 These costs are reasonable.

### 16 Conclusion

17 40. The financial risk that The Tidrick Law Firm LLP incurred in prosecuting this  
 18 case was substantial. As a two-partner law firm, we filed and litigated this case understanding  
 19 from the outset that the result of the action would be uncertain, and that there was no hope of  
 20 compensation or reimbursement unless we succeeded. If this case had been unsuccessful, we  
 21 would not receive compensation for any of our billable time. *Cf. Boyd v. Bank of Am. Corp.*,  
 22 2014 U.S. Dist. LEXIS 162880, at \*28-29 (C.D. Cal. Nov. 18, 2014) (“Both of the firms  
 23 representing the Class are small firms with fewer than fifteen attorneys. Firms of this size face  
 24 even greater risks in litigating large class actions with no guarantee of payment. The Court  
 25 finds that the considerable risk in this case due to the uncertain legal terrain, coupled with  
 26 Counsel's contingency fee arrangement, weigh in favor of an increase from the benchmark  
 27 rate. . . . Decisions in analogous wage and hour suits have found awards of one third of the  
 28 common fund appropriate.”) (citing cases and ordering attorneys' fee award of one-third of

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the common fund).

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

Dated: September 6, 2022



---

Steven G. Tidrick

Exhibit 1

# Legal services priced at \$100 in 2017 → \$112.95 in 2022

## Legal Services Inflation Calculator

Cost

Start year

End year

See price inflation for:

- Denver, Colorado
- New cars
- St Louis, Missouri
- Full list of CPI categories



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## Prices for Legal Services, 2017-2022 (\$100)

According to the U.S. Bureau of Labor Statistics, prices for legal services are 12.95% higher in 2022 versus 2017 (a \$12.95 difference in value).

**Between 2017 and 2022:** Legal services experienced an average inflation rate of 2.47% per year. This rate of change indicates significant inflation. In other words, legal services costing \$100 in the year 2017 would cost \$112.95 in 2022 for an equivalent purchase. Compared to the overall inflation rate of 3.30% during this same period, inflation for legal services was lower.



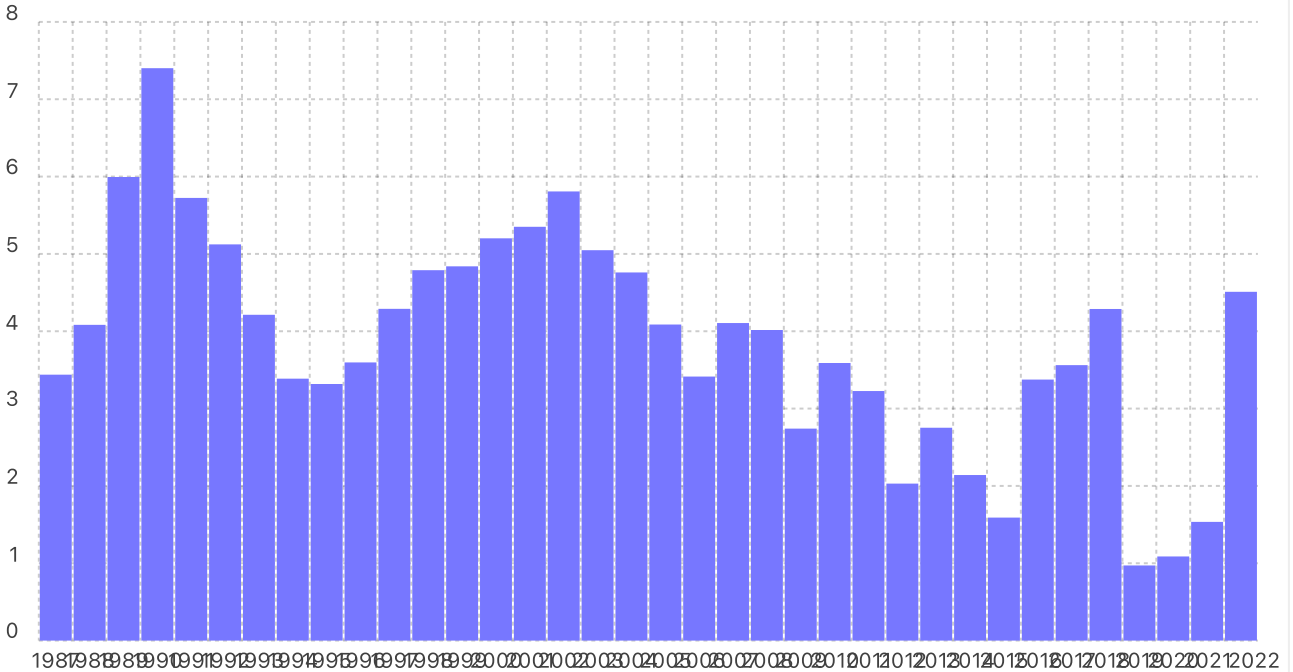
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### Price Inflation for Legal services since 1986

Consumer Price Index, U.S. Bureau of Labor Statistics



Years with the largest changes in pricing: 1990 (7.40%), 1989 (5.99%), and 2002 (5.81%).


### View price changes for other categories

[Wine at home](#) · [Housing](#) · [New cars](#) · [Hospital services](#) · [More](#)

## Buying power of \$100.00 since 2017

Below are calculations of equivalent buying power for Legal services, over time, for \$100 beginning in 2017. Each of the amounts below is equivalent in terms of what it could buy at the time:


Year	USD Value	Inflation Rate
------	-----------	----------------



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Year	USD Value	Inflation Rate
2018	\$104.29	4.29%
2019	\$105.30	0.97%
2020	\$106.45	1.09%
2021	\$108.08	1.53%
2022	\$112.95	4.51%*

Raw Consumer Price Index data from U.S. Bureau of Labor Statistics for *Legal services*:

Year	1986	1987	1988	1989	1990	1991	1992	1993	1994
CPI	100.000	103.438	107.662	114.115	122.562	129.577	136.215	141.954	146.391

## Adjust legal services prices for inflation

Start with the inflation rate formula:


$$\text{CPI in 2022} / \text{CPI in 2017} * 2017 \text{ USD value} = 2022 \text{ USD value}$$

Then plug in historical CPI values from above. The CPI for Legal services was 346.391 in the year 2017 and 391.265 in 2022:

$$391.265 / 346.391 * \$100 = \mathbf{\$112.95}$$


Therefore, according to U.S. Bureau of Labor Statistics, \$100 in 2017 has the same "purchasing power" as \$112.95 in 2022 (in the CPI category of Legal services).

**Source:** U.S. Bureau of Labor Statistics began tracking the [Consumer Price Index](#) for Legal services in 1986. In addition to legal services, the index produces monthly data on changes in prices paid by urban consumers for a variety of goods and services.




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- Canada Inflation
- U.K. Inflation
- Australia Inflation
- Euro Inflation
- Venezuela Inflation

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## Exhibit 2

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27 **UNITED STATES DISTRICT COURT**  
28 **NORTHERN DISTRICT OF CALIFORNIA**

29 CHASOM BROWN, WILLIAM BYATT,  
30 JEREMY DAVIS, CHRISTOPHER  
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32 individually and on behalf of all similarly  
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34 Plaintiffs,

35 vs.

36 GOOGLE LLC,

37 Defendant.

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66 Case No.: 4:20-cv-03664-YGR-SVK

67 **PLAINTIFFS' REQUEST FOR**  
68 **REIMBURSEMENT OF ATTORNEYS'**  
69 **FEEES AND COSTS INCURRED FOR**  
70 **SUCCESSFUL SANCTIONS MOTION**

71 The Honorable Susan van Keulen

1 Pursuant to the Court’s Order granting in part Plaintiffs’ motion for sanctions for discovery  
2 misconduct (Dkt. 588) and Federal Rule of Civil Procedure 37(b)(2)(c), Plaintiffs respectfully seek  
3 reimbursement of the fees and costs incurred in bringing their motion for sanctions.

4 The Court has already found that Google committed discovery misconduct, including by  
5 violating Court orders and concealing from Plaintiffs key Google employees and relevant data  
6 sources. The Court accordingly issued evidentiary sanctions against Google, and the Court also  
7 concluded that “Google must pay all attorneys’ fees and costs incurred by Plaintiffs in filing the  
8 Sanctions Motion, including expert consultant and witness fees.” Dkt. 588 at 7; *see also* Fed. R.  
9 Civ. P. 37(b)(2)(c) (requiring offending party to “pay the reasonable expenses, including attorney’s  
10 fees, caused by the failure” to comply). Consistent with that order, Plaintiffs respectfully submit  
11 this request for reimbursement. As noted in Exhibit A to the Declaration of Mark Mao filed with  
12 this request, Plaintiffs incurred \$992,172.00 in attorneys’ fees, \$28,892.00 in experts’ fees, and  
13 \$57,860.43 in costs, for a total of \$1,078,924.43.

14 The attorney time incurred included: (1) drafting the motion for sanctions and all  
15 supporting materials, including detailed review of late-breaking documents produced by Google  
16 from the custodial files of Bert Leung that revealed Google’s use of the maybe\_chrome\_incognito  
17 bit; (2) drafting the supplement to the motion and supporting materials following Google’s  
18 disclosure of the is\_chrome\_incognito and is\_chrome\_non\_incognito bits; (3) reviewing Google’s  
19 opposition to the sanctions motion, including the 90 exhibits attached to Google’s opposition; (4)  
20 drafting the reply brief in support of Plaintiffs’ sanctions motion and the supporting materials; (5)  
21 drafting the proposed findings of fact and conclusions of law; and (6) preparing for and  
22 participating in a full-day evidentiary hearing that included an examination of Plaintiffs’ consultant  
23 and examinations of four Google engineers; and (7) drafting Plaintiffs’ second supplement to the  
24 sanctions motion. Mao Decl. ¶ 4. Plaintiffs did not include in their request any attorney time  
25 devoted to (1) preparing for or taking depositions of any witnesses; (2) hearings and conferences  
26 before the Special Master, or (3) attorney travel time in connection with the April 21 evidentiary  
27 hearing on the sanctions motion. Mao Decl. ¶ 5.



1           Should the Court so request, Plaintiffs are willing to (1) submit detailed time records for *in*  
2 *camera* review, and / or (2) submit additional briefing and materials concerning their hourly rates  
3 and fees.

4 Dated: June 4, 2022

Respectfully submitted,

5  
6 By: /s/Mark Mao

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26 *Attorneys for Plaintiffs*

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28 **NORTHERN DISTRICT OF CALIFORNIA**

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30 JEREMY DAVIS, CHRISTOPHER  
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66 Case No.: 4:20-cv-03664-YGR-SVK

67 **DECLARATION OF MARK C. MAO IN**  
68 **SUPPORT OF PLAINTIFFS' REQUEST**  
69 **FOR REMIMBURSEMENT OF**  
70 **ATTORNEYS' FEES AND COSTS**  
71 **INCURRED FOR SUCCESSFUL**  
72 **SANCTIONS MOTION**

73 The Honorable Susan van Keulen

**DECLARATION OF MARK C. MAO**

I, Mark C. Mao, declare as follows.

1. I am a partner with the law firm of Boies Schiller Flexner LLP, counsel for Plaintiffs in this matter. I am an attorney at law duly licensed to practice before all courts of the State of California. I have personal knowledge of the matters set forth herein and am competent to testify.

2. I submit this Declaration pursuant to the Court’s Order granting in part Plaintiffs’ motion for sanctions for discovery misconduct (Dkt. 588) and in support of Plaintiffs’ request for reimbursement of attorneys’ fees and costs incurred.

3. Attached hereto as **Exhibit A** is a summary of the fees and costs incurred by Plaintiffs in connection with their sanctions motion. Exhibit A breaks down Plaintiffs’ fees by attorney, rates, and hours billed. Exhibit A also lists the expenses incurred by Plaintiffs for consultant fees, research, printing, graphics, and attorney travel expenses.

4. The attorney time incurred included: (1) drafting the motion for sanctions and all supporting materials, including detailed review of late-breaking documents produced by Google from the custodial files of Bert Leung that revealed Google’s use of the maybe\_chrome\_incognito bit; (2) drafting the supplement to the motion and supporting materials following Google’s disclosure of the is\_chrome\_incognito and is\_chrome\_non\_incognito bits; (3) reviewing Google’s opposition to the sanctions motion, including the 90 exhibits attached to Google’s opposition; (4) drafting the reply brief in support of Plaintiffs’ sanctions motion and the supporting materials; (5) drafting the proposed findings of fact and conclusions of law; and (6) preparing for and participating in a full-day evidentiary hearing that included an examination of Plaintiffs’ consultant and examinations of four Google engineers; and (7) drafting Plaintiffs’ second supplement to the sanctions motion.

5. Plaintiffs did not include in their request any attorney time devoted to (1) preparing for or taking depositions of any witnesses, (2) hearings and conferences before the Special Master, or (3) attorney travel time.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 4th day of June, 2022, at San Francisco, California.

/s/ Mark Mao

# Exhibit A

**I. Attorneys' Fees**

<b>Name</b>	<b>Title</b>	<b>Rate</b>	<b>Hours</b>	<b>Total</b>
Abalos, Jianna	Paralegal	\$300	10.20	\$3,060
Amen, Ra	Associate	\$475	3.00	\$1,425
Anderson, Alison	Partner	\$1020	62.70	\$63,954.00
Arborn, Christopher	Administrative Staff	\$310	5.10	\$1,581
Baeza, Rossana	Associate	\$680	52.00	\$35,360
Barthle, Patrick	Partner	\$800	0.40	\$320
Boies, Alexander	Counsel	\$870	54.70	\$47,589
Boies, David	Managing Partner	\$1,950	49.10	\$95,745
Bonn, Amanda	Partner	\$725	132.80	\$96,280
Cabezas, Jennifer	Paralegal	\$225	6.60	\$1,485
Cividini, Augusto	Associate	\$660	23.40	\$15,444
Crosby, Ian	Partner	\$775	0.50	\$387.50
Frawley, Alex	Associate	\$550	172.20	\$94,710
Keleshyan, Tina	Paralegal	\$380	2.40	\$912
Lee, James	Partner	\$1,030	13.50	\$13,905
Mao, Mark	Partner	\$1,000	92.90	\$92,900
Martin, Jean	Partner	\$1,000	1.50	\$1,500
McGee, Ryan	Associate	\$800	182.80	\$146,240
Nyborg-Burch, Erika	Associate	\$760	83.20	\$63,232
Rabin, Shawn	Partner	\$1,350	2.50	\$3,375
Ram, Michael	Partner	\$1,100	12.10	\$13,310
Reblitz-Richardson, Beko	Partner	\$1,070	68.20	\$72,974
Reddy, Kenya	Associate	\$950	6.20	\$5,890
Rodriguez, Theresa	Paralegal	\$310	11.30	\$3,503
Romero Garcilazo, Gabriela	Paralegal	\$310	17.80	\$5,518
Santos, Vanessa	Paralegal	\$325	13.90	\$4,517.50
Shepard, Steven	Partner	\$875	1.50	\$1,312.50
Sila, Ryan	Associate	\$575	7.10	\$4,082.50
Yanchunis, John	Partner	\$1,300	78.20	\$101,660
<b>TOTAL</b>			<b>1167.80</b>	<b>\$992,172</b>

**II. Expert Fees**

<b>Name</b>	<b>Title</b>	<b>Rate</b>	<b>Hours</b>	<b>Total</b>
Chris Thompson	Consulting Expert	\$275	55.83	\$15,355
Lillian Dai	Consulting Expert	\$450	30.08	\$13,537
<b>TOTAL</b>			<b>85.91</b>	<b>\$28,892</b>



**III. Expenses**

<b>Name</b>	<b>Total</b>
Computer Research	\$20,906.34
Printing	\$4,304.44
Graphics Support	\$13,309.70
Attorneys' Travel to April 21 Hearing, Lodging, Meals	\$19,339.95
<b>TOTAL</b>	<b>\$57,860.43</b>

**TOTAL** **\$1,078,924.43**

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66 Case No.: 4:20-cv-03664-YGR-SVK

67 **[PROPOSED] ORDER GRANTING**  
68 **PLAINTIFFS' REQUEST FOR**  
69 **REIMBURSEMENT OF ATTORNEYS'**  
70 **FEES AND COSTS INCURRED FOR**  
71 **SUCCESSFUL SANCTIONS MOTION**

72 The Honorable Susan van Keulen

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**[PROPOSED] ORDER**

Before the Court is Plaintiffs’ request for reimbursement of attorneys’ fees and costs incurred in bringing their motion for sanctions for discovery misconduct (“Plaintiffs’ Request”). The Court has already found that Google committed discovery misconduct. The Court accordingly issued evidentiary sanctions against Google, and the Court also concluded that “Google must pay all attorneys’ fees and costs incurred by Plaintiffs in filing the Sanctions Motion, including expert consultant and witness fees.” Dkt. 588 at 7; *see also* Fed. R. Civ. P. 37(b)(2)(c) (requiring offending party to “pay the reasonable expenses, including attorney’s fees, caused by the failure”).

Therefore, the Court now **GRANTS** Plaintiffs’ Request. Exhibit A to the Declaration of Mark Mao filed with Plaintiffs’ Request shows that Plaintiffs incurred \$1,078,924.43 in attorneys’ fees and costs in connection with their sanctions motion. Within one week of this Order, Google must pay that amount to Plaintiffs. Plaintiffs shall provide counsel for Google with wiring instructions.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

Honorable Susan van Keulen  
United States Magistrate Judge

## Exhibit 3

**Roe v. SFBSC****Case Expenses - The Tidrick Law Firm LLP**

<b><u>Date</u></b>	<b><u>Description</u></b>	<b><u>Amount</u></b>
7/21/14 - 5/5/17	See prior accounting -- filed at ECF No. 159-1, page 23	\$ 3,585.11
8/4/17	Ace Attorney Service -- printing and delivery chambers copy	\$ 180.06
8/25/17	Ace Attorney Service -- printing and delivery chambers copy	\$ 72.06
8/28/17	Ace Attorney Service -- printing and delivery chambers copy	\$ 72.06
2/12/20	Ortman Mediation	\$ 3,600.00
4/29/22	Ace Attorney Service -- printing and mailing client updates	\$ 359.83
6/9/22	Ace Attorney Service -- printing and delivery chambers copy	\$ 222.10
6/15/22	Ace Attorney Service -- printing and delivery chambers copy	\$ 73.10
		<b>\$ 8,164.32</b>

## Roe v. SFBSC

## Case Expenses - The Tidrick Law Firm

<u>Date</u>	<u>Description</u>	<u>Amount</u>
7/21/14	Ace Attorney Service Inc. - Secretary of State doc retrieval	\$ 76.06
8/8/14	court filing fee	\$ 400.00
8/20/14	Ace Attorney Service Inc.	\$ 79.06
10/8/14	State of California Department of Industrial Relations	\$ 71.25
12/1/14	Ace Attorney Service Inc.	\$ 138.13
12/9/14	Ace Attorney Service Inc.	\$ 60.63
12/24/14	Ace Attorney Service Inc.	\$ 102.38
12/29/14	Ace Attorney Service Inc.	\$ 92.88
12/31/14	Ace Attorney Service Inc.	\$ 60.63
1/15/15	Ace Attorney Service Inc.	\$ 310.63
1/15/15	Ace Attorney Service Inc.	\$ 309.38
1/21/15	Ace Attorney Service Inc.	\$ 261.63
2/12/15	State of California Department of Industrial Relations	\$ 18.05
2/4/15	Ace Attorney Service Inc.	\$ 94.13
2/20/15	Ace Attorney Service Inc.	\$ 60.63
4/16/15	parking	\$ 7.00
2/22/16	FedEx	\$ 17.35
7/6/16	parking - ninth circuit oral argument	\$ 15.00
10/24/16	BART for mediation	\$ 6.90
10/24/16	hotel for client for mediation	\$ 164.52
10/24/16	BART	\$ 8.00
10/26/16	BART	\$ 8.00
11/1/16	BART for meeting with clients	\$ 3.70
11/4/16	BART	\$ 8.00
11/28/16	BART	\$ 8.00
12/16/16	BART	\$ 8.00
1/12/17	parking	\$ 9.00
2/1/17	LRS Investigations	\$ 157.50
2/9/17	Coast to Coast Legal Services	\$ 765.00
2/9/17	LRS Investigations	\$ 67.50
2/23/17	FedEx	\$ 32.27
3/24/17	Ace Attorney Service Inc.	\$ 100.28
3/25/17	FedEx	\$ 22.35
4/13/17	parking - SFBSC prelim approval hearing	\$ 9.00
5/5/17	FedEx	\$ 32.27
	<b>TOTAL</b>	<b>\$ 3,585.11</b>

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6 Attorneys for Individual and Representative  
Plaintiffs Jane Roes 1-2 *et al.*

7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 JANE ROES 1-2 *et al.*,

11 Plaintiffs,

12 v.

13 SFBSC MANAGEMENT, LLC, *et al.*,

14 Defendants.

Civil Case No. 14-cv-03616-LB

**DECLARATION OF RICHARD M.  
PEARL, ESQ. IN SUPPORT OF  
PLAINTIFFS' MOTION FOR AWARD OF  
ATTORNEYS' FEES AND COSTS AND  
SERVICE AWARD**

The Honorable Laurel Beeler

Date: November 17, 2022  
Time: 9:30 A.M.  
Courtroom: Courtroom C, 15th Floor  
450 Golden Gate Avenue  
San Francisco, California



1 I, Richard M. Pearl, declare:

2 1. I am a member in good standing of the California State Bar. I am in  
3 private practice as principal of my own law firm, the Law Offices of Richard M. Pearl,  
4 in Berkeley, California. I specialize in issues related to court-awarded attorney fees,  
5 including serving as an expert witness regarding attorney fees, the representation of  
6 parties in attorney fee litigation and appeals, and serving as a mediator and arbitrator  
7 in disputes concerning attorney fees and related issues. The facts set forth herein are  
8 true of my own personal knowledge, and if called upon to testify thereto, I could and  
9 would competently do so under oath.

10 2. I make this declaration in my capacity as an expert witness on court-  
11 awarded attorney fees in support of Plaintiffs' Motion for an Award of Attorneys'  
12 Fees and Costs and Service Award in the above-entitled case.

13 3. Specifically, The Tidrick Law Firm LLP, Plaintiffs' primary counsel, has  
14 retained me as an expert to provide information regarding current market rates for  
15 comparable attorney services in this area and to provide my expert opinion on the  
16 reasonableness of the hourly rates it is requesting in this case.

17 **My Background and Experience**

18 4. My Resume, which sets forth my experience and qualifications as an  
19 attorneys' fees expert is attached hereto as **Exhibit A**.

20 5. Briefly summarized, my background is as follows: I am a 1969 graduate  
21 of Boalt Hall (now Berkeley) School of Law, University of California, Berkeley,  
22 California. I took the California Bar Examination in August 1969 and learned that I  
23 had passed it in November of that year, but because I was working as an attorney in  
24 Atlanta, Georgia for the Legal Aid Society of Atlanta (LASA), I was not admitted to  
25 the California Bar until January 1970. I worked for LASA until the summer of 1971,  
26 when I went to work in California's Central Valley for California Rural Legal  
27 Assistance, Inc. (CRLA), a statewide legal services program. From 1977 to 1982, I  
28

1 was CRLA's Director of Litigation, supervising more than fifty attorneys. In 1982, I  
2 went into private practice, first in a small law firm, then as a sole practitioner.  
3 Martindale Hubbell rates my law firm "AV." I also have been selected as a Northern  
4 California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, 2010, 2011,  
5 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022.

6 6. Since 1982, the focus of my legal work has been in general civil litigation  
7 and appellate practice, with an emphasis on cases and appeals involving court-  
8 awarded attorney fees. I have lectured and written extensively on court-awarded  
9 attorney fees. I have been a member of the California State Bar's Attorneys' Fees Task  
10 Force and have testified before the State Bar Board of Governors and the California  
11 Legislature on attorneys' fee issues. I am the author of *California Attorney Fee Awards*  
12 (3d ed. Cal. CEB 2010) and its cumulative annual Supplements for the years 2011  
13 through March 2022. I also was the author of *California Attorney Fee Awards*, 2d Ed.  
14 (Calif Cont. Ed. of Bar 1994), and its 1995 through 2008 annual Supplements, as well  
15 as the 1984 through 1993 annual Supplements to the predecessor treatise, *CEB's*  
16 *California Attorney's Fees Award Practice*.

17 7. The California courts have repeatedly referred to this treatise as "[t]he  
18 leading California attorney fee treatise." *Calvo Fisher & Jacob LLP v. Lujan*, 234 Cal.  
19 App. 4th 608, 621 (2015); *see also, e.g., Int'l Billing Servs., Inc. v. Emigh*, 84 Cal.  
20 App. 4th 1175, 1193 (2000) ("the leading treatise"); *Orozco v. WPV San Jose, LLC*, 36  
21 Cal. App. 5th 375, 409 (2019) ("a leading treatise on California attorney's fees"). It  
22 also has been cited by the California Supreme Court and Court of Appeal on many  
23 occasions. *See, e.g., Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553, 576, 584  
24 (2004); *Lolley v. Campbell*, 28 Cal. 4th 367, 373 (2002); *In re Conservatorship of*  
25 *Whitley*, 50 Cal. 4th 1206, 1214–15, 1217 (2010); *Yost v. Forestiere*, 51 Cal. App. 5th  
26 509, 530 n. 8 (2020); *Doe v. Regents of Univ. of California*, 51 Cal. App. 5th 531, 547  
27 (2020); *Highland Springs Conference & Training Ctr. v. City of Banning*, 42 Cal.

1 App. 5th 416, 428 n. 11 (2019); *Orozco v. WPV San Jose, LLC*, 36 Cal. App. 5th 375,  
2 409 (2019); *Sweetwater Union High Sch. Dist. v. Julian Union Elementary Sch. Dist.*,  
3 36 Cal. App. 5th 970, 988 (2019); *Hardie v. Nationstar Mortg. LLC*, 32 Cal. App. 5th  
4 714, 720 (2019); *Stratton v. Beck*, 30 Cal. App. 5th 901, 911 (2018); *Syers Props III,*  
5 *Inc. v. Rankin*, 226 Cal. App. 4th 691, 698, 700 (2014). California Superior Courts  
6 also cite the treatise with approval. *See, e.g., Davis v. St. Jude Hosp.*, No.  
7 30201200602596CUOECX, 2018 WL 7286170, at \*4 (Orange Cty. Super. Ct. Aug.  
8 31, 2018); *Hartshorne v. Metlife, Inc.*, No. BC576608, 2017 WL 1836635, at \*10 (Los  
9 Angeles Super. Ct. May 02, 2017). Federal courts also have cited it. *See In re*  
10 *Hurtado*, Case No. 09-16160-A-13, 2015 WL 6941127 (E.D. Cal. Nov. 6, 2015);  
11 *TruGreen Companies LLC v. Mower Brothers, Inc.*, 953 F. Supp. 2d 1223, 1236  
12 nn.50, 51 (D. Utah 2013). In addition, I authored a federal manual on attorneys’  
13 fees entitled “Attorneys’ Fees: A Legal Services Practice Manual,” published by  
14 the Legal Services Corporation. I also co-authored the chapter on “Attorney Fees”  
15 in Volume 2 of CEB’s *Wrongful Employment Termination Practice*, 2d Ed. (1997).

16 8. More than 95% of my practice is devoted to issues involving court-  
17 awarded attorney fees. I have appeared as counsel in over 200 attorney fee  
18 applications in state and federal courts, primarily representing other attorneys. I also  
19 have briefed and argued more than 40 appeals, at least 30 of which have involved  
20 attorney fees issues. I have successfully handled five cases in the California Supreme  
21 Court involving court-awarded attorney fees (1) *Maria P. v. Riles*, 43 Cal. 3d 1281  
22 (1987), which upheld a C.C.P. section 1021.5 fee award based on a preliminary  
23 injunction obtained against the State Superintendent of Education, despite the fact that  
24 the case ultimately was dismissed under C.C.P. section 583; (2) *Delaney v. Baker*, 20  
25 Cal. 4th 23 (1999), which held that heightened remedies, including attorneys’ fees, are  
26 available in suits against nursing homes under California’s Elder Abuse Act; (3)  
27 *Ketchum v. Moses*, 24 Cal. 4th 1122 (2001), which reaffirmed that contingent risk  
28

1 multipliers are an essential consideration under California attorney fee law (note that  
2 in *Ketchum*, I was primary appellate counsel in the Court of Appeal and “second  
3 chair” in the California Supreme Court); (4) *Flannery v. Prentice*, 26 Cal. 4th 572  
4 (2001), which held that under California law, in the absence of an agreement to the  
5 contrary, statutory attorneys’ fees belong to the attorney whose services they are based  
6 upon; and (5) *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), which held,  
7 *inter alia*, that the “catalyst” theory of fee recovery remained viable under California  
8 law and that lodestar multipliers could be applied to fee motion work. In that case, I  
9 represented trial counsel in both the Court of Appeal (twice) and California Supreme  
10 Court, as well as on remand in the trial court. I also represented and argued on behalf  
11 of *amicus curiae* in *Conservatorship of McQueen*, 59 Cal. 4th 602 (2014), which held  
12 that attorneys’ fees incurred for appellate work were not “enforcement fees” subject to  
13 California’s Enforcement of Judgments law; I presented the argument relied upon by  
14 the Court. Along with Richard Rothschild of the Western Center on Law and Poverty,  
15 I also prepared and filed an *amicus curiae* brief in *Vasquez v. State of California*, 45  
16 Cal. 4th 243 (2009). I also have handled numerous other appeals involving attorneys’  
17 fee issues, including: *Davis v. City & County of San Francisco*, 976 F.2d 1536 (9th  
18 Cir. 1992); *Mangold v. CPUC*, 67 F.3d 1470 (9th Cir. 1995); *Velez v. Wynne*, 2007  
19 U.S. App. LEXIS 2194 (9th Cir. 2007); *Camacho v. Bridgeport Financial, Inc.*, 523  
20 F.3d 973 (9th Cir. 2008); *Orr v. Brame*, 793 F. Appx. 485(9th Cir. 2019); *Center*  
21 *for Biological Diversity v. County of San Bernardino*, 185 Cal.App.4th 866 (2010);  
22 *Environmental Protection Information Center v. California Dept. of Forestry &*  
23 *Fire Protection et al*, 190 Cal.App.4th 217 (2010); *Heron Bay Home Owners*  
24 *Association v. City of San Leandro*, 19 Cal. App. 5th 376 (2018); and *Robles v. Emp.*  
25 *Dev. Dept.*, 38 Cal.App.5th 191 (2019). An expanded list of reported decisions in  
26 cases I have handled is set out at pages 5-8 of my resume (**Exhibit A**).

1           9. I frequently testify as an expert witness on attorneys' fees, primarily by  
2 declaration but also through live testimony before judges and arbitrators. Many  
3 federal cases have referenced my expert testimony favorably. For example, in *Human*  
4 *Rights Defense Center v. County of Napa*, 20-cv-01296-JCS, Doc. 50 (March 28,  
5 2021), the court stated that it had "place[d] significant weight on the opinion of Mr.  
6 Pearl that the rates charged by all of the timekeepers listed above are reasonable and in  
7 line with the rates charged by law firms that engage in federal civil litigation in the  
8 San Francisco Bay Area. Mr. Pearl has extensive experience in the area of attorney  
9 billing rates in this district and has been widely relied upon by both federal and state  
10 courts in Northern California [] in determining reasonable billing rates." *Id.* at 18–19.  
11 That same view of my testimony was subsequently repeated and applied in *Wit v.*  
12 *United Behavioral Health* (N.D. Cal. Jan. 5, 2022) \_\_\_F.Supp.3d \_\_\_, 2022 WL 45057,  
13 at \*7 and *Andrews v. Equinox Holdings, Inc.*, N.D. Cal. No. 20-cv-00485-SK, Order  
14 on Motion for Attorney Fees and Costs filed November 9, 2021 (Doc. 110) (quoting  
15 the above language from *Human Rights Defense Center* and concluding: "This Court  
16 similarly finds Pearl's opinions well supported and persuasive." Order at p. 4:13-19.).  
17 The following reported federal decisions also reference my expert testimony  
18 favorably:

- 19           • *Antoninetti v. Chipotle Mexican Grill, Inc.*, No. 08-55867 (9th Cir. 2012),  
20           Order filed Dec. 26, 2012, at 6.
- 21           • *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010)  
22           (the expert declaration referred to is mine).
- 23           • *Independent Living Center of S. Cal. v. Kent*, 2020 U.S. Dist. LEXIS  
24           13019 (C.D. Cal. 2020);
- 25           • *Ridgeway v. Wal-Mart Stores, Inc.*, 269 F. Supp. 3d 975 (N.D. Cal.  
26           2017), *aff'd* 269 F.3d 1066 (9th Cir. 2020);

- 1 • *Beaver v. Tarsadia Hotels*, 2017 U.S. Dist. LEXIS 160214 (S.D. Cal.  
2 2017);
- 3 • *Notter v. City of Pleasant Hill*, 2017 U.S. Dist. LEXIS 197404, 2017 WL  
4 5972698 (N.D. Cal. 2017);
- 5 • *Villalpondo v. Exel Direct, Inc.*, 2016 WL 1598663 (N.D. Cal. 2016);
- 6 • *State Compensation Insurance Fund v. Khan et al*, Case No. SACV 12-  
7 01072- CJC(JCGx) (C.D. Cal.), Order Granting in Part and Denying in  
8 Part the Zaks Defendants' Motion for Attorneys' Fees, filed July 6, 2016  
9 (Dkt. No. 408);
- 10 • *In re Cathode Ray Tube Antitrust Litig.*, Master File No. 3:07-cv-5944  
11 JST, MDL No. 1917 (N.D. Cal. 2016) 2016 U.S. Dist. LEXIS 24951  
12 (Report And Recommendation Of Special Master Re Motions (1) To  
13 Approve Indirect Purchaser Plaintiffs' Settlements With the Phillips,  
14 Panasonic, Hitachi, Toshiba, Samsung SDI, Technicolor, And  
15 Technologies Displays Americas Defendants, and (2) For Award Of  
16 Attorneys' Fees, Reimbursement Of Litigation Expenses, And Incentive  
17 Awards To Class Representative), Dkt. 4351, dated January 28, 2016,  
18 *adopted in relevant part*, 2016 U.S. Dist. LEXIS 88665.
- 19 • *Gutierrez v. Wells Fargo Bank*, 2015 U.S. Dist. LEXIS 67298 (N.D. Cal.  
20 2015).
- 21 • *Holman v. Experian Information Solutions, Inc.*, 2014 U.S. Dist. LEXIS  
22 173698 (N.D. Cal. 2014).
- 23 • *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. M 07-1827 SI, MDL  
24 No. 1827 (N.D. Cal.), Report and Recommendation of Special Master Re  
25 Motions for Attorneys' Fees And Other Amounts By Indirect-Purchaser  
26 Class Plaintiffs And State Attorneys General, Dkt. 7127, filed Nov. 9,  
27  
28



1 2012, adopted in relevant part, 2013 U.S. Dist. LEXIS 49885 (N.D. Cal.  
2 2013).

- 3 • *Walsh v. Kindred Healthcare*, 2013 U.S. Dist. LEXIS 176319 (N.D. Cal.  
4 2013);
- 5 • *A.D. v. California Highway Patrol*, 2009 U.S. Dist. LEXIS 110743, at \*4  
6 (N.D. Cal. 2009), rev'd on other grounds, 712 F.3d 446 (9th Cir. 2013),  
7 reaffirmed and additional fees awarded on remand, 2013 U.S. Dist.  
8 LEXIS 169275 (N.D. Cal. 2013).
- 9 • *Hajro v. United States Citizenship & Immigration Service*, 900 F. Supp.  
10 2d 1034, 1054 (N.D. Cal. 2012).
- 11 • *Rosenfeld v. United States Dep't of Justice*, 904 F. Supp. 2d 988, 1002  
12 (N.D. Cal. 2012).
- 13 • *Stonebrae, L.P. v. Toll Bros., Inc.*, 2011 U.S. Dist. LEXIS 39832, \*9  
14 (N.D. Cal. 2011) (thorough discussion), aff'd 2013 U.S. App. LEXIS  
15 6369 (9th Cir. 2013);
- 16 • *Armstrong v. Brown*, 2011 U.S. Dist. LEXIS 87428 (N.D. Cal. 2011).
- 17 • *Lira v. Cate*, 2010 WL 727979 (N.D. Cal. 2010).
- 18 • *Californians for Disability Rights, Inc. v. California Dep't of*  
19 *Transportation*, 2010 U.S. Dist. LEXIS 141030 (N.D. Cal. 2010).
- 20 • *Nat'l Federation of the Blind v. Target Corp.*, 2009 U.S. Dist. LEXIS  
21 67139 (N.D. Cal. 2009).
- 22 • *Prison Legal News v. Schwarzenegger*, 561 F.Supp.2d 1095 (N.D. Cal.  
23 2008).
- 24 • *Bancroft v. Trizechahn Corp.*, No. CV 02-2373 SVW (FMOx), Dkt. 278  
25 (C.D. Cal. Aug. 14, 2006).
- 26 • *Willoughby v. DT Credit Corp.*, No. CV 05-05907 MMM (CWx), Dkt. 65  
27 (C.D. Cal. July 17, 2006).

- *Oberfelder v. City of Petaluma*, 2002 U.S. Dist. LEXIS 8635 (N.D. Cal. 2002), *aff'd* 2003 U.S. App. LEXIS 11371 (9th Cir. 2003).

10. Many California courts also have referenced my testimony favorably.

These include:

- *Sonoma Land Trust v. Thompson*, 63 Cal.App.5th 978, 986 (2021)
- *Wood v. Los Angeles County Waterworks Dist. No. 40 (Antelope Valley Groundwater Cases)*, 2021 Cal.App. Unpub. LEXIS 5506 (2021).
- *Kerkeles v. City of San Jose*, 243 Cal.App.4th 88 (2015).
- *Habitat and Watershed Caretakers v. City of Santa Cruz*, 2015 Cal. App. Unpub. LEXIS 7156 (2015).
- *Laffitte v. Robert Half Int'l Inc.*, 231 Cal.App.4th 860 (2014), *aff'd* (2016) 1 Cal.5th 480.
- *In re Tobacco Cases I*, 216 Cal.App.4th 570 (2013).
- *Heritage Pacific Financial, LLC v. Monroy*, 215 Cal.App.4th 972, 1009 (2013).
- *Wilkinson v. South City Ford*, 2010 Cal. App. Unpub. LEXIS 8680 (2010).
- *Children's Hospital & Medical Center v. Bonta*, 97 Cal.App.4th 740 (2002).
- *Church of Scientology v. Wollersheim*, 42 Cal.App.4th 628 (1996).
- *Kaku v. City of Santa Clara*, No. 17CV319862, 2019 WL 331053, at \*3 (Santa Clara Cty. Super. Ct. Jan. 22, 2019), *aff'd* 59 Cal. App. 5th 385.
- *Davis v. St. Jude Hosp.*, No. 30201200602596CUOECX, 2018 WL 7286170, at \*4 (Orange Cty. Super. Ct. Aug. 31, 2018),
- *Hartshorne v. Metlife, Inc.*, No. BC576608, 2017 WL 1836635, at \*10 (Los Angeles Super. Ct. May 2, 2017).



1 These are just some examples. Many other trial courts also have relied on my  
2 testimony in unreported fee awards.

3 11. I have also been retained by various governmental entities, including the  
4 California Attorney General's office, at my then current rates to consult with them and  
5 serve as their expert regarding their affirmative attorney fee claims. *See, e.g., In re*  
6 *Tobacco Cases I*, 216 Cal. App. 4th 570, 584 (2013); *Dep. of Fair Employ. and Hous.*  
7 *v. Law Sch. Admission Council, Inc.*, 2018 WL 5791869 (N.D. Cal. No. 12-cv-08130,  
8 filed Nov. 5, 2018).

9 **My Opinion In This Case**

10 12. My opinion in this case is based initially my extensive experience,  
11 research, and knowledge in this subject area as detailed above and in **Exhibit A**.

12 13. My opinions are also informed by the numerous source and reference  
13 materials regarding attorney fee rates that I have reviewed over the years, including  
14 the following materials:

- 15 a. Attached hereto as **Exhibit B** is a document that I prepared and  
16 maintain which compiles attorney fee rates that courts recently found  
17 to be reasonable in San Francisco Bay Area cases.
- 18 b. Attached hereto as **Exhibit C** is a document that I prepared and  
19 maintain which compiles attorney fee rates charged by San Francisco  
20 Bay Area law firms.
- 21 c. Attached hereto as **Exhibit D** are excerpts from the 2021 Real Rate  
22 Report by Wolters Kluwer, which is a widely used and relied on report  
23 of law firm rates based on invoice data.
- 24 d. Attached hereto as **Exhibit E** is a Peer Monitor Public Rates report of  
25 publicly reported attorney fee rates in 2018.
- 26 e. **The Laffey Matrix** ([www.laffeymatrix.com](http://www.laffeymatrix.com)) is a survey of  
27 Washington D.C. Area attorney rates that is used by local courts with  
28

1 adjustments for differences in regional rates. *See DL v. D.C.*, 924 F.3d  
2 585 (D.C. Cir. 2019).

3 f. **Chapter 11 Bankruptcy attorney fee applications** are another  
4 source of information regarding attorney fee rates charged and  
5 approved in this area. By way of example, *In Re PG&E Corporation*,  
6 N.D. Bank. Case No. 19-30088, includes hundreds of pages of court  
7 filings regarding attorney fee rates. *E.g.*, Dkt. No. 6331.

8 14. To form my opinions in this case, I also familiarized myself generally  
9 with the history of the litigation, the nature of the legal work it required, and the  
10 results it achieved. To this end, I reviewed the Court's order of September 14, 2017,  
11 the motion for preliminary approval filed on February 11, 2022, and the supporting  
12 memorandum of points and authorities and supporting declarations, the supplemental  
13 brief filed on June 1, 2022 and supporting declaration, the proposed order filed on  
14 June 15, 2022, the Court's order of June 30, 2022 granting preliminary approval, and  
15 the draft declaration of Steven Tidrick in support of the fees motion. I also have  
16 spoken with Plaintiffs' lead counsel, Steven Tidrick, about these materials and other  
17 aspects of the case. Further, to form my opinion in this case, I familiarized myself with  
18 the experience, credentials, and qualifications of the attorneys involved.

19 15. It is my understanding that The Tidrick Firm LLP's fee request here is  
20 based on the following hourly rates:

<b>Biller</b>	<b>Bar Admission Date</b>	<b>Rate</b>
Steven G. Tidrick	2001	\$973.00
Joel B. Young	2005	\$873.00

Biller	Bar Admission Date	Rate
Amanda McCaffrey Christine Hulsizer Erika Valencia Carrie McAfee	Paralegals	\$180.00

16. As detailed below, it is my opinion that The Tidrick Law Firm LLP's hourly rates set forth above are well in line with the rates charged by comparably qualified San Francisco Bay Area attorneys for comparable services. That is the applicable standard. See *Blum v. Stenson*, 465 U.S. 886, 895-96 (1984). Indeed, it is my opinion that these rates are in the mid-range of hourly noncontingent rates charged by similarly qualified Bay Area attorneys who regularly engage in civil litigation of comparable complexity. That opinion is based on the following factors:

17. *First*, it is based on my long experience and expertise regarding attorneys' fees, as noted in the numerous reported cases listed above. See, e.g., *Wit v. United Behav. Health*, 2022 U.S. Dist. LEXIS 2083, \*26, \_\_\_ F.Supp.3d \_\_\_, 2022 WL 45057 (N.D. Cal. Jan. 5, 2022) ("the Court places significant weight on Pearl's opinion"); *Human Rights Defense Center v. County of Napa*, 2021 U.S. Dist. LEXIS 59778, \*32, 2021 WL 1176640, 20-cv-01296-JCS (N.D. Cal. March 28, 2021) ("Mr. Pearl has extensive experience in the area of attorney billing rates in this district and has been widely relied upon by both federal and state courts").

18. *Second*, my opinion is based on the numerous prior judicial determinations that The Tidrick Law Firm LLP's then current rates were reasonable. Their current rates, which reflect only a very modest increase over those determinations, are firmly justified by rate increases in the legal marketplace. In fact, listed billing rates, court awards, and published articles show that over the past four

1 years, San Francisco area rates have risen an average of 4-6% per year. For example,  
2 in *Planned Parenthood Federation of America, Inc. v. Center for Medical Progress*,  
3 2020 U.S. Dist. LEXIS 241035, at \*13 (N.D. Cal. Dec. 22, 2020), the district court  
4 applied a 25% rate increase for the period from 2016 to 2020. More recently, similar  
5 rate increases in the legal marketplace have been observed by commentators. See,  
6 e.g., *Aggressive Billing Rate Increases Appear Likely, but Can Clients Stomach It?*  
7 Maloney, *The American Lawyer* (Jan. 24, 2022) (rates rose “nearly 4%” in 2021;  
8 Simons, *Big Law Should Raise Partner Billing Rates 10+ Percent Now*, *The Recorder*  
9 (Nov. 15, 2018) at 3 (“In a normal year, partner rates would go up around 5 or 6  
10 percent”).

11 19. *Third*, my opinion is evidenced by the numerous recent judicial rate  
12 determinations listed in **Exhibit B** to my declaration. These findings are entitled to  
13 significant weight. See, e.g., *Gonzalez v. City of Maywood*, 729 F.3d 1196, 1207 (9th  
14 Cir. 2013). For example, in *Wit*, this Court found that hourly rates of \$1,145, \$1,040,  
15 and \$980 were reasonable for lawyers with 35-39, 24, and 21 years of experience  
16 respectively. Mr. Tidrick’s (\$973) and Mr. Young’s (\$873) rates are well in line with  
17 these determinations.

18 20. Similarly, in *Human Rights Defense Center v. County of Napa, supra*, a  
19 prisoner rights action, the court found that plaintiffs’ counsel’s 2020 hourly rates were  
20 reasonable, including \$950 per hour for a 39-year attorney. See also *Prison Legal*  
21 *News v. Schwarzenegger, supra*, 608 F.3d at 455 (affirming \$875 Bay Area hourly rate  
22 in 2008). Likewise, in *Yo LLC v. Krucker*, Santa Clara Superior Ct. No. 17CV306261,  
23 Fee Order filed February 9, 2022, a contractual fee case, the court found that \$1,010  
24 per hour was reasonable in 2020 for an 11-year associate. And again, Mr. Tidrick’s  
25 and Mr. Young’s rates are in line with these findings, especially considering the rate  
26 increases in the legal marketplace over the past two years.

1           21. Plaintiffs’ paralegal rate (\$180) also is in line with these court awards. In  
2 *Wit*, for example, the court found that paralegal rates of \$250-390 were reasonable. In  
3 *Andrews v. Equinox, supra*, paralegal rates from \$240 to \$275 were found reasonable.

4           22. *Fourth*, my opinion is based on the reported rates of numerous local law  
5 firms set out in **Exhibit C**, which consists of data I have gathered from declarations,  
6 surveys, articles, and individual correspondence. For example, Schneider Wallace  
7 Cottrell & Konecky, a local class action firm, billed a 26-year attorney in 2020 at \$925  
8 per hour, a rate that was found reasonable by this Court in *Nevarez v. Forty Niners*,  
9 N.D. Cal. No. 5:16-cv-07013-LHK(SVK), Order Granting Motion for Final Approval  
10 of Class Action Settlement; Granting Motion for Service Awards; and Granting  
11 Motion for Attorney’s Fees, Costs, and Expenses, filed July 23, 2020 [Doc. 416]. In  
12 2021, the same firm billed that same attorney at \$1,005 per hour.

13           23. Likewise, the filings in the PG&E Bankruptcy case, N.D. Bank. Case No.  
14 19-30088, include hundreds of pages of court filings regarding their firms’ customary  
15 attorney fee rates. *E.g.*, Dkt. No. 6331.

16           24. *Fifth*, the relevant surveys cited above show that The Tidrick Law Firm  
17 LLP’s rates are “in line with” the local legal marketplace:

- 18           • The 2021 Real Rate Report by Wolters Kluwer that I have attached hereto  
19 as **Exhibit D** shows that counsel’s rates are in line with the local legal  
20 marketplace. Specifically, the “High Level Data Cuts” section at page 22  
21 describes the 2021 rates charged by 150 San Francisco partners and 108  
22 associates who practiced “Litigation.” For that category, the 2021  
23 litigation hourly rate for the Third Quartile of surveyed attorneys was  
24 **\$961** per hour for partners. Similarly, the “High Level Data Cuts” section  
25 at page 34 of the Report describes the 2021 rates charged by 158 San  
26 Francisco partners with “21 or More Years” of experience. For that  
27 category, the Third Quartile 2021 partner rate was **\$960** per hour. Given  
28

1 counsel's high levels of expertise and experience, the excellent work  
2 performed, and the results obtained here, it is my opinion that rates in-line  
3 with the Third Quartile rates are appropriate in this case. The rates sought  
4 by Plaintiffs' counsel here are well in line with these published rates.  
5 Moreover, in my experience, since 2021 most firms have raised their  
6 rates by at least 4-6%.

- 7 • The 2018 Peer Monitor Public Rates survey (**Exhibit E**) shows that The  
8 Tidrick Law Firm LLP's rates are well in line with (or below) the range  
9 of hourly rates billed by major Northern California law firms at that time.
- 10 • The LSI Laffey Matrix ([www.laffeymatrix.com](http://www.laffeymatrix.com)) rate for attorneys with  
11 20 or more years of experience is **\$919** per hour which when adjusted to  
12 account for the rate differential between the Washington D.C. Area and  
13 the San Francisco Bay Area equals **\$1,022** per hour. *See*  
14 [www.uscourts.gov/careers/compensation/judiciary-salary-plan-pay-rates](http://www.uscourts.gov/careers/compensation/judiciary-salary-plan-pay-rates).  
15 Mr. Tidrick's \$973 rate is certainly in line with the LSI Laffey Matrix.  
16 Likewise, given counsel's expertise and experience, the excellent work  
17 performed, and the results obtained here, it is my opinion that rates in-line  
18 with the Laffey Matrix are appropriate in this case.

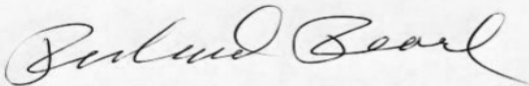
19 25. I do not express any specific opinion regarding the necessity or  
20 reasonableness of those hours incurred or tasks performed by Plaintiffs' counsel  
21 because I have not been asked to do such work and do not believe expert opinion on  
22 such issues is necessary. However, the absence of such testimony from me does not in  
23 any way reflect a negative view of the reasonableness or necessity of the attorney time  
24 spent on this matter. To the contrary, from a high-level vantage point, based on my  
25 extensive experience as an attorney fee expert, litigator, and neutral, the total attorney  
26 hours incurred—which I am informed is approximately 1,900 hours to date—appears  
27  
28

1 to me to be well within expectations for a federal case of this complexity, magnitude,  
2 and duration against an opponent like Long & Levit LLP.

3 26. Based on the foregoing, Plaintiffs' counsel's hourly rates for their work in  
4 this litigation are reasonable as they are well in line with the range of rates charged by  
5 and awarded to comparably qualified attorneys in this legal community for  
6 comparable services.

7 I declare under penalty of perjury under the laws of the United States that the  
8 foregoing facts are true and correct.

9 Executed on July 31, 2022, at Berkeley, California.

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Richard M. Pearl

# 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) 548-3143 (facsimile)  
rpearl@interx.net (e-mail)

### **EDUCATION**

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

### **BAR MEMBERSHIP**

Member, State Bar of California (admitted February 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, 2014, 2015, 2016, 2017, 2018, 2019, 2020, and 2021.

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

ADJUNCT PROFESSOR, HASTINGS COLLEGE OF THE LAW (January 1988 to 2014):  
Taught *Public Interest Law Practice*, a 2-unit course that focused 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.

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.

## PUBLICATIONS

Pearl, *California Attorney Fee Awards, Third Edition* (Cal. Cont. Ed. Bar 2010) and February 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, and March 2021 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)

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

**PUBLIC SERVICE**

Member, Attorneys' Fee Task Force, California State Bar

Member, Board of Directors, California Rural Legal Assistance Foundation

**REPRESENTATIVE CASES**

*ACLU of N. Cal. v. DEA*

(N.D. Cal. 2012) 2012 U.S.Dist.LEXIS 190389

*Alcoser v. Thomas*

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

*Arias v. Raimondo*

(2018) 2018 U.S.App.LEXIS 7484

*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.*

(9<sup>th</sup> 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

*Children & Families Commission of Fresno v. Brown*

(2014) 228 Cal.App.4<sup>th</sup> 45

*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

**REPRESENTATIVE CASES (cont.)**

*Dixon v. City of Oakland*

(2014) 2014 U.S.Dist.LEXIS 169688

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

(1981) 30 Cal.3d 256

*Environmental Protection Info. Ctr. v Department of Forestry & Fire Protection*

(2010) 190 Cal.App.4th 217

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

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

*Flannery v Prentice*

(2001) 26 Cal. 4th 572

*Graham v. DaimlerChrysler Corp.*

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

*Guerrero v. Cal. Dept. of Corrections etc.*

(2016) 2016 U.S.Dist.LEXIS 78796, *aff'd in relevant part*, (9<sup>th</sup> Cir. 2017) 701 Fed.Appx. 613

*Heron Bay Home Owners Assn. v. City of San Leandro*

(2018) 19 Cal.App.5<sup>th</sup> 376

*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

**REPRESENTATIVE CASES (cont.)**

*Local 3-98 etc. v. Donovan*

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

*Mangold v. California Public Utilities Commission*

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

*Maria P. v. Riles*

(1987) 43 Cal.3d 1281

*Martinez v. Dunlop*

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

*McQueen, Conservatorship of*

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

*McSomebodies v. Burlingame Elementary School Dist.*

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

*McSomebodies v. San Mateo City School Dist.*

(9th Cir. 1990) 897 F.2d 975

*Molina v. Lexmark International*

(2013) 2013 Cal.App. Unpub. LEXIS 6684

*Moore v. Bank of America*

(9<sup>th</sup> Cir. 2007) 2007 U.S. App. LEXIS 19597

*Moore v. Bank of America*

(S.D. Cal. 2008) 2008 U.S. Dist. LEXIS 904

*Mora v. Chem-Tronics, Inc.*

(S.D. Cal. 1999) 1999 U.S. Dist. LEXIS 10752,  
5 Wage & Hour Cas. 2d (BNA) 1122

*Nadaf-Rahrov v. Nieman Marcus Group*

(2014) 2014 Cal.App. Unpub. LEXIS 6975

*Orr v. Brame*

(9<sup>th</sup> Cir. 2018) 727 Fed.Appx. 265, 2018 U.S.App.LEXIS 6094

**REPRESENTATIVE CASES (cont.)**

*Orr v. Brame*

(9<sup>th</sup> Cir. 2019) 793 Fed.Appx. 485

*Pena v. Superior Court of Kern County*

(1975) 50 Cal.App.3d 694

*Ponce v. Tulare County Housing Authority*

(E.D. Cal 1975) 389 F.Supp. 635

*Ramirez v. Runyon*

(N.D. Cal. 1999) 1999 U.S. Dist. LEXIS 20544

*Ridgeway v. Wal-Mart Stores, Inc.*, 269 F. Supp. 3d 975 (N.D. Cal. 2017), *aff'd on merits (fees not appealed)* 269 F.3d 1066 (9<sup>th</sup> Cir. 2020)

*Robles v. Employment Dev. Dept.*

(2019) 38 Cal.App.5<sup>th</sup> 191

*Rubio v. Superior Court*

(1979) 24 Cal.3d 93 (amicus)

*Ruelas v. Harper*

(2015) 2015 Cal.App. Unpub.LEXIS 7922

*Sokolow v. County of San Mateo*

(1989) 213 Cal. App. 3d. 231

*S.P. Growers v. Rodriguez*

(1976) 17 Cal.3d 719 (amicus)

*Swan v. Tesconi*

(2015) 2015 Cal.App. Unpub. LEXIS 3891

*Tongol v. Usery*

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

*Tripp v. Swoap*

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

**REPRESENTATIVE CASES (cont.)**

*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



# EXHIBIT B

**EXHIBIT B****RATES FOUND REASONABLE IN SAN FRANCISCO BAY AREA CASES****2021 Rates**

- In *Yo LLC v. Krucker*, Santa Clara Superior Ct. No. 17CV306261, Fee Order filed February 9, 2022, a contractual fee case involving a disputed lease, the court found that the following hourly rates billed by the prevailing Defendant's attorneys were reasonable:

<b>Firm</b>	<b>Title</b>	<b>Law School Grad. Year</b>	<b>Rate</b>
<b>Cooley LLP</b>			
	Partner	1994	\$1,275
	Special Counsel	1994	\$1,090
	Associate (2020 rate)	2009	\$1,010

- In *Wit v. United Behavioral Health* (N.D. Cal. Jan. 5, 2022) \_\_\_ F.Supp.3d \_\_\_, 2022 WL 45057, the court found that the following hourly rates were reasonable:

<b>Firm</b>	<b>Title</b>	<b>Years of Experience</b>	<b>Rate</b>
<b>Zuckerman Spaeder</b>			
	Partner	35, 39	\$1,145
	Partner	24	\$1,040
	Partner	21	\$980
	Associate	6	\$595
	Paralegals		\$250-390

- In *Andrews v. Equinox Holdings, Inc.*, N.D. Cal. No. 20-cv-00485-SK, Oder on Motion for Attorney Fees and Costs filed November 9, 2021 (Doc. 110), an individual age discrimination case that settled by acceptance of the defendant's FRCP Rule 68 offer, the court found the

following 2021 rates reasonable (before applying a 1.3 lodestar multiplier):

<b>Firm</b>	<b>Title</b>	<b>Law School Grad. Year</b>	<b>Rate</b>
<b>Rosen Bien Galvan &amp; Grunfeld LLP</b>			
	Partner	1962	\$1,250
	Partner	1997	\$875
	Senior Counsel	2010	\$600
	Associate	2018	\$350
	Summer Associates	NA	\$300
	Paralegals	NA	\$240-\$275

- **2020 Rates**

- In *UFCW & Employers Benefit Trust et al v. Sutter Health, et al*, San Francisco County Superior Court, Case No. CGC-14-538451, consolidated with Case No. CGC-18-565398, Order re Plaintiffs' Counsel's Joint Motion for Attorneys' Fees, Costs, and Service Award, filed August 27, 2021, the court found the following rates reasonable as part of its lodestar-cross check:

**Pillsbury & Coleman**

<b>Title</b>	<b>Law School Graduation</b>	<b>Rate</b>
Of Counsel	1979	\$960
Partner	1976	\$675
Associate	2010	\$475
Paralegal	N/A	\$225

**Farella Braun + Martel**

<b>Title</b>	<b>Bar Admission</b>	<b>Rate</b>
Partners	2003	\$785
	1994	\$895
	1972	\$1250
	1980	\$975
	1985	\$935
	1982	\$925
	1991	\$795
	2012	\$675
Associates	2014	\$650
	2015	\$560
	2018	\$515
	2017	\$460
Paralegals	NA	\$355-\$190
Litigation Support	NA	\$325-\$285

**McCracken, Stemerma & Holsberry LLP**

<b>Title</b>	<b>Law School Graduation Year</b>	<b>Rate</b>
Partners	1975	\$850
	1983	\$850
	1990	\$800
	2008	\$750
Associates	2011	\$575
Associates	2012	\$575
	2014	\$575
	2014	\$575
	2017	\$400
	2018	\$400
	2019	\$400

**Kellogg, Hansen, Todd, Figel & Frederick PLLC**

<b>Title</b>	<b>Bar Admission</b>	<b>Rate</b>	
Partners	1995	\$1,095	
	2005	\$890	
	2011	\$890	
Of Counsel	1997	\$890	
	1988	\$835	
	2014	\$805	
Associates	2015	\$750	
	2017	\$690	
	2017	\$690	
	2016	\$635	
	2018	\$535	
	Staff Attorneys	2007	\$460
		2000	\$460
		1997	\$460
2002		\$460	
1998		\$400	
1977		\$400	
1999		\$460	
1991		\$460	
2012		\$400	
Paralegal Director		N/A	\$430
Paralegals	N/A	\$430-\$275	
Summer Associates	N/A	\$185	
Research Manager	N/A	\$260	
Research Analyst	N/A	\$160	
IT Director	N/A	\$200	
Litigation Support	N/A	\$145	
Trial Coordinator	N/A	\$115	

**Cohen Milstein Sellers & Toll PLLC**

<b>Title</b>	<b>Law School Graduation Year</b>	<b>Hourly Rate 2020*</b>
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Partners	1975	\$975
	1983	\$995
	1986	\$975
	2005	\$720
	2007	\$680
Of Counsel	2003	\$725
Associates	2009	\$650
	2014	\$535
Discovery Counsel	2002	\$550
Staff Attorneys	1993	\$445
	2002	\$430
	2005	\$415
	2006	\$415
Investigator	N/A	\$515
Paralegals	N/A	\$325-\$310

- In *Human Rights Defense Center v. County of Napa*, a prisoner rights action, the court found that Plaintiffs' counsel's 2020 hourly rates were reasonable, "plac[ing] significant weight on the opinion of Mr. Pearl . . . [who] has extensive experience in the area of attorney billing rates in this district and has been widely relied upon by both federal and state courts in Northern California (including the undersigned) in determining reasonable billing rates." Order Granting In Part And Denying In Part Motion For Attorneys' Fees, Costs And Expenses at 18, Doc. 50, No. 20-cv-01296 (N.D. Cal. March 28, 2021).

Firm	Title	Law School Grad. Year	Rate
<b>Rosen Bien Galvan &amp; Grunfeld LLP</b>			
	Partner	1962	\$1,110
	Partner	1981	\$950
	Senior Counsel	2009	\$625
	Senior Paralegal	NA	\$350

- In *Planned Parenthood Fed'n of Am., Inc. v. Ctr. for Med. Progress*, No. 16-CV-00236-WHO, 2020 WL 7626410 (N.D. Cal. Dec. 22, 2020), a RICO action challenging the defendants' invasive tactics, the

court found that Plaintiffs' counsel's 2020 hourly rates were "reasonable given the scope and complexity of this case, as well as in light of rates approved in this District for partners, associates, and paralegals for similarly experienced counsel and staff at similar firms." *Id.* at \*3, \*3 n.4.

Firm	Title	Bar Admission	Rate
Arnold & Porter Kaye Scholer LLP			
	Partner	1974	\$1,280
	Partner	1993	\$1,150
	Partner	1990	\$1,085
	Partner	2005	\$1,015
	Partner	2002	\$925
	Senior Associate	2005	\$910
	Senior Associate	2012	\$910
	Senior Associate	2015	\$815
	Associate	2018	\$675
	Staff Attorney	2008	\$545
	Paralegal	NA	\$405
	Paralegal	NA	\$390
Planned Parenthood			
	General Counsel	1982	\$1,115
	Sr. Staff Attorney	2012	\$910

- In *Schneider v. Chipotle Mexican Grill*, a consumer class action, the court found that counsel for the putative class's 2020 hourly rates were "on the high end, although in line with prevailing rates in this district for personnel of comparable experience, skill, and reputation." *Schneider v. Chipotle Mexican Grill, Inc.*, 336 F.R.D. 588, 601 (N.D. Cal. 2020).



<b>Firm</b>	<b>Title</b>	<b>Bar Admission</b>	<b>Rate</b>
<b>Kobre &amp; Kim</b>			
	Partner	1993	\$1,275
	Partner	1987	\$1,275
	Partner	1997	\$995
	Associate	2011	\$695
	Analyst	NA	\$495
	Legal Assistant	NA	\$195
	Legal Assistant	NA	\$195

- In *California Advocates for Nursing Home Reform v. Angell*, Alameda County Superior Court No. RG13700100, Order Awarding Attorneys' Fees filed October 2, 2020, a writ of mandate challenging unconsented to mental health treatment, the court found that a reasonable hourly rate for the plaintiffs' lead counsel, a 47 year attorney, was **\$875** per hour (to which it also applied a 1.75 multiplier).
- In *Lashbrook v. City of San Jose*, N.D. Cal. Case No. 20-cv-01236-NC, a disability access class action, the court found the following hourly rates reasonable:

<u>Bar Admission Year</u>	<u>Rate</u>
1987	\$945
1992	\$895
2006	\$750
2017	\$415
Senior Paralegal	\$325
Paralegals	\$265-285

- In *Stiavetti v. Ahlin*, Alameda County Superior Court No. RG15-779731, Order Granting in Part Motion for Attorneys' Fees filed May



1, 2020, a challenge to state agencies for subjecting persons found incompetent to stand trial to excessively long waits before being admitted to state hospitals, the court found the following 2020 hourly rates reasonable for Plaintiffs' ACLU attorneys:

<u>Graduation Year</u>	<u>Rate</u>
1994	\$850
1996	\$775
1999	\$745
2004	\$650
2009	\$490
2014	\$325

- In *Lee One, LLC v. Facebook, Inc.*, N.D. Cal. No. 4:16-cv-06232-JSW, Order and Judgment Granting Motion for Final Approval of Class Action Settlement and Awarding Attorneys' Fees, Costs, and Service Awards, filed June 26, 2020 [Doc. 211], a class action challenging Facebook's systems for justifying the rates charged advertisers, the court approved a fee constituting 30% of the \$40 million settlement fund, and in cross-checking that fee, found the following 2019 hourly rates reasonable (plus a 1.68 lodestar multiplier):

<b>Law Firm</b>	<b>Title</b>	<b>Bar Date</b>	<b>Rate</b>
<b>Cohen Millstein Sellers &amp; Toll</b>			
	Partners	1983	\$940
		2000	\$790
		2004	\$740
	Associates	2012	\$545
		2014	\$505

	Staff Attorney	2012	\$395
	Contract Attorney	2003	\$385
	Law Clerk	2019	\$290
	Contract Attorneys	2014	\$250
		2017	\$250
<b>Gibbs Law Group</b>			
	Partners	1995	\$910
		2000	\$750
		2003	\$720
		2007	\$710
	Associates	2014	\$460
		2016	\$430
<b>Eglet Adams</b>			
	Partners	1988	\$870
		1998	\$800
		1999	\$690
		1999	\$650
	Associate	2011	\$450
	Contract Attorney	1998	\$200
	Investigator	--	\$490
	Paralegals	--	\$300-315

- In *Perez v. Rash Curtis & Associates*, N.D. Cal. No. 4:16-cv-03396-YGR, Order, *inter alia*, Granting in Part and Denying in Part Motion for an Award of Attorneys' Fees, Costs, and Expenses, filed April 17, 2020 [Doc. 427], a consumer protection action under both federal and state law resulting in a \$267 million judgment, the court awarded counsel a percentage-based common fund fee of 25% of the fund, cross-checked against a lodestar-based fee comprised of a \$634.48 blended rate, and a lodestar multiplier ranging from 13.42 to 18.15 depending on the number of hours eventually spent. The 2020 hourly rates from which the blended rate was derived were as follows:

Admission to Bar	Rate
<b>PARTNERS:</b>	
1997	\$1,000
2002	\$850
2006	\$750
2009	\$650
2013	\$550
<b>ASSOCIATES:</b>	
2010	\$550
2013	\$525
2016	\$400
2017	\$375
2019	\$325
Law Clerk	\$300
Senior Litigation Support Spelist.	\$275-300
Litig. Support Spelist.	\$200-250

- In *In re Wells Fargo & Company Shareholder Derivative Litigation*, N.D. Cal. No. 16-cv-05541-JST, Order Granting Motion for Final Approval and Motion for Attorneys' Fees, filed April 7, 2020 [Doc. 312], a shareholder derivative class action, the court found the following 2020 hourly rates reasonable:

<b>Lieff, Cabraser, Heimann &amp; Bernstein LLP</b>	<b>Law School Graduation Year</b>	<b>Rate</b>
	1972	\$1,075
	1998	\$950
	1993	\$900
	1984	\$850
	2000	\$775
	2001-2002	\$700
	2005	\$650
	2007	\$590
	2008	\$560
	2012	\$480-510
	2015	\$440
	2017	\$395
	Law Clerk	\$375-395
	Paralegal/Clerk	\$345-390
	Litigation Support/Research	\$345-495

- In *Moen v. Regents of Univ. of California*, Alameda County Superior Court No. RG10-530493, Order (1) Granting Final Approval of Class Settlement and (2) Granting Motion for Award of Fees and Costs, filed April 10, 2020, a class action to enforce contractual health care rights, the court approved the following hourly rates as reasonable (indicating in addition that a 1.5 multiplier would have been applied but for the parties' agreed ceiling):

<b>LAW FIRM</b>	<b>LAW SCHOOL GRADUATION</b>	<b>RATE</b>
<b>Law Offices of Dov Grunschlag</b>	1966	\$975
<b>Sinclair Law Office</b>	1976	\$875
<b>Calvo Fisher LLP</b>	1976	\$875
	1990	\$775
	2000	\$650

	2004	\$625
	Senior Paralegal	\$300
	Paralegal	\$225

## (2) 2019 Rates

- In *In re National Collegiate Athletic Assn. Athletic Grant-In-Aid Antitrust Litigation*, an antitrust class action, the court found the following 2019 “hourly rates are reasonable.” See Order Granting in Part and Denying in Part Plaintiffs’ Motion for Attorneys’ Fees, Expenses, Service Awards, and Taxed Costs, Doc. 1259, at 4, No. 14-md-02541 (N.D. Cal. Dec. 6, 2019).

Firm	Title	Bar Admission	Rate
<b>Winston &amp; Strawn LLP</b>			
	Partner	1978	\$1,515
	Partner	1985	\$1,245
	Partner	2002	\$1,105
	Partner	1996	\$1,025
	Associate	2012	\$825
	Associate	2016	\$660
	Associate	2017	\$615

- In an earlier decision in the same case, the court also found the following 2017 hourly rates were “in line with market rates in this District.” See *id.* at Doc. 745 (N.D. Cal. Dec. 6, 2017).

Firm	Title	Bar Admission	Rate
<b>Hagens Berman Sobol Shapiro LLP</b>			
	Partner	1982	\$950
	Associate	1999	\$630
	Associate	2014	\$475
	Contract Attorney	2013	\$350

<b>Firm</b>	<b>Title</b>	<b>Bar Admission</b>	<b>Rate</b>
	Contract Attorney	2006	\$300
<b>Pearson, Simon &amp; Warshaw LLP</b>			
	Partner	1983	\$1,035
	Partner	1981	\$1,035
	Of Counsel	2001	\$900
	Associate	2006	\$635
	Associate	2008	\$520

- In *Nevarez v. Forty Niners*, N.D. Cal. No. 5:16-cv-07013-LHK(SVK), Order Granting Motion for Final Approval of Class Action Settlement; Granting Motion for Service Awards; and Granting Motion for Attorney's Fees, Costs, and Expenses, filed July 23, 2020 [Doc. 416], a disability-access class action involving Levi's Stadium, the court found the following 2019 hourly rates reasonable:

<b>Schneider Wallace Cottrell Konecky LLP:</b>	<b>Law School Grad.</b>	<b>Rate</b>
	1993	\$925
	1977	\$875
	1997	\$840
	2015	\$680
	2014	\$625-\$680
	2007	\$625
	2017	\$575
	2009	\$725
	Paralegal	\$300
<b>Goldstein Borgen Dardarian &amp; Ho</b>		
	1987	\$925
	2006	\$710
	2015	\$450
	2008	\$595
	2013	\$475
	2017	\$400
	Law Student	\$300
	Sr. Paralegals	\$325
	Paralegals	\$275-295



- In *Bartoni et al v. American Medical Response West*, Alameda County Superior Court No. RG08-382130, a meal and rest break class action involving Schneider Wallace and other counsel, the court's Order Granting Plaintiffs' Motions on Final Approval of Class Settlement filed July 12, 2019, the court found the following 2019 hourly rates reasonable, based in part on my testimony:

<b>LAW FIRM</b>	<b>BAR ADMISSION DATE</b>	<b>RATE</b>	<b>BILLING YEAR*</b>
<b>Leonard Carder / Hinton Alfert Sumner &amp; Kaufmann</b>			
	1990	\$860	
	1999	\$710	
	2008	\$445	6th year (2014)
	2013	\$445	
<b>Schneider Wallace Cottrell Konecky Wotkyns</b>			
	1996	\$835	
	2009	\$525	
	2014	\$450	
	1997	\$675	15th year (partner) (2012)
	2004	\$475	5th year (2009)
	2005	\$450	4th year (2008)
	2006	\$425	3rd year (2009)
	2007	\$400	2nd year (2009)
	2003	\$525	10th year (2013)
	2014	\$350	1st year (2014)
<b>Kralowec Law, P.C.</b>			
	1992	\$810	
	1986	\$795	
	2008	\$500	6th year

			(2014)
	2008	\$525	7th year (2016)
<b>Schubert Jonckheer &amp; Kolbe LLP</b>			
	1992	\$600	18th year (2010) (2010)
*Parentheticals indicate billers' experience levels and year when they last worked on the case.			

- In *National Federation of the Blind of California v. Uber Technologies, Inc.*, N.D. Cal. No. 14-cv-04086 NC Amended Order Granting in Part Plaintiffs' Motion for Attorneys' Fees and Costs, filed November 8, 2019 (Dkt. No. 203), a class action against Uber alleging that it violated federal antidiscrimination laws by allowing its drivers to refuse to accept service dogs, the court found the following 2019 hourly rates reasonable for monitoring Uber's compliance with the settlement:

<b>Rosen Bien Galvan &amp; Grunfeld LLP</b>	<b>Rate</b>
<b>Class</b>	
1997	\$800
2011	\$525
2016	\$400
Senior Paralegal	\$350
Paralegals	\$250-275

<b>Disability Rights Advocates</b>	<b>Rate</b>
1998	\$785
2014	\$470
2014	\$425
Paralegals	\$230-275

- In *Shaw et al v. AMN Service, LLC et al*, N.D. Cal. No. 3:16-cv-02816 JCS, Order Granting Plaintiffs' Motion for Reasonable Attorneys' Fees and Costs, filed May 31, 2019 [Doc. 167], a wage



and hour class action, based in part on my testimony the court found the following 2019 hourly rates reasonable, before applying a 2.4 lodestar multiplier:

BAR ADMISSION DATE	RATE
1996	\$835
2009	\$750
2014	\$675
1996 (Florida)	\$600
2016	\$400
2017	\$380

**(3) 2018 Rates.**

- In *Department of Fair Employment and Housing v. Law School Admission Council, Inc.*, N.D. Cal. No. 12-cv-08130-JCS, filed Nov. 5, 2018, reported at 2018 WL 5791869, 2018 U.S. Dist. LEXIS 189191, an action for civil contempt based on violation of a consent decree, the court found the following 2018 hourly rates reasonable:

Years of Experience	Rate
35	\$850
5 and 6	\$425
Law Clerk and 1st year	\$290

- In *Cornell v. City & County of San Francisco*, San Francisco Superior Court No. CGC-11-509240, Fee Order filed Oct. 9, 2018 (on remand from *Cornell v. City & County of San Francisco* (2017) 17 Cal.App.5th 766), an individual police misconduct/employment case, the trial court found the following 2018 hourly rates reasonable for appellate work, before applying a 1.25 multiplier:

Years of Experience:	Rates:
49	\$827
27	\$800
23	\$800
9	\$475
6	\$425

- In *Cole v. County of Santa Clara*, N.D. Cal. No. 16-CV-06594-LHK, Order Granting Final Approval of Class Settlement and Motion for

Attorneys' Fees, filed March 21, 2019, a disability rights class action, the court found the following 2018 hourly rates reasonable:

Bar Admission Date	Rate
<b>Rosen, Bien, Galvan &amp; Grunfeld LLP</b>	
2006	\$650
2010	\$525
2016	\$375
Paralegals	\$225-340
<b>Disability Rights Advocates</b>	
1998	\$775
2005	\$655
2014	\$425
Paralegals	\$230

- In *In re Anthem, Inc. Data Breach Litigation*, the court found the following 2017 billing rates were “reasonable in light of prevailing market rates in this district.” See *In re Anthem, Inc. Data Breach Litig.*, No. 15-MD-02617, 2018 WL 3960068, at \*16 (N.D. Cal. Aug. 17, 2018).

Firm	Title	Law School Grad. Year	Rate
<b>Altshuler Berzon</b>			
	Partner	1992	\$860
	Partner	1994	\$820
	Partner	1998	\$770
	Partner	2001	\$690
	Associate	2010	\$460
	Associate	2012	\$405
	Legal Clerks	NA	\$285
	Paralegals	NA	\$250

<b>Firm</b>	<b>Title</b>	<b>Law School Grad. Year</b>	<b>Rate</b>
<b>Gibbs Law Group</b>			
	Partner	1995	\$805
	Partner	1988	\$740
	Partner	2000	\$685
	Partner	2003	\$660
	Partner	2004	\$635
	Partner	2007	\$605
	Partner	2008	\$575
	Associate	2011	\$525
	Associate	2012	\$450
	Associate	2014	\$415
	Associate	2012	\$400
	Associate	2000	\$395
	Associate	2008	\$375
	Associate	2015	\$365
	Associate	2015	\$350
	Associate	2016	\$340
	Contract Attorney	2014	\$240
	Paralegals		\$190-\$220
<b>Lieff Cabraser Heimann &amp; Bernstein</b>			
	Partner	1989	\$900
	Partner	2001	\$675
	Partner	2002	\$650
	Partner	2004	\$625
	Partner	2006	\$565
	Partner	2006	\$510

<b>Firm</b>	<b>Title</b>	<b>Law School Grad. Year</b>	<b>Rate</b>
	Associate	2011	\$455
	Associate	2015	\$370
	Contract Attorneys	1994-2017	\$240
	Paralegals	NA	\$350-\$360
<b>Finkelstein Thompson LLP</b>			
	Partner	1993	\$850
	Partner	2000	\$600
	Of Counsel	2005	\$475
	Of Counsel	1997	\$850
	Associate	2013	\$300

- In *Kaku v. City of Santa Clara*, Santa Clara Superior Court No. 17CV319862, Fee Order filed January 22, 2019, reported at 2019 WL 331053 (Cal.Super. 2019), a voting rights action under the California Voting Rights Act, the court found the following 2018 hourly rates reasonable, before applying a 1.4 multiplier:

**Goldstein, Borgen, Dardarian & Ho**

<u>Graduation Year</u>	<u>Rates</u>
1970	\$875
1994	\$860
2013	\$450
2015	\$405
2016	\$375
Law Clerk	\$295
Statistician & Senior Paralegal	\$300
Paralegal	\$250

**Law Office of Robert Rubin**

<u>Graduation Year</u>	<u>Rates</u>
1978	\$975
2013	\$615

**Asian Law Alliance**

<u>Graduation Year</u>	<u>Rates</u>
1978	\$550
2009	\$375

**(4) 2017 Rates.**

- In *Max Sound Corp. v. Google Inc.*, N.D. Cal. No. 14-cv-04412-EJD, Order Granting in Part and Denying in Part Defendants' Motion for Attorneys' Fees, filed October 11, 2017 (Dkt. No. 198), a patent infringement action awarding fees for defending a frivolous action pursuant to, *inter alia*, 35 U.S.C. § 285 and 28 U.S.C. § 1927, the court found the following hourly rates reasonable:

<u>Bar Admission</u>	<u>Rates</u>
2000	\$650-950
1995	\$905
2014	\$520-715
2007	\$504-608
2012	\$335-575

- In *May v. San Mateo County*, N.D. Cal. No. 3:16-cv-00252-LB, Stipulation and Order re Settlement filed Nov. 10, 2017 [Doc. No. 218], an individual police misconduct action, the court found the following hourly rates reasonable:

<u>Years of Experience</u>	<u>Rates</u>
26	\$775
22	\$775
10	\$475
5	\$425
48.	\$825
Paralegal	\$240

- In *Hoeper v. City & County of San Francisco*, No. CGC-15-543553, Order After Hearing Granting in Part and Denying in Part Plaintiff Joanne Hoeper's Motion for Attorney Fees, filed July 12, 2017, an individual whistleblower case under Government Code section 12653(b), the court found the following 2017 hourly rates reasonable, before applying a 1.35 lodestar multiplier:

<u>Bar</u>	<u>Rates</u>
1982	\$850-750
1979	\$750
2003	\$550
Associate	\$350
Paralegal	\$150-160

- In *Ridgeway v. Wal-Mart Stores, Inc.* (N.D. Cal. 2017) 269 F. Supp. 3d 975, a wage and hour class action, the court issued a statutory fee award against Wal-Mart based on the following 2017 rates (plus a 2.0 multiplier), to partially offset a 25% common fund fee award payable by the class:

<u>Years of Experience</u>	<u>Rates</u>
46	\$900
40	\$890
38	\$870
36	\$850
34	\$830
20	\$730
37 (Senior	\$700
29 (Senior	\$670
19 (Senior	\$610
11	\$500
7	\$450-500
6	\$425
3	\$355
4	\$330
1	\$300
Senior Paralegal	\$225
Paralegal	\$195

Law Clerk                      \$225

- In *Huynh v. Hous. Auth. Of Santa Clara*, 2017 U.S. Dist. LEXIS 39138 (N.D. Cal. 2017), a tenant class action challenging the Housing Authority's policy regarding the accommodation of households with disabled family members, the court found the following 2017 hourly rates reasonable:

**Law Foundation of Silicon Valley**

<u>Graduation Year</u>	<u>Rates</u>
1990	\$800
2001	\$660
2004	\$635
2007	\$545
2008	\$545
2010	\$415
2014	\$325
2015	\$325

**Fish & Richardson PC**

<u>Graduation Year</u>	<u>Rates</u>
1996	\$862.07
2002	\$700
2005	\$676.75
2011	\$530
2007	\$475
2014	\$362.54
2015	\$329.09
2016	\$330.11
Paralegal	\$236-275

- In *Armstrong v. Brown*, N.D. Cal. No. 4:94-cv-02307-CW, Stipulated Order Confirming Undisputed Attorneys' Fees and Costs for the Third Quarter of 2017, filed December 19, 2017 (Dkt. No. 2708), a prisoners' rights class action, the court approved the following 2017 hourly rates for monitoring the injunction in that matter:

<u>Years of Experience</u>	<u>Rates</u>
37	\$950
33	\$825
20	\$780
24 (Of Counsel)	\$700
12 (Partner)	\$650
9 (Associate)	\$490
8	\$480
7	\$470
6	\$440
Paralegal	\$240-325

- In *Cotter et al. v. Lyft, Inc.*, N.D. Cal. No. 13-cv-04065- VC, Order Granting Final Approval of Settlement Agreement, filed March 16, 2017 (Dkt. No. 310), a class action against Lyft alleging Lyft underpaid its drivers by classifying them as independent contractors, the court approved the percentage-based fee award requested by plaintiffs based on the following 2017 hourly rates, plus a 3.18 multiplier:

<u>Graduation Year</u>	<u>Rates</u>
1996	\$800
2010	\$500
2014	\$325
Paralegal	\$200

- In *Dropbox, Inc. v. Thru, Inc.*, 2017 U.S. Dist. LEXIS 33325 (N.D. Cal.), a trademark action, the court found reasonable “rates ranging from \$275/hr for a paralegal to \$900 for a senior partner” and “rates of \$365/hr and \$420/hr” for mid-level associates.



# EXHIBIT C

## Exhibit C

Rates Charged by San Francisco Bay Area Law Firms

<i>Altshuler Berzon LLP</i>		
<b>2021 Rates</b>	<b>Graduation Year</b>	<b>Rate</b>
	1977	\$1,150
<b>2018 Rates</b>	<b>Graduation Year</b>	<b>Rate</b>
	1968-1983	\$940
	1985	\$920
	1989	\$900
	1991	\$885
	1992	\$875
	1994	\$835
	1998	\$795
	2000	\$740
	2001	\$725
	2008	\$540
	2009	\$515
	2010	\$485
	2012	\$435
	2013	\$415
	2014	\$390
	2015	\$365
	Law Clerks	\$285
	Paralegals	\$250
<b>2017 Rates</b>	<b>Years of Experience/Level</b>	<b>Rates</b>
	Senior Partners	\$930
	Junior Partners (1991-2001)	\$875-690
	Associates (2008-2013)	\$510-365
	Paralegals	\$250

<i>Arnold Porter LLP</i>		
2021 Rates	Level	Rates
	Partners	\$750-\$1,150
	Senior Counsel	\$910-\$1,280
	Associates	\$545-\$910
	Paralegals	\$390-\$405
<i>Boies Schiller &amp; Flexner LLP</i>		
2017 Rates	Bar Admittance or Law School Graduation	Rates
	1986	\$1,049
	2006	\$972
	1999-2000	\$830
	2004	\$760
	2006	\$680
	2007	\$714
	2009	\$800
<i>Burson &amp; Fisher</i>		
2020 Rates:	Bar Admission Year	Rate
	<b>PARTNERS:</b>	
	1997	\$1,000
	2002	\$850
	2006	\$750
	2009	\$650
	2013	\$550
	<b>ASSOCIATES:</b>	
	2010	\$550
	2013	\$525
	2016	\$400
	2017	\$375
	2019	\$325
	Law Clerk	\$300

	Senior Litigation Support Specialist	\$275-300
	Litigation Support Specialist	\$200-250
<b><i>Cooley LLP</i></b>		
<b>2021 Rates</b>	<b>Years of Experience</b>	<b>Rates</b>
	27 (Partner)	\$1,275
	27 (Special Counsel)	\$1,090
<b><i>Coichett, Pitre &amp; McCarthy, LLP</i></b>		
<b>2019 Rates</b>	<b>Year of CA Bar Admission</b>	<b>Rates</b>
	1965	\$950
	1992	\$925
	1994	\$850
	2006	\$750
	Senior Associate	\$600
	Associates	\$375-425
	Paralegals, Case Assistants, Law Clerks	\$225-325
<b><i>Duane Morris LLP</i></b>		
<b>2018 Rates</b>	<b>Bar Admission Year</b>	<b>Rates</b>
	1973	\$1,005
	2008	\$605
	2011	\$450
	2017	\$355
	Sr. Paralegal	\$395

<i>Farella Braun + Martel</i>	Bar Admission	Rates
<b>2020 Rates</b>		
	1972	\$1250
	1980	\$975
	1982	\$925
	1985	\$935
	1991	\$795
	1994	\$895
	2003	\$785
	2011 (Assoc./Partner)	\$710
	<b>Associates</b>	
	2012	\$675
	2014	\$650
	2015	\$560
	2017	\$460
	2018	\$515
	Paralegals	\$285-355
	Case Clerk	\$190
	Practice Support Supervisor	\$325
	Practice Support Proj. Mgr.	\$285
<i>Fenwick &amp; West</i>	Cal. Bar Admission	Rates
<b>2021 Rates</b>		
	1995	\$1,040
	2001	\$860
	2005	\$745
	2010	\$720
	2011	\$665
	2016	\$710
	2017	\$470-495
	2018	\$425
	2020	\$325

	Paralegals	\$395
<b><i>Gibson Dunn &amp; Crutcher LLP</i></b>		
<b>2020 Rates</b>	<b>Level</b>	<b>Rates</b>
	Senior Partners	\$1,395 – 1,525
	Senior Associates	\$960
	Mid-level Associate	\$740
	Paralegals	\$480
<b>2019 Rates</b>	<b>Level</b>	<b>Rates</b>
	Senior Partners	\$1,335 – 1,450
	Senior Associates	\$915
	Mid-level Associate	\$625
<b><i>Goldstein Borgen Dardarian &amp; Ho</i></b>		
<b>2020 Rates:</b>	<b>Bar Admission Year</b>	<b>Rates</b>
	1987	\$945
	1992	\$895
	2006	\$750
	2017	\$415
	Senior Paralegal	\$325
	Paralegals	\$265-285
<b>2019 Rates</b>	<b>Law School Graduation</b>	<b>Rates</b>
	1987	\$925
	2006	\$710
	2008	\$595
	2013	\$475
	2015	\$450
	2017	\$400
	Law Student	\$300
	Sr. Paralegals	\$325
	Paralegals	\$275-\$295



<i>Haddad &amp; Sherwin, LLP</i>		
<b>2021 Rates:</b>	<b>Years of Experience</b>	<b>Rates</b>
	30	\$875
	26	\$875
<b>2020 Rates:</b>	<b>Years of Experience</b>	<b>Rates</b>
	29	\$850
	25	\$850
<b>2019 Rates:</b>		
	28	\$825
	24	\$825
<i>Hooper, Lundy &amp; Bookman</i>		
<b>2019 Rates</b>	<b>Law School Graduation Year</b>	<b>Rates</b>
	1975	\$1,025
	1976	\$965
	1979	\$1,025
	2007	\$815
	2011	\$800
	2015	\$640
	2016	\$600
	2019	\$440
<b>2018 Rates</b>	<b>Law School Graduation Year</b>	<b>Rates</b>
	1975	\$1,025
	1976	\$930
	1979	\$995
	2015	\$570
<i>Kaplan, Fox &amp; Kilshheimer</i>		
<b>2020 Rates</b>	<b>Years of Experience</b>	<b>Rate</b>
	34	\$990
		\$975

	30	\$910
	26	\$895
	21	\$830
	23	\$800
	14 (Of Counsel)	\$735
	13 (Assoc.)	\$660
		\$615
	5	\$450
	3	\$395
	Staff/Project Attorney	\$350-425
	Investigator	\$325
	Paralegals	\$100-290
<b><i>Keker &amp; Van Nest, LLP</i></b>		
<b>2019 Rates</b>	<b>Years of Experience</b>	<b>Rates</b>
	39	\$1,075
	9	\$700
<b>2018 Rates</b>	<b>Years of Experience</b>	<b>Rates</b>
	16	\$875
	5	\$600
	3	\$500
<b><i>Keller Rohrback</i></b>		
<b>2020 Rates</b>	<b>Years of Experience</b>	<b>Rate</b>
	38	\$995
	33	\$975
	31	\$885
	25	\$755
	10	\$625
	Project Atty (1 yr)	\$300
	Paralegals	\$230-350



<b><i>Kirkland &amp; Ellis</i></b>		
<b>2021 Rates</b>	<b>Level</b>	<b>Rates</b>
	Partners	\$1,085-\$1,895
	Of Counsel	\$625-1,895
	Associates	\$625-\$1,195
	Paraprofessional	\$255-475
<b><i>Lieff Cabraser Heimann &amp; Bernstein, LLP</i></b>		
<b>2020 Rates</b>	<b>Law School Grad. Year</b>	<b>Rates</b>
	1972	\$1,075
	1998	\$950
	1993	\$900
	1984	\$850
	2000	\$775
	2001-2002	\$700
	2005	\$650
	2007	\$590
	2008	\$560
	2012	\$480-\$510
	2015	\$440
	2017	\$395
	Law Clerk	\$375-\$395
	Paralegal/Clerk	\$345-390
	Litigation Support/Research	\$345-495
<b><i>McCracken, Stemerma &amp; Holsberry</i></b>		
<b>2020 Rates</b>	<b>Law School Grad. Year</b>	<b>Rates</b>
	1975	\$850
	2008	\$750
	2014	\$575
	2018-2019	\$400

<b><i>Morrison Foerster LLP</i></b>		
<b>2021 Rates</b>	<b>Law School Grad. Year</b>	<b>Rate</b>
	2002	\$1,200
	2011	\$1,075
	2014	\$925
	2018	\$745
	Paralegal	\$295
<b>2020 Rates</b>	<b>Law School Grad. Year</b>	<b>Rate</b>
	2002	\$1,125
	2011	\$975
	2014	\$810
	2018	\$640
	Paralegal	\$275
<b>2018 Rates</b>	<b>Years of Experience</b>	<b>Rates</b>
	40	\$1,050
	22	\$950
	11	\$875
	3	\$550
	Paralegal	\$325

<b><i>Munger, Tolles &amp; Olson</i></b>		
<b>2021 Rates</b>	<b>Law School Grad. Year</b>	<b>Rate</b>
	1991	\$1,725
	2009	\$995
	2016	\$825
	Paralegal (43 years)	\$365
<b>2020 Rates</b>	<b>Law School Grad. Yr.</b>	<b>Rate</b>
	1991	\$1,610
	2001	\$950
	2009	\$920
	2016	\$725
	Paralegal (42 years)	\$345
<b><i>O'Melveny &amp; Myers</i></b>		
<b>2019 Rates</b>	<b>Level</b>	<b>Rates</b>
	Senior Partner	\$1,250
	Partner (1998 Bar Admitted)	\$1,050
	3rd Year Associate	\$640
	2nd Year Associate	\$656
<b><i>Paul Hastings LLP</i></b>		
<b>2020 Rates</b>	<b>Years of Experience</b>	<b>Rates</b>
	25	\$1,425
	7	\$885
	5	\$775
	3	\$645
	Research assistant	\$335
<b><i>Pearson Simon &amp; Warshaw LLP</i></b>		
<b>2019 Rates</b>	<b>Years of Experience</b>	<b>Rates</b>
	23-38	\$1,150
	10	\$900
	Of Counsel	\$825
	6	\$500

	4	\$450
	Paralegals	\$225
<b>2018 Rates</b>	<b>Years of Experience</b>	<b>Rates</b>
	22-37	\$1,050
	9	\$650
	Of Counsel	\$725
	5	\$450
	3	\$400
<b><i>Pillsbury &amp; Coleman</i></b>		
<b>2020 Rates</b>	<b>Law School Grad. Year</b>	<b>Rates</b>
	1979	\$960
	1976	\$675
	1990	\$550
	2010	\$475
	Paralegal	\$225
<b><i>Quinn Emanuel Urquhart &amp; Sullivan</i></b>		
<b>2020 Rates</b>	<b>Level</b>	<b>Rate</b>
	Partners	\$870-\$1,250
	Associates	\$600-\$905
<b>2018 Rates</b>	<b>Law School Graduation Yr.</b>	<b>Rates</b>
	1980	\$1,135
	2016	\$630
<b><i>Reed Smith LLP</i></b>		
<b>2020 Rates</b>	<b>Years of Experience</b>	<b>Rates</b>
	22	\$930
	14	\$840
	16	\$780
	Paralegals	\$250

<b>Rosen, Bien, Galvan &amp; Grunfeld LLP</b>		
<b>2021 Rates (partial)</b>	<b>Law School Class</b>	<b>Rates</b>
<i>Partner</i>	1984	\$925
<i>Senior Counsel</i>	2008	\$675
	2010	\$600
Associate	2016	\$465
Summer Associate	NA	\$300
Senior Paralegal		\$375
Paralegal		\$275
<b>2020 Rates</b>	<b>Law School Class</b>	<b>Rate</b>
<i>Partners</i>		
	1962	\$1,100
	1980	\$1,100
	1981	\$950
	1984	\$875
	1997	\$825
	2005	\$730
	2008	\$660
<i>Of Counsel</i>		
	1993	\$740
	2003	\$715
<i>Senior Counsel</i>		
	2008	\$635
	2009	\$625
	2010	\$565
<i>Associates</i>		
	2011	\$540
	2013	\$480
	2015	\$460
	2016	\$440

	2017	\$395
<i>Sr. Paralegals</i>		\$320-\$350
<i>Paralegals</i>		\$250-\$275
<i>Litigation Support/Paralegal Clerks</i>		\$225
<i>Law Students</i>		\$275
<i>Word Processing</i>		\$85
<b>2019 Rates</b>	<b>Class</b>	<b>Rates</b>
<i>Partners</i>		
	1962	\$1,050
	1980	\$1,000
	1981	\$940
	1984	\$860
	1997	\$800
	2005	\$700
	2008	\$640
<i>Of Counsel</i>		
	1993	\$725
	2003	\$700
<i>Senior Counsel</i>		
	2008	\$610
	2009	\$585
<i>Associates</i>		
	2010	\$540
	2011	\$525
	2013	\$460
	2015	\$440
	2016	\$400
	2017	\$350
<i>Senior Paralegals</i>		\$350



<i>Litigation Support/Paralegal Clerks</i>		\$225
<i>Law Students</i>		\$275
<i>Word Processing</i>		\$85
<b>2018 Rates</b>	<b>Class</b>	<b>Rates</b>
<i>Partners</i>		
	1962	\$1,000
	1980	\$965
	1981	\$920
	1984	\$835
	1997	\$780
	2005	\$650
<i>Of Counsel</i>		
	1983	\$800
	1993	\$700
	2003	\$675
<i>Senior Counsel</i>		
	2008	\$585
<i>Associates</i>		
	2009	\$535
	2010	\$525
	2011	\$500
	2013	\$440
	2015	\$410
	2016	\$375
<i>Paralegals</i>		\$340-\$240
<i>Litigation Support/Paralegal Clerks</i>		\$225
<i>Law Students</i>		\$275
<i>Word Processing</i>		\$85

<i>Law Office of James M. Sitkin</i>		
2020 Rate	Years of Experience	Rate
	37	\$1,000
<i>Law Office of James Sturdevant</i>		
2020 Rate	Years of Experience	Rate
	47	\$975
2019 Rate		
	46	\$950
<i>Villegas/Carrera</i>		
2019 Rates:	Years of Experience	Rate
	26	\$894
	23	\$826
	3	\$350
<i>Winston &amp; Strawn</i>		
2019 Rates	Title	Rates
	Partners	\$1,515
		\$1,245
		\$1,105
		\$1,025
	Associates	\$825
		\$660
		\$615
2018 Rates	Title	Rates
	Partners	\$1,445
		\$1,185
		\$1,050
		\$820
	Associates	\$765
		\$585



	Paralegals	\$170-\$340
	Litigation Support Mgr.	\$275
	Review Attorneys	\$85

# **EXHIBIT D**



# 2021 Real Rate Report<sup>®</sup>

The Industry's  
Leading Analysis  
of Law Firm Rates,  
Trends, and Practices



ELM Solutions

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## A Letter to Our Readers

Welcome to the Wolters Kluwer's ELM Solutions Real Rate Report®, the industry's leading data-driven benchmark report for lawyer rates.

Our Real Rate Report has been a relied upon data analytics resource to the legal industry since its inception in 2010 and continues to evolve. The Real Rate Report is powered by Wolters Kluwer's ELM Solutions LegalVIEW® data warehouse, the world's largest source of legal performance benchmark data, which has grown to include over \$150 billion in anonymized legal data.

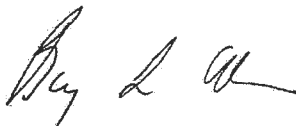
This year, we launched our LegalVIEW Insights Report series, which explores the emerging trends behind the overall legal spend volatility seen in corporate legal departments. The insights reports coupled with the Real Rate Report are great tools to drive actionable decisions.

The legal services industry relies on internal analytics and the use of external data resources, such as the LegalVIEW® data warehouse, to support legal management strategies. The depth and details of the data in the Real Rate Report enable you to better benchmark and make more informed investment and resourcing decisions for your organization.

As with past Real Rate Reports, all of the data analyzed are from corporations' and law firms' e-billing and time management solutions. We have included lawyer and paralegal rate data filtered by specific practice and sub-practice areas, metropolitan areas, and types of matters to give legal departments and law firms greater ability to pinpoint areas of opportunity. We strive to make the Real Rate Report a valuable and actionable reference tool for legal departments and law firms.

As always, we welcome your comments and suggestions on what information would make this publication more valuable to you. We thank our data contributors for participating in this program. And we thank you for making Wolters Kluwer's ELM Solutions your trusted partner for legal industry domain expertise, data, and analytics and look forward to continuing to provide market-leading, expert solutions that deliver the best business outcomes for collaboration among legal departments and law firms.

Sincerely,



**Barry Ader**

Vice President, Product Management and Marketing  
Wolters Kluwer's ELM Solutions

## Report Use Considerations

### 2021 Real Rate Report

- Examines law firm rates over time
- Identifies rates by location, experience, firm size, areas of expertise, industry, and timekeeper role (i.e., partner, associate, and paralegal)
- Itemizes variables that drive rates up or down

All the analyses included in the report derive from the actual rates charged by law firm professionals as recorded on invoices submitted and approved for payment.

Examining real, approved rate information, along with the ranges of those rates and their changes over time, highlights the role these variables play in driving aggregate legal cost and income. The analyses can energize questions for both corporate clients and law firm principals.

Clients might ask whether they are paying the right amount for different types of legal services, while law firm principals might ask whether they are charging the right amount for legal services and whether to modify their pricing approach.

### Some key factors<sup>1</sup> that drive rates<sup>2</sup>:

**Attorney location** - Lawyers in urban and major metropolitan areas tend to charge more when compared with lawyers in rural areas or small towns.

**Litigation complexity** - The cost of representation will be higher if the case is particularly complex or time-consuming; for example, if there are a large number of documents to review, many witnesses to depose, and numerous procedural steps, the case is likely to cost more (regardless of other factors like the lawyer's level of experience).

**Years of experience and reputation** - A more experienced, higher-profile lawyer is often going to charge more, but absorbing this higher cost at the outset may make more sense than hiring a less expensive lawyer who will likely take time and billable hours to come up to speed on unfamiliar legal and procedural issues.

**Overhead** - The costs associated with the firm's support network (paralegals, clerks, and assistants), document preparation, consultants, research, and other expenses.

**Firm size** - The rates can increase if the firm is large and has various timekeeper roles at the firm. For example, the cost to work with an associate or partner at a larger firm will be higher compared to a firm that has one to two associates and a paralegal.

### Rates increase in geographic areas with growing population

Additional analysis was performed to examine the impact of geographic location on law firm hourly rates. This report, like previous ones, shows that large, cosmopolitan legal services markets like New York City, San Francisco, and Los Angeles are associated with higher hourly rates. In addition, our analysis reveals a significant spike in hourly rates in areas of the country

<sup>1</sup> David Goguen, J.D., University of San Francisco School of Law (2020) Guide to Legal Services Billing Retrieved from: <https://www.lawyers.com/legal-info/research/guide-to-legal-services-billing-rates.html>

<sup>2</sup> Source: 2018 RRR. Factor order validated in multiple analyses since 2010

## Report Use Considerations

that are currently experiencing high population growth. Significant average rate increases occurred from 2020 to 2021 in many areas, but especially Fresno, California (~15% average rate increase), Greenville, SC (~18%), Miami, FL (~9%), Nashville, TN (~11%), Oklahoma City (~13%), Phoenix, AZ (~10%), and Seattle, WA (~11%) -- all of which have experienced much higher than average population growth in recent years.

The correlation between hourly rates and population growth makes sense. When people and businesses move into an area, it creates a spike in demand for all sorts of goods and services, including legal services. However, it is hard for the supply of legal services to move as quickly as demand because attorneys looking to move into a new geographic area face high switching costs that most will refuse to pay unless they absolutely have to.

First, attorneys looking to take work in a new state have to get licensed there, which takes time and effort and is a distraction that can reduce their current income in the form of the number of hours they are able to bill to clients. Second, despite the rise in remote working, many attorneys looking to establish practices in a new geographic location may have to establish at least some physical presence there, find a new office, new lodging, and potentially uproot their entire family. Third, even if the switching costs of licensure, physically moving, etc. are paid, attorneys may fear yet another switching cost in the form of attrition of their existing clients from their original geographic locale, who may view them as no longer investing in their knowledge of the legal problems and legal solutions that are specific to the original locale.

<sup>3</sup> Source: 2020 RRR. Factor order validated in multiple analyses since 2010



# Section I: High-Level Data Cuts

All data and analysis based on data  
collected thru Q3 2021

**2021 Real Rate Report**

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## Section I: High-Level Data Cuts

### Cities

By Matter Type

#### 2021 - Real Rates for Associate and Partner

#### Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2021	2020	2019
San Diego CA	Litigation	Associate	19	\$150	\$175	\$325	\$254	\$257	\$268
		Partner	96	\$325	\$523	\$1,019	\$670	\$660	\$655
	Non-Litigation	Associate	60	\$226	\$325	\$516	\$395	\$343	\$354
Litigation		Partner	150	\$392	\$663	\$961	\$704	\$703	\$667
	San Francisco CA	Litigation	Associate	108	\$314	\$415	\$628	\$486	\$471
Partner			223	\$468	\$669	\$942	\$730	\$753	\$721
Non-Litigation		Associate	145	\$345	\$465	\$730	\$539	\$536	\$485
	San Jose CA	Litigation	Partner	40	\$600	\$867	\$1,056	\$876	\$880
Associate			27	\$435	\$550	\$745	\$587	\$542	\$471
Non-Litigation		Partner	61	\$618	\$795	\$1,165	\$918	\$910	\$803
	Associate	38	\$370	\$515	\$865	\$622	\$575	\$570	
San Juan PR	Non-Litigation	Partner	13	\$215	\$250	\$294	\$260	\$262	\$260
Seattle WA	Litigation	Partner	91	\$436	\$535	\$741	\$596	\$506	\$498
		Associate	67	\$370	\$507	\$535	\$476	\$410	\$405
	Non-Litigation	Partner	150	\$406	\$505	\$697	\$547	\$553	\$523
		Associate	117	\$300	\$366	\$504	\$411	\$389	\$381



## Section I: High-Level Data Cuts

### Cities

By Years of Experience

2021 - Real Rates for Partner

Trend Analysis - Mean

City	Years of Experience	n	First Quartile	Median	Third Quartile	2021	2020	2019
Portland OR	21 or More Years	44	\$455	\$505	\$585	\$531	\$500	\$466
	Fewer Than 21 Years	15	\$300	\$378	\$455	\$397	\$427	\$408
Raleigh NC	21 or More Years	24	\$275	\$480	\$571	\$452	\$485	\$466
	Fewer Than 21 Years	32	\$610	\$684	\$724	\$638	\$618	\$580
Richmond VA	21 or More Years	36	\$420	\$665	\$805	\$655	\$635	\$625
	Fewer Than 21 Years	20	\$274	\$342	\$432	\$349	\$347	\$381
Salt Lake City UT	21 or More Years	24	\$333	\$393	\$462	\$409	\$378	\$378
	Fewer Than 21 Years	27	\$395	\$540	\$945	\$663	\$552	\$507
San Diego CA	21 or More Years	64	\$357	\$563	\$1,175	\$747	\$701	\$657
	Fewer Than 21 Years	80	\$480	\$705	\$950	\$752	\$718	\$681
San Francisco CA	21 or More Years	158	\$535	\$694	\$960	\$757	\$778	\$737
	Fewer Than 21 Years	18	\$707	\$955	\$1,201	\$979	\$915	\$799
San Jose CA	21 or More Years	56	\$600	\$819	\$1,153	\$915	\$918	\$841
	Fewer Than 21 Years	66	\$402	\$471	\$634	\$511	\$454	\$446
Seattle WA	21 or More Years	90	\$467	\$571	\$698	\$583	\$573	\$547

# EXHIBIT E

# PEER MONITOR

INSIGHT. ADVANTAGE. COMPETITIVE INTELLIGENCE.

## PUBLIC RATES

In a time when the legal market continues to face fluctuating demand and challenges containing expenses, it's critical that your firm stays on top of the latest billing trends and maintains fair, competitive rates while maximizing revenue.

### Take Action to Inform Your Firm

**Public Rates** is a dynamic, web-based billing rate service that gives you anytime access to accurate, court reported, hourly rate data, with details drilling down to the named timekeeper.

It empowers you to quickly and easily slice and analyze rates across user-selected combinations of various attributes, sort targeted record results, view quartile and median rates for searched data, and more.

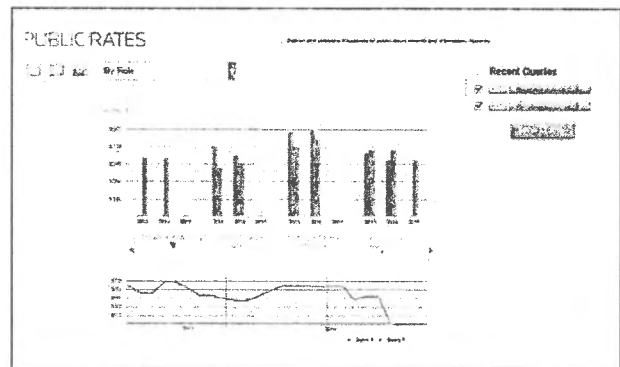
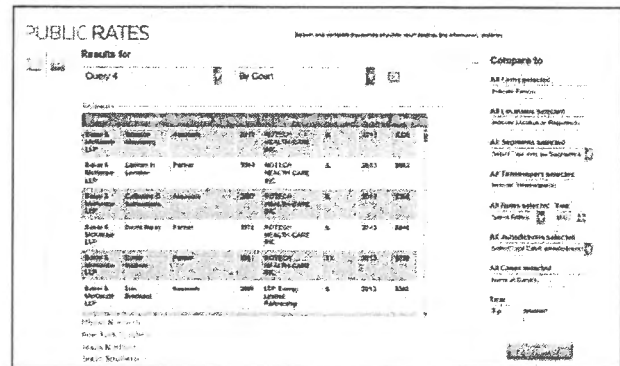
### Then Take Your Rate Analysis One Step Further

As efficient as it is intuitive, **Public Rates** offers deeper billing evaluation with query comparison that allows for firm-to-firm, case-to-case, or even person-to-person rate examination.

What's more, you can quickly and easily find critical insights with features such as click sorting, query naming, and auto-saved search history.

### Use Public Rates to:

- Determine optimal rates and profit opportunities
- Justify rates submitted to courts on fee applications
- Track lawyer performance
- Get pricing transparency in the marketplace



### Get Critical, Actionable Data

Search reported hourly rates by:

- Timekeeper
- Year of admission
- Firm
- Segment
- Location
- Jurisdiction
- Role
- Year of filing
- Case
- Historical records as far back as 7 years

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<b>California Rates (January–May 2018)</b>
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Title	Professional	Firm	Graduated	Admitted	State	Rate	Hours	Total
Partner	David M. Nemecek	Kirkland & Ellis LLP	2003	2003	CA	\$1,395	2.4	\$3,348.00
Partner	Leslie A. Plaskon	Paul Hastings LLP	1988	1988	CA	\$1,275	260	\$331,500.00
Partner	Thomas B. Walper	Munger Tolles & Olson LLC	1980	1980	CA	\$1,225	166.7	\$204,207.50
Partner	Jeffrey B Greenberg	Latham & Watkins LLP	1996	1996	CA	\$1,175	3.3	\$3,877.50
Partner	Mark E. McKane	Kirkland & Ellis LLP	1997	1997	CA	\$1,175	79.1	\$92,942.50
Partner	Paul D Tanaka	Kirkland & Ellis LLP	2003	2003	CA	\$1,145	1.1	\$1,259.50
Partner	Annie Kim	Proskauer Rose LLP	2004	2004	CA	\$1,125	22.1	\$24,862.50
Partner	Jonathan Benloulou	Proskauer Rose LLP	2006	2006	CA	\$1,125	2.9	\$3,262.50
Partner	Robert J Frances	Latham & Watkins LLP	2001	2001	CA	\$1,125	1.7	\$1,912.50
Partner	Dean A. Ziehl	Pachulski Stang Ziehl Young Jones &	1978	1978	CA	\$1,050	73.3	\$76,965.00
Partner	James I. Stang	Pachulski Stang Ziehl Young Jones &	1980	1980	CA	\$1,050	111.4	\$116,970.00
Partner	Alan J. Kornfeld	Pachulski Stang Ziehl Young Jones &	1987	1987	CA	\$1,025	78.9	\$80,872.50
Partner	Stephen D. Rose	Munger Tolles & Olson LLC	1991	1991	CA	\$1,025	63.9	\$65,497.50
Partner	Unger Sean	Paul Hastings LLP	2004	2004	CA	\$1,025	103.2	\$105,780.00
Partner	Stefanie I Gitler	Kirkland & Ellis LLP	2009	2009	CA	\$995	225.1	\$223,974.50
Partner	Tate Eric A.	Morrison & Foerster LLP	1995	1995	CA	\$990	0.3	\$297.00
Partner	Michael Esser	Kirkland & Ellis LLP	2009	2009	CA	\$965	542.6	\$523,609.00
Associate	Campbell Gavin	Kirkland & Ellis LLP	2012	2012	CA	\$950	227.7	\$216,315.00
Partner	David M. Bertenthal	Pachulski Stang Ziehl Young Jones &	1993	1989	CA	\$950	107.7	\$102,315.00
Associate	Olsen Katrina	Kirkland & Ellis LLP	2014	2014	CA	\$950	4.6	\$4,370.00
Partner	Janie F. Schulman	Morrison & Foerster LLP	1987	1987	CA	\$925	0.2	\$185.00
Associate	Jacob Johnston	Kirkland & Ellis LLP	2013	2013	CA	\$905	5	\$4,525.00
Partner	Kenneth H. Brown	Pachulski Stang Ziehl Young Jones &	1981	1977	CA	\$895	5.9	\$5,280.50
Partner	Kevin S. Allred	Munger Tolles & Olson LLC	1986	1986	CA	\$875	209.7	\$183,487.50
Partner	Knudsen Erik G.	Morrison & Foerster LLP	2007	2007	CA	\$875	269.4	\$235,725.00
Counsel	Adam Lin	Orrick, Herrington & Sutcliffe LLP	2004	2004	CA	\$850	3	\$2,550.00
Associate	Austin Klar	Kirkland & Ellis LLP	2013	2013	CA	\$845	173	\$146,185.00
Associate	Michael Saretsky	Kirkland & Ellis LLP	2015	2015	CA	\$835	237.2	\$198,062.00
Of Counsel	Harry D. Hochman	Pachulski Stang Ziehl Young Jones &	1987	1987	CA	\$825	69.1	\$57,007.50
Of Counsel	Lloyd W. Aubry	Morrison & Foerster LLP	1975	1975	CA	\$825	1.6	\$1,320.00
Partner	Seth Goldman	Munger Tolles & Olson LLC	2002	2002	CA	\$825	260.5	\$214,912.50
Of Counsel	Victoria A. Newmark	Pachulski Stang Ziehl Young Jones &	1996	1996	CA	\$825	1.6	\$1,320.00
Of Counsel	Yana S. Johnson	Morrison & Foerster LLP	1999	1999	CA	\$825	3.2	\$2,640.00
Associate	Austin Klar	Kirkland & Ellis LLP	2013	2013	CA	\$810	23.3	\$18,873.00
Associate	Cynthia Castillo	Kirkland & Ellis LLP	2015	2015	CA	\$810	178.8	\$144,828.00
Associate	Kevin Chang	Kirkland & Ellis LLP	2014	2014	CA	\$810	8.4	\$6,804.00
Of Counsel	Nardali Ali U.	Morrison & Foerster LLP	2008	2008	CA	\$795	4.4	\$3,498.00
Associate	Ramin Montazeri	Latham & Watkins LLP	2016	2016	CA	\$795	10.9	\$8,665.50
Associate	Lee Muhyung	Proskauer Rose LLP	2015	2015	CA	\$780	37.5	\$29,250.00
Of Counsel	Jeffrey L. Kandel	Pachulski Stang Ziehl Young Jones &	1984	1984	CA	\$750	10.7	\$8,025.00
Of Counsel	Bradley R. Schneider	Munger Tolles & Olson LLC	2004	2004	CA	\$735	88.9	\$65,341.50
Associate	Curtis Kelly M	Proskauer Rose.LLP	2016	2016	CA	\$730	39.6	\$28,908.00
Associate	Cynthia Castillo	Kirkland & Ellis LLP	2015	2015	CA	\$725	30.3	\$21,967.50
Associate	Joanna A Gorska	Latham & Watkins LLP	2014	2014	CA	\$725	2.4	\$1,740.00
Counsel	Elissa A. Wagner	Pachulski Stang Ziehl Young Jones &	2001	2001	CA	\$695	5	\$3,475.00
Associate	Benjamin Butterfield	Morrison & Foerster LLP	2014	2014	CA	\$660	883.2	\$582,912.00
Partner	David M. Eaton	Kilpatrick Townsend & Stockton LLP	1996	1996	CA	\$660	5.3	\$3,498.00
Associate	Ankur Sharma	Kirkland & Ellis LLP	2016	2016	CA	\$645	16.4	\$10,578.00
Associate	Maxwell Coll	Kirkland & Ellis LLP	2016	2016	CA	\$630	15	\$9,450.00
Associate	Brashears Travis C	Proskauer Rose LLP	2016	2016	CA	\$595	8.3	\$4,938.50
Associate	Sadeghi Sam	Paul Hastings LLP	2016	2016	CA	\$585	22.9	\$13,396.50
Associate	Jenny Pierce	Kirkland & Ellis LLP	2016	2016	CA	\$555	1.2	\$666.00
Associate	Meg A Webb	Kirkland & Ellis LLP	2017	2017	CA	\$555	1.4	\$777.00

Associate	Peter E. Boos	Munger Tolles & Olson LLC	2014	2014	CA	\$550	88.05	\$48,427.50
Associate	Floyd Armani Solange	Morrison & Foerster LLP	2014	2014	CA	\$540	3.9	\$2,106.00
Associate	Glock Jana	Morrison & Foerster LLP	2015	2015	CA	\$540	22.2	\$11,988.00
Associate	Kerry C. Jones	Morrison & Foerster LLP	2014	2014	CA	\$540	11.5	\$6,210.00
Associate	Roumiantseva Dina	Morrison & Foerster LLP	2014	2014	CA	\$540	5	\$2,700.00
Associate	Scheinok Brittany	Morrison & Foerster LLP	2015	2015	CA	\$485	27.2	\$13,192.00
Associate	Coleman Matthew	Ropes & Gray LLP	2014	2014	CA	\$450	2.5	\$1,125.00
Associate	Tobyn Yael Aaron	Morrison & Foerster LLP	2016	2016	CA	\$435	26.4	\$11,484.00



<b>California Rates (June–December 2018)</b>
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Title	Professional	Firm	Graduated	Admitted	State	Rate	Hours	Total
Partner	Kenneth Klee	Klee, Tuchin, Bogdanoff & Stern, LLP	1975	1974	CA	\$1,475	46.4	\$68,440.00
Partner	Eric Reimer	Milbank Tweed Hadley & McCloy LLP	1987	1987	CA	\$1,465	7.9	\$11,573.50
Partner	Gregory A. Bray	Milbank Tweed Hadley & McCloy LLP	1984	1984	CA	\$1,465	234.1	\$342,956.50
Partner	Madden P.C. Rick C	Kirkland & Ellis LLP	1995	1995	CA	\$1,445	31.2	\$45,084.00
Partner	David M. Nemecek	Kirkland & Ellis LLP	2003	2003	CA	\$1,395	2.4	\$3,348.00
Partner	Browning P.C. Marc D	Kirkland & Ellis LLP	1998	1998	CA	\$1,375	4.2	\$5,775.00
Partner	Isaac M Pachulski	Pachulski Stang Ziehl Young Jones &	2014	2014	CA	\$1,295	0.7	\$906.50
Partner	Walker Elizabeth W	Sidley Austin LLP	1984	1984	CA	\$1,250	3.7	\$4,625.00
Partner	David Stern	Klee, Tuchin, Bogdanoff & Stern, LLP	1975	1975	CA	\$1,245	67.4	\$83,913.00
Partner	Michael Tuchin	Klee, Tuchin, Bogdanoff & Stern, LLP	1990	1990	CA	\$1,245	191.1	\$237,919.50
Partner	Richard M. Pachulski	Pachulski Stang Ziehl Young Jones &	1979	1979	CA	\$1,245	274.7	\$342,001.50
Partner	Dennis Arnold	Gibson Dunn & Crutcher, LLP	1976	1975	CA	\$1,210	65.2	\$78,892.00
Partner	Cromwell Montgomery	Gibson Dunn & Crutcher, LLP	1997	1997	CA	\$1,205	0.9	\$1,084.50
Partner	Oscar Garza	Gibson Dunn & Crutcher, LLP	1990	1990	CA	\$1,205	116.1	\$139,900.50
Partner	Austin V Schwing	Gibson Dunn & Crutcher, LLP	2000	2000	CA	\$1,155	0.7	\$808.50
Partner	Douglas Michael Fuchs	Gibson Dunn & Crutcher, LLP	2007	2007	CA	\$1,155	53.5	\$61,792.50
Partner	Annie Kim	Proskauer Rose LLP	2004	2004	CA	\$1,125	11.6	\$13,050.00
Partner	Jonathan Benloulou	Proskauer Rose LLP	2006	2006	CA	\$1,125	2.9	\$3,262.50
Partner	James I. Stang	Pachulski Stang Ziehl Young Jones &	1980	1980	CA	\$1,095	63.4	\$69,423.00
Partner	Farshad E. More	Gibson Dunn & Crutcher, LLP	2003	2003	CA	\$1,080	0.8	\$864.00
Partner	Jesse I. Shapiro	Gibson Dunn & Crutcher, LLP	2000	2000	CA	\$1,080	10.9	\$11,772.00
Partner	David Fidler	Klee, Tuchin, Bogdanoff & Stern, LLP	1998	1997	CA	\$1,075	237.9	\$255,742.50
Special	Brian Stern	Milbank Tweed Hadley & McCloy LLP	2003	2003	CA	\$1,065	7.5	\$7,987.50
Special	Haig Maghakian	Milbank Tweed Hadley & McCloy LLP	2002	2002	CA	\$1,065	264.8	\$282,012.00
Partner	Jesse A. Cripps Jr.	Gibson Dunn & Crutcher, LLP	2011	2011	CA	\$1,045	16.2	\$16,929.00
Partner	Mehta Anjna	Kirkland & Ellis LLP	2000	2000	CA	\$1,045	10.9	\$11,390.50
Of Counsel	Richard J. Gruber	Pachulski Stang Ziehl Young Jones &	1982	1982	CA	\$1,025	9.1	\$9,327.50
Partner	Samuel Newman	Gibson Dunn & Crutcher, LLP	2001	2001	CA	\$1,010	326.5	\$329,765.00
Partner	Debra I. Grassgreen	Pachulski Stang Ziehl Young Jones &	1992	1992	CA	\$995	15.7	\$15,621.50
Associate	Jessica Dombroff	Milbank Tweed Hadley & McCloy LLP	2009	2009	CA	\$995	13.3	\$13,233.50
Partner	Katherine V.A Smith	Gibson Dunn & Crutcher, LLP	2015	2015	CA	\$995	0.6	\$597.00
Partner	Matthew B Dubeck	Gibson Dunn & Crutcher, LLP	2017	2017	CA	\$995	44.1	\$43,879.50
Partner	Robert J. Pfister	Klee, Tuchin, Bogdanoff & Stern, LLP	2001	2001	CA	\$995	123.3	\$122,683.50
Partner	David M. Bertenthal	Pachulski Stang Ziehl Young Jones &	1993	1989	CA	\$975	6.5	\$6,337.50
Partner	Jeffrey N. Pomerantz	Pachulski Stang Ziehl Young Jones &	1989	1989	CA	\$975	66.5	\$64,837.50
Associate	Campbell Gavin	Kirkland & Ellis LLP	2012	2012	CA	\$950	336.5	\$319,675.00
Partner	Henry C. Kevane	Pachulski Stang Ziehl Young Jones &	1986	1986	CA	\$950	4.8	\$4,560.00
Associate	Olsen Katrina	Kirkland & Ellis LLP	2014	2014	CA	\$950	4.6	\$4,370.00
Partner	Stanley E. Goldich	Pachulski Stang Ziehl Young Jones &	1980	1980	CA	\$925	7	\$6,475.00
Associate	Najeh Baharun	Milbank Tweed Hadley & McCloy LLP	2013	2013	CA	\$910	28.3	\$25,753.00
Partner	David M. Guess	Klee, Tuchin, Bogdanoff & Stern, LLP	2005	2005	CA	\$895	84.5	\$75,627.50
Partner	Maria Sountas	Klee, Tuchin, Bogdanoff & Stern, LLP	2006	2006	CA	\$895	23.2	\$20,764.00
Partner	Whitman L. Holt	Klee, Tuchin, Bogdanoff & Stern, LLP	2005	2005	CA	\$895	54.7	\$48,956.50
Associate	Allison Balick	Gibson Dunn & Crutcher, LLP	2009	2009	CA	\$875	5.4	\$4,725.00
Associate	Caldon Brendan W	Kirkland & Ellis LLP	2007	2007	CA	\$875	1.5	\$1,312.50
Associate	Daniel B. Denny	Gibson Dunn & Crutcher, LLP	2005	2005	CA	\$875	436.1	\$381,587.50
Associate	Douglas G. Levin	Gibson Dunn & Crutcher, LLP	2009	2009	CA	\$875	205.2	\$179,550.00
Associate	Genevieve G. Weiner	Gibson Dunn & Crutcher, LLP	2007	2007	CA	\$875	93.7	\$81,987.50
Partner	Maxim B. Litvak	Pachulski Stang Ziehl Young Jones &	1997	1997	CA	\$875	89.6	\$78,400.00
Associate	Melissa Leigh Barshop	Gibson Dunn & Crutcher, LLP	2006	2006	CA	\$875	5	\$4,375.00
Associate	Jonathan Schaeffler	Gibson Dunn & Crutcher, LLP	2016	2016	CA	\$860	1.9	\$1,634.00
Partner	Joshua M. Fried	Pachulski Stang Ziehl Young Jones &	1995	1995	CA	\$850	74.1	\$62,985.00
Of Counsel	Gurule Julian I	Klee, Tuchin, Bogdanoff & Stern, LLP	2007	2007	CA	\$825	39.3	\$32,422.50

Associate	Ian T. Long	Gibson Dunn & Crutcher, LLP	2015	2015 CA	\$820	140	\$114,800.00
Associate	Goldberg Zachary	Milbank Tweed Hadley & McCloy LLP	2016	2016 CA	\$790	162.4	\$128,296.00
Associate	Lee Muhyung	Proskauer Rose LLP	2015	2015 CA	\$780	28.2	\$21,996.00
Partner	Jamie L. Edmonson	Venable LLP	1996	1996 CA	\$765	180.3	\$137,929.50
Associate	Tiffany X. Phan	Gibson Dunn & Crutcher, LLP	2013	2013 CA	\$760	8.7	\$6,612.00
Of Counsel	Erin Gray	Pachulski Stang Ziehl Young Jones &	1992	1991 CA	\$750	9.9	\$7,425.00
Partner	Justin D. Yi	Klee, Tuchin, Bogdanoff & Stern, LLP	2009	2009 CA	\$750	3.9	\$2,925.00
Associate	Chapple Catherine L.	Morrison & Foerster LLP	2012	2012 CA	\$725	4	\$2,900.00
Associate	Jonathan M. Weiss	Klee, Tuchin, Bogdanoff & Stern, LLP	2012	2012 CA	\$725	195.4	\$141,665.00
Of Counsel	William Ramseyer	Pachulski Stang Ziehl Young Jones &	1980	1980 CA	\$725	18.8	\$13,630.00
Associate	Sarah A. Carnes	Cooley LLP	2014	2014 CA	\$710	146.1	\$103,731.00
Associate	Latta R T	Jones Day	2011	2011 CA	\$700	194.5	\$136,150.00
Associate	Samuel M. Kidder	Klee, Tuchin, Bogdanoff & Stern, LLP	2012	2012 CA	\$675	88.6	\$59,805.00
Associate	Thomas H Alexander	Gibson Dunn & Crutcher, LLP	2015	2015 CA	\$660	23.7	\$15,642.00
Associate	Sasha M. Gurvitz	Klee, Tuchin, Bogdanoff & Stern, LLP	2014	2014 CA	\$625	114.9	\$71,812.50
Associate	Robert J. Smith	Klee, Tuchin, Bogdanoff & Stern, LLP	2016	2016 CA	\$600	35.8	\$21,480.00
Associate	Brashears Travis C	Proskauer Rose LLP	2016	2016 CA	\$595	8.3	\$4,938.50
Associate	Matthew S Coe-Odess	Gibson Dunn & Crutcher, LLP	2016	2016 CA	\$595	16.9	\$10,055.50
Associate	Katherine A Lau	Gibson Dunn & Crutcher, LLP	2017	2017 CA	\$525	97.7	\$51,292.50
Associate	Tran J L	Jones Day	2015	2015 CA	\$525	60.2	\$31,605.00
Associate	Nicholas A. Koffroth	Venable LLP	2012	2012 CA	\$515	94.9	\$48,873.50
Associate	Liu R Q	Jones Day	2015	2015 CA	\$475	34.2	\$16,245.00
Associate	Stuart B W	Jones Day	2013	2013 CA	\$475	208.6	\$99,085.00
Associate	Doyle A M	Jones Day	2017	2017 CA	\$450	6.5	\$2,925.00
Associate	Udenka Honieh	Brown Rudnick LLP	2017	2017 CA	\$375	1	\$375.00

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10 Attorneys for Plaintiffs Jane Roes 1-2 *et al.*

11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 JANE ROES 1-2 *et al.*,  
14 Plaintiffs,  
15 v.  
16 SFBSC MANAGEMENT, LLC *et al.*,  
17 Defendants.

Civil Case No. 14-cv-03616-LB

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS JANE ROE 1 AND JANE  
ROE 3’S MOTION FOR AWARD OF  
ATTORNEYS’ FEES AND COSTS AND  
SERVICE AWARDS**

The Honorable Laurel Beeler

Date: November 17, 2022  
Time: 9:30 A.M.  
Courtroom: Courtroom C, 15th Floor  
450 Golden Gate Avenue  
San Francisco, California

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21 Plaintiffs Jane Roe 1 and Jane Roe 3’s Motion for Award of Attorneys’ Fees and Costs  
22 and Service Awards (the “Motion”) came on regularly for hearing on November 17, 2022, at 9:30  
23 a.m., in the United States District Court for the Northern District of California, The Honorable  
24 Laurel Beeler presiding. All parties were represented by counsel.

25 Having considered the memoranda and declarations, oral arguments of counsel, the  
26 relevant statutory and case law, and the other records, pleadings, and papers filed in this  
27 action, the Court GRANTS Plaintiffs Jane Roe 1 and Jane Roe 3’s Motion and orders and  
28 finds as follows:

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**Introduction**

1. On June 30, 2022, the Court granted preliminary approval of the Release and Settlement Agreement, as amended (*see* Ex. B to ECF 239-1 at 47-264 and ECF 263-1 at Ex. 1) (the “Settlement Agreement,” “Agreement,” or “Settlement”). *See* ECF No. 268, 268-1, and 268-2 (Preliminary Approval Order).<sup>1</sup> The Court hereby incorporates by reference the that order’s summary and analysis of the lawsuits and the proposed Settlement. Capitalized terms throughout this order have the definitions given them in the Settlement Agreement.

**Attorneys’ Fees and Costs**

2. Under Federal Rules of Civil Procedure 23(h)(1) and Rule 54(d)(2), Plaintiffs in this class action have moved for an award of attorneys’ fees and costs and service awards. Pursuant to Rule 23(h)(3), the Court must make findings of fact and state its conclusions of law.

3. This class action settlement resolves a wage-and-hour dispute on a class-wide basis.

4. The Court’s June 30, 2022 order (ECF No. 268) granted preliminary approval of the class-wide Settlement Agreement, an agreement which gives the Court discretion to award Attorneys’ Fees and Expenses to compensate Class Counsel for their fees, costs, and expenses. *See* Settlement Agreement § 10.2. The Settlement states: “Class Counsel will apply to the Court for an award of: (1) attorneys’ fees in an amount that does not exceed thirty-five percent (35%) of the Settlement Consideration; and (2) up to eighty thousand dollars (\$80,000) in Litigation Expenses.” *See* Settlement Agreement § 10.1.

5. The Settlement provides: “The disposition of Class Counsels’ applications for an Attorneys’ Fees and Expense Award is within the sound discretion of the Court. Any disapproval or modification by the Court of such applications shall not: a) affect the enforceability of the Settlement or this Agreement, b) provide any of the Parties with the right to terminate the Settlement or this Agreement, or c) impose any obligation on the Defendants to increase the Settlement Consideration extended in connection with the Settlement, including but not limited to

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<sup>1</sup> Record citations refer to material in the Electronic Case File (“ECF”); pinpoint citations are to the ECF-generated page numbers at the top of the documents.

1 the total amount of the Cash Pool as provide for herein.” *See* Settlement Agreement § 10.2.

2 6. The Settlement Consideration is at least \$6.5 million. *See* Order of June 30, 2022,  
3 ECF No. 268 at 9:9-11 (“The total Settlement Consideration is at least \$6.5 million (all non-  
4 reversionary), divided into a Cash Pool of \$4 million, a Dance Fee Pool of \$500,000, and changed  
5 business practices valued at a minimum of \$2,000,000.”). *See* Supplemental Brief, ECF No. 263  
6 at 4:28-5:4.

7 7. Because the Settlement Consideration is at least \$6.5 million, attorneys’ fees of  
8 35% would be at least \$2,275,000.

9 8. Rule 23(h) of the Federal Rules of Civil Procedure provides: “In a certified  
10 class action, the court may award reasonable attorney’s fees and nontaxable costs that are  
11 authorized by . . . the parties’ agreement.” The Rule further provides that “[a] claim for an award  
12 must be made by motion under Rule 54(d)(2),” notice of which must be “directed to class  
13 members in a reasonable manner” and that the Court “must find the facts and state its legal  
14 conclusions under Rule 52(a).” Fed. R. Civ. P. 23(h)(1) & (3). In turn, Rule 54(d)(2) requires a  
15 claim for fees to be made by motion, and specifies its timing and content, including, in relevant  
16 part, “the grounds entitling the movant to the award” and “the amount sought.” Fed. R. Civ. P.  
17 54(d)(2)(B).

18 9. Plaintiffs Jane Roe 1 and Jane Roe 3 filed their Motion for Award of Attorneys’  
19 Fees and Costs and Service Awards on September 6, 2022, in compliance with the schedule that  
20 the Court ordered (*i.e.*, 15 days after Notice Packets are mailed). *See* ECF No. 268 at 31:13-14.  
21 Notice of that motion was provided in the class notice.

22 10. When counsel recovers a common fund that confers a “substantial benefit” on a  
23 class of beneficiaries, counsel is “entitled to recover their attorney's fees from the fund.” *Fischel*  
24 *v. Equitable Life Assurance Soc’y of the U.S.*, 307 F.3d 997, 1006 (9th Cir. 2002); *Taylor v.*  
25 *Meadowbrook Meat Co., Inc.*, 2016 WL 4916955, at \*5 (N.D. Cal. Sept. 15, 2016).

26 11. When “the settlement produces a common fund for the benefit of the entire class,  
27 courts have discretion to employ either the lodestar method or the percentage-of-recovery  
28 method” of calculating attorneys’ fees awards. *In re Bluetooth Headset Prods. Liab. Litig.*, 654

1 F.3d 935, 942 (9th Cir. 2011).

2 12. Under the percentage-of-the-fund method, it is appropriate to base the percentage  
3 calculation on the gross settlement amount. *See generally Boeing v. Gemert*, 444 U.S. 472, 479,  
4 100 S. Ct. 745, 62 L. Ed. 2d 676 (1980); *Williams v. MGM-Pathe Commc 'ns Co.*, 129 F.3d 1026,  
5 1027 (9th Cir. 1997). Indeed, “[w]here the settlement involves a common fund, courts typically  
6 award attorney’s fees based on a percentage of the total settlement.” *Taylor v. Meadowbrook*  
7 *Meat Co., Inc.*, 2016 WL 4916955, at \*5 (N.D. Cal. Sept. 15, 2016)

8 13. The Court adopts the percentage-of-the-fund approach here and finds that the fee-  
9 and-expense amount is reasonable. The Ninth Circuit has stated that “25 percent of the fund [i]s  
10 the ‘benchmark’ award that should be given in common fund cases.” *Six (6) Mexican Workers v.*  
11 *Arizona Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990). That said, “the exact percentage  
12 varies depending on the facts of the case, and in ‘most common fund cases, the award exceeds  
13 that benchmark.’” *Johnson v. General Mills, Inc.*, 2013 U.S. Dist. LEXIS 90338, at \*20 (C.D.  
14 Cal. June 17, 2013) (quoting *Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482, 491 (E.D.  
15 Cal. 2010).

16 14. This Court and other courts have approved payments of attorneys’ fees amounting  
17 to one-third of the common fund, including in comparable wage-and-hour class actions where,  
18 like here, the results obtained were excellent and the risks were great. *See, e.g., Nucci v. Rite Aid*  
19 *Corp.*, No. 3:19-cv-01434-LB, 2022 U.S. Dist. LEXIS 94936, at \*16 (N.D. Cal. May 26, 2022)  
20 (granting final approval of a wage-and-hour class action settlement and awarding attorneys’ fees  
21 of 33.33% of the total settlement amount and finding that this percentage is “in line with similar  
22 wage-and-hour cases where the results obtained were excellent and the risks were great”);  
23 *Zamora v. Lyft, Inc.*, No. 3:16-cv-02558-VC, 2018 WL 4657308, at \*3 (N.D. Cal. Sept. 26, 2018)  
24 (one-third award is “consistent with the Ninth Circuit authority and the practice in this District.”);  
25 *see also Wren v. RGIS Inventory Specialists*, No. 06-CV-5778-JCS, 2011 U.S. Dist. LEXIS  
26 38667, at \*79-\*80 (N.D. Cal. Apr. 1, 2011) (awarding fees of over 40% of the settlement fund  
27 where class counsel created a gross settlement fund of \$27 million on behalf of more than 62,000  
28 class members in a wage-and-hour case); *Bennett v. SimplexGrinnell LP*, No. 11-cv-01854-JST,



1 2015 U.S. Dist. LEXIS 192870, at \*19-21 (N.D. Cal. Sep. 3, 2015) (approving attorneys’ fees of  
2 approximately 38.8% of the settlement fund in wage-and-hour class action settlement); *Jones v.*  
3 *CertifiedSafety*, 3:17-cv-02229-EMC, ECF No. 232 (N.D. Cal. June 1, 2020) (awarding fees  
4 based on one-third of the common fund in wage-and-hour class action); *Bergman v. Thelen LLP*,  
5 No. 3:08-cv-05322-LB, 2016 U.S. Dist. LEXIS 170861, at \*21 (N.D. Cal. Dec. 9, 2016)  
6 (employment class action); *Foster v. Adams & Assocs.*, No. 18-cv-02723-JSC, 2022 U.S. Dist.  
7 LEXIS 25071, at \*27-29 (N.D. Cal. Feb. 11, 2022) (granting final approval of an ERISA class  
8 action settlement and awarding attorneys’ fees of 33.3% of the total settlement amount); *Bautista-*  
9 *Perez v. Juul Labs, Inc.*, No. 20-CV-01613-HSG, 2022 WL 2239838, at \*9 (N.D. Cal. June 22,  
10 2022) (granting final approval of an employment class action settlement and awarding attorneys’  
11 fees of 30% of the total settlement amount). These similar cases further support Plaintiffs’  
12 attorney’s fees request.

13 15. Customary privately negotiated contingent percentages may be taken into account  
14 in determining a reasonable fee, and such percentages typically range from 33% to 40% of any  
15 recovery. *See, e.g., Fernandez v. Victoria Secret Stores, LLC*, 2008 WL 8150856, at \*16 (C.D.  
16 Cal. July 21, 2008) (“Awarding a percentage fee of 34% is supported by the fact that typical  
17 contingency fee agreements provide that class counsel will recover 33% if the case is resolved  
18 before trial and 40% if the case is tried.”); *Lealao v. Beneficial California, Inc.*, 82 Cal. App. 4th  
19 19, 49-50 (2000) (“a trial court has discretion to adjust the basic lodestar through the application  
20 of a positive or negative multiplier where necessary to ensure that the fee awarded is within the  
21 range of fees freely negotiated in the legal marketplace in comparable litigation.”). Privately  
22 negotiated contingency agreements in employment matters in California typically range from  
23 33% to 40% of any recovery. *See, e.g., Fernandez*, 2008 WL 8150856, at \*12, \*16 (“Cara  
24 Eisenberg is an experienced employment law litigator, whose efforts have resulted in verdicts and  
25 settlements in excess of \$10,000,000. . . . Eisenberg states that the retainer agreement between  
26 counsel and plaintiffs provided for a 35% fee ‘pre-litigation’ and a 40% fee ‘post-litigation.’”).  
27 *Cf. Cotchett, Pitre & McCarthy v. Universal Paragon Corp.*, 187 Cal. App. 4th 1405, 1415  
28 (2010), *as modified on denial of reh’g* (Sept. 21, 2010) (“Contingency fees, in Judge Westerfeld’s



1 experience, typically range from 33 percent to 40 percent of a settlement amount, and a  
2 contingency of 50 percent is not unconscionable.”); Lester Brickman, *Effective Hourly Rates of*  
3 *Contingency–Fee Lawyers: Competing Data and Non–Competitive Fees*, 81 WASH. U.L.Q. 653,  
4 659 n. 11 (“In some jurisdictions, standard contingency fee rates are 33% if the case settles before  
5 trial, 40% if a trial commences, and 50% if the trial is completed”). *See also Vizcaino v. Microsoft*  
6 *Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002) (citing district court’s finding that 20-30% is the  
7 “usual range” and concluding that “the district court considered the relevant circumstances and  
8 did not abuse its discretion in finding a 28% fee award to be reasonable under the percentage  
9 method); *In re Activision Sec. Litig.*, 723 F. Supp. 1373, 1377-78 (N.D. Cal. 1989) (stating that  
10 “nearly all common fund awards range around 30%”); *Morris v. Lifescan, Inc.*, 54 Fed. Appx.  
11 663, 664 (9th Cir. 2003) (affirming 33% fee award); *Pacific Enterprises*, 47 F.3d 373, 379 (9th  
12 Cir. 1995) (same).

13 16. When the Court awards fees above or below the 25% benchmark, the “record must  
14 indicate the Court’s reasons for doing so.” *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS  
15 8476, at \*44 (N.D. Cal. Jan. 26, 2007) (citing *Powers v. Eichen*, 229 F.3d 1249, 1256-57 (9th Cir.  
16 2000)).

17 17. Courts diverge from the 25% benchmark based on a variety of factors, including  
18 “the results obtained, risk undertaken by counsel, complexity of the issues, length of the  
19 professional relationship, the market rate, and awards in similar cases.” *Morales v. Stevco, Inc.*,  
20 2013 WL 1222058, \*2 (E.D. Cal. Mar. 25, 2013); *see also Morris v. Lifescan, Inc.*, 54 Fed.Appx.  
21 663, 664 (9th Cir. 2003) (affirming 33% fee award); *Pacific Enterprises*, 47 F.3d at 379 (same);  
22 *State of Fla. v. Dunne*, 915 F.2d 542, 545 (9th Cir. 1990); *Six Mexican Workers v. Arizona Citrus*  
23 *Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990); *Taylor v. Meadowbrook Meat Co., Inc.*, 2016 WL  
24 4916955, at \*5 (N.D. Cal. Sept. 15, 2016). Indeed, among the circumstances that the Ninth  
25 Circuit has considered relevant in assessing reasonableness of a percentage fee award are: (1) the  
26 results achieved; (2) the riskiness of prosecuting the litigation; (3) whether counsel obtained  
27 benefits for the Class above and beyond the cash settlement fund itself; and (4) the financial  
28 burden carried by Class Counsel in prosecuting the case on a contingency basis. *Vizcaino*, 290

1 F.3d 1043 at 1048-50. In this case, all of those factors favor a finding that an attorneys' fee award  
2 of up to 35% of the value of the settlement would be reasonable. Counsel obtained excellent  
3 results for the class and there were significant risks involved in the litigation.

4 18. "When determining the value of a settlement, courts consider the monetary and  
5 non-monetary benefits that the settlement confers." *Bergman v. Thelen LLP*, 2016 WL 7178529,  
6 at \*8, 2016 U.S. Dist. LEXIS 170861 (N.D. Cal. Dec. 9, 2016); *Brown v. Hain Celestial Grp.,*  
7 *Inc.*, 2016 WL 631880, at \*7, 2016 U.S. Dist. LEXIS 20118 (N.D. Cal. Feb. 17, 2016) (same);  
8 *Taylor v. Meadowbrook Meat Co., Inc.*, 2016 WL 4916955, at \*5, 2016 U.S. Dist. LEXIS 125895  
9 (N.D. Cal. Sept. 15, 2016) (same). *See, e.g., Staton v. Boeing Co.*, 327 F.3d 938, 972-74 (9th Cir.  
10 2003); *Pokorny v. Quixtar, Inc.*, 2013 U.S. Dist. LEXIS 100791, 2013 WL 3790896, \*1 (N.D.  
11 Cal. July 18, 2013) ("The court may properly consider the value of injunctive relief obtained as a  
12 result of settlement in determining the appropriate fee."); *In re Netflix Privacy Litig.*, 2013 U.S.  
13 Dist. LEXIS 37286, 2013 WL 1120801, \*7 (N.D. Cal. Mar. 18, 2013) (settlement value "includes  
14 the size of the cash distribution, the cy pres method of distribution, and the injunctive relief").

15 19. Ninth Circuit precedent requires courts to award class counsel fees based on the  
16 total benefits being made available to class members rather than the actual amount that is  
17 ultimately claimed. *Young v. Polo Retail, LLC*, 2007 U.S. Dist. LEXIS 27269, at \*23, 2007 WL  
18 951821 (N.D. Cal. Mar. 28, 2007) (citing *Williams v. MGM-Pathe Commc'ns Co.*, 129 F.3d 1026  
19 (9th Cir. 1997) ("district court abused its discretion in basing attorney fee award on actual  
20 distribution to class" instead of amount being made available) (quoted language from *Young*));  
21 *Taylor v. Meadowbrook Meat Co., Inc.*, 2016 WL 4916955, at \*5 (N.D. Cal. Sept. 15, 2016).

22 20. The Settlement confers substantial monetary benefits, including a Cash Pool of \$4  
23 million, a Dance Fee Pool of \$500,000, and changed business practices conservatively valued at a  
24 minimum of \$2 million. *See* June 30, 2022 order, ECF No. 268, at 9:8-13:19.

25 21. Defendants will be required to implement all the changed business practices, and  
26 confer upon Class Members the corresponding benefits associated with those changed business  
27 practices, even if the total monetary value of the corresponding benefits exceeds the Parties'  
28 estimates. *See* Settlement Agreement at § 5.1. The Court finds that the valuation of the changed

1 business practices—at least \$2 million—is conservative and reasonable.

2 **Attorneys’ Fees and Costs for The Tidrick Law Firm LLP**

3 22. For work performed through June 12, 2017 by The Tidrick Law Firm LLP and  
4 Public Justice, whose lodestars at that time were \$971,811 and \$106,513.40 respectively  
5 (collectively \$1,078,324.40), the Court previously approved an award of the amounts of  
6 attorneys’ fees and costs requested at that time, *i.e.*, \$950,000 in attorneys’ fees and costs of  
7 \$4,884.81. *See* Order of September 14, 2017 (ECF No. 178).

8 23. Public Justice, which served as Plaintiffs’ co-counsel in this case and recently  
9 withdrew as counsel, has requested that the value of its lodestar set forth in the June 12, 2017  
10 motion papers, *i.e.*, \$106,513.40, revert to the class members. *See* Tidrick Decl. ¶ 17.

11 24. Plaintiffs Jane Roe 1 and Jane Roe 3’s Motion for Award of Attorneys’ Fees and  
12 Costs and Service Awards requests an award of attorneys’ fees to The Tidrick Law Firm LLP in  
13 the amount of \$1.3 million. Their motion correctly analyzes the percentage-of-the-fund  
14 calculation as follows: “The Settlement Consideration is at least \$6.5 million. The requested fee  
15 award to The Tidrick Law Firm LLP in the amount of \$1.3 million is 20% of that amount.”

16 25. Based on the declaration submitted by Plaintiffs’ counsel establishing that The  
17 Tidrick Law Firm’s LLP’s lodestar amount is \$1,354,643.20, the Court finds that the attorneys’  
18 fees requested for The Tidrick Law Firm LLP is supported by a lodestar cross-check. *See* Tidrick  
19 Decl. ¶¶ 12-19. The Court finds that The Tidrick Law Firm LLP’s hours and hourly rates are  
20 reasonable. *See* Tidrick Decl. ¶¶ 20-38; Decl. of Richard M. Pearl ¶¶ 1-26. The firm’s billing  
21 rates are within normal and customary ranges for timekeepers with similar qualifications and  
22 experience in the San Francisco market. *See* Tidrick Decl. ¶¶ 25-28; Decl. of Richard M. Pearl  
23 ¶¶ 1-26; *Cuviello v. Feld Ent., Inc.*, No. 13-cv-04951-BLF, 2015 U.S. Dist. LEXIS 4155, 2015  
24 WL 154197, at \*2 (N.D. Cal. Jan. 12, 2015) (“The Court has broad discretion in setting the  
25 reasonable hourly rates used in the lodestar calculation.”); *Ketchum v. Moses*, 24 Cal. 4th 1122,  
26 1132, 104 Cal. Rptr. 2d 377, 17 P.3d 735 (2001) (court can rely on its own experience); *accord*  
27 *Open Source Sec. v. Perens*, 803 F. App’x 73, 77 (9th Cir. 2020). The rates counsel used are  
28 appropriate given the deferred and contingent nature of counsel’s compensation. *See LeBlanc-*

1 *Sternberg v. Fletcher*, 143 F.3d 748, 764 (2nd Cir. 1998) (“[C]urrent rates, rather than historical  
2 rates, should be applied in order to compensate for the delay in payment . . . .”) (citing *Missouri v.*  
3 *Jenkins*, 491 U.S. 274, 283-84 (1989)); *In re Wash. Pub. Power Supply Sys. Secs. Litig.*, 19 F.3d  
4 1291, 1305 (9th Cir. 1994) (“The district court has discretion to compensate delay in payment in  
5 one of two ways: (1) by applying the attorneys’ current rates to all hours billed during the course  
6 of litigation; or (2) by using the attorneys’ historical rates and adding a prime rate  
7 enhancement.”). Counsel also submitted a sufficient breakdown of the attorneys’ billing efforts  
8 for the Court to reach its conclusion about the lodestar.

9 26. The attorneys’ fees requested for The Tidrick Law Firm LLP, \$1.3 million, is  
10 about 96% of the firm’s lodestar of \$1,354,643.20. *See* Tidrick Decl. ¶¶ 15, 19, 32. The facts here  
11 would warrant a positive multiplier. The fact that the requested fee award results in a “negative  
12 multiplier” supports a finding that the requested percentage of the fund is reasonable and fair.

13 27. The Court concludes that a fee award to The Tidrick Law Firm LLP at the  
14 requested amount, \$1.3 million, is justified. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029  
15 (1998). It is appropriate based on The Tidrick Law Firm LLP’s efforts and the substantial benefits  
16 to the class. It is similar to awards in other cases, where, like here, the results obtained were  
17 excellent and the risks were great. It is supported by the lodestar cross-check, the efficiency of the  
18 litigation, the quality of the representation, and the contingent risk.

19 28. Also, class counsel are entitled to reimbursement of reasonable out-of-pocket  
20 expenses. Fed. R. Civ. P. 23(h); *see Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994)  
21 (attorneys may recover reasonable expenses that would typically be billed to paying clients in  
22 non-contingency matters.); *Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 299 (N.D.  
23 Cal. 1995) (approving reasonable costs in class action settlement). Costs compensable under Rule  
24 23(h) include “nontaxable costs that are authorized by law or by the parties’ agreement.” Fed. R.  
25 Civ. P. 23(h). “The prevailing view is that expenses are awarded in addition to the fee  
26 percentage.” *Jefferson v. H&M Hennes & Mauritz, L.P.*, 2013 U.S. Dist. LEXIS 2875 at \*9 (C.D.  
27 Cal. Jan. 7, 2013) (quoting 1 ALBA CONTE, ATTORNEY FEE AWARDS § 2:08 at 50-51). Plaintiffs’  
28 counsel have advanced costs incurred in this case. The Tidrick Law Firm LLP’s total incurred

1 litigation expenses were \$8,164.32, and do not include the modest, but real, expenses that will be  
2 incurred in the future. *See* Tidrick Decl. ¶ 37 & Ex. C. These costs are reasonable.

3 **Enhancement Payments**

4 29. The Settlement Agreement gives the Court discretion to award enhancement  
5 payments to certain class members. *See* Settlement Agreement § 10.4. The requested  
6 enhancement payments to certain class members for their service and assistance to the Class are  
7 warranted: To Jane Roe 1 and Jane Roe 3, in the amount of \$5,000.00 each; and to Jane Roe 2,  
8 Jane Roe 10, Jane Roe 11, Jane Roe 12, Jane Roe 13, and Jane Roe 22, in the amount of  
9 \$3,000.00 each. *See* ECF No. 239-1 at 80:2-8.

10 **Conclusion**

11 30. In accordance with the findings above, from the Cash Pool of \$4,000,000, the  
12 Court orders an award to The Tidrick Law Firm LLP of \$1.3 million in attorneys' fees and  
13 \$8,164.32 in incurred litigation costs. A separate and additional amount of attorneys' fees and  
14 costs that the Court would have awarded to Public Justice in the amount of \$107,812.50  
15 (including \$106,513.40 in fees and \$1,299.10 in costs), based on the motion and declaration filed  
16 on June 12, 2017 (ECF Nos. 159 and 159-1), shall revert to the class members, per Public  
17 Justice's request.

18 31. The Court awards enhancement payments to Jane Roe 1 and Jane Roe 3 in the  
19 amount of \$5,000.00 each, and to Jane Roe 2, Jane Roe 10, Jane Roe 11, Jane Roe 12, Jane Roe  
20 13, and Jane Roe 22, in the amount of \$3,000.00 each.

21 It is so ORDERED, ADJUDGED, AND DECREED.

22  
23  
24 DATE: \_\_\_\_\_, 2022.

\_\_\_\_\_  
The Honorable Laurel Beeler  
United States District Court