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Attorneys for Petitioners and Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

Wendell G. Moen, Jay Davis, Donna Ventura, Gregory M.  
Bianchini, Alan Hindmarsh, Cal Wood and Sharon Wood,  
on behalf of Themselves and Others Similarly Situated,

Petitioners,

v.

Regents of University of California, and Does, 1 through  
99, inclusive,

Respondents.

No. RG 10530492

**Declaration of Kathleen V. Fisher  
in Support of Motion for  
Attorneys' Fees**

Date: April 10, 2020

Time: 10:00 a.m.

Dept.: 21

Judge: Hon. Winifred Y. Smith

Reservation No.: R-2151296

1 I, KATHLEEN V. FISHER, declare as follows:

2 1. I am a partner with Calvo Fisher & Jacob LLP (“CF&J”), one of the attorneys for  
3 Petitioners and the class. I make this declaration in support of Petitioners’ Motion for Award of  
4 Attorneys’ Fees. I have personal knowledge of the matters set forth herein and could testify thereto under  
5 oath if called as a witness.

6 2. I am admitted to practice law in California and before this Court, and a member in good  
7 standing of the State Bar of California. I have practiced for over 44 years. I have extensive experience  
8 litigating complex class-action cases. Prior to joining CF&J, I was a partner at Morrison & Foerster for  
9 almost 30 years, including as chair of Morrison’s Global Litigation practice.

10 3. I received my B.A. degree from the University of California at Los Angeles, *cum laude*, in  
11 1971. I received my J.D. degree from the University of California, Davis Law School, Order of the Coif  
12 in 1976. I am a Member of the San Francisco Law Library Commission. Throughout my career, I have  
13 participated extensively in California and federal court class action litigation for both plaintiffs and  
14 defendants, including my work for Petitioners on this case.

15 4. William N. Hebert was formerly a partner of CF&J before he retired in December 2015.  
16 He received a J.D. from the University of California, Berkeley, in 1988, and received an A.B. degree  
17 from Stanford University (with distinction) in 1983. He was elected President of the State Bar of  
18 California for the 2010-2011 term. Throughout his career, Mr. Hebert participated extensively in class  
19 action litigation including his work on this case.

20 5. Rodney J. Jacob has been my partner at CF&J for 14 years. Mr. Jacob received his B.S.  
21 (1986) and J.D. (1989) from Georgetown University. He was the law clerk to Judge Lawrence Howard,  
22 Arizona Court of Appeals (1989-1990) and to Chief Justice Jose Dela Cruz, CNMI Supreme Court  
23 (1993-1995). He is admitted to practice law in California and before this Court, and is a member in good  
24 standing of the State Bar of California. Mr. Jacob has 30 years of experience. Both before and after I  
25 joined CF&J, Mr. Jacob and I have worked together on complex litigation matters for over 22 years.

26 6. Maya S. Maravilla is senior counsel with CF&J. Ms. Maravilla received a J.D. from the  
27 University of California, Davis School of Law in 2000 and a B.A. with a double major in English  
28 Literature and Communications from Mills College in 1995. She is admitted to practice law in California

1 and before this Court, and a member in good standing in the State Bar of California. Ms. Maravilla has  
2 practiced for 20 years with extensive experience in complex litigation and employment law and has  
3 significant trial, arbitration and mediation experience in these areas.

4         7.         Alexander M. Freeman is senior counsel with CF&J. He received his J.D. from the  
5 University of California, Berkeley, Order of the Coif, in 2004, and a B.A. from the University of North  
6 Carolina at Chapel Hill in 1994. After graduating from law school, Mr. Freeman served as a law clerk to  
7 the Honorable Dean D. Pregerson of the United States District Court for the Central District of  
8 California. He is admitted to practice law in California and before this Court, and a member in good  
9 standing of the State Bar of California. Mr. Freeman has 16 years of experience. He has practiced  
10 extensively in complex and class action litigation including his work on this case.

11         8.         Dominique S. Palacios has been a paralegal for over 25 years and has worked with CF&J  
12 for 21 years. Mr. Palacios has worked under my direct supervision for the past 14 years and has closely  
13 worked with me and Mr. Jacob on nearly all of our cases, including our complex litigation matters.  
14 Because Mr. Palacios has worked at CF&J for so many years, he is very familiar with the firm's practices  
15 and procedures and has extensive experience preparing litigation and trial materials, in both state and  
16 federal courts, including all aspects of electronic discovery, motions, and other court filings. Mr. Palacios  
17 is so efficient and knowledgeable that he reduces the amount of time that would otherwise be billed by  
18 attorneys at higher hourly rates.

19         9.         Matthew Leon Guerrero has been a paralegal for over 6 years and has worked with CF&J  
20 for over 9 years. Mr. Leon Guerrero has worked under my direct supervision for the past 6 years and  
21 closely worked with me on nearly all of our cases, including complex litigation matters.

22         10.        A chart of CF&J's lodestar, showing a summary of the hours worked in this case by each  
23 CF&J timekeeper and the hourly rates charged, is attached hereto as **Attachment 1**. As reflected in the  
24 chart, this includes work performed up through February 29, 2020. This attachment was prepared under  
25 my direction and supervision.

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1 11. Attachment 1 shows CF&J's lodestar: multiplying the total hours by the rates yields a  
2 lodestar through February 29, 2020 of \$4,620,522.50. The total hours worked by CF&J through February  
3 29 is 7,949.2. In exercising my billing judgment as I regularly do in other cases, I removed time  
4 attributable to non-core timekeepers and wrote off or did not charge for certain other work performed to  
5 account for inefficiencies. In total, I have written off 232.1 hours.

6 12. The rates charged are commensurate with (or below) rates charged for attorneys and  
7 paralegals with similar experience in the San Francisco Bay Area. As reflected in Attachment 1, the  
8 CF&J timekeepers are charging the following rates:

<u>Attorneys</u>	<u>Years of Experience</u>	<u>Rate</u>
Kathleen V. Fisher	44	\$875
William H. Hebert	27 (as of 2015) <sup>1</sup>	\$775
Rodney J. Jacob	30	\$775
Maya J. Maravilla	20	\$650
Alexander M. Freeman	16	\$625
<u>Paralegals</u>		
Dominique S. Palacios	25	\$300
Matthew Leon Guerrero	6	\$225

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18 13. CF&J appeared in the case on November 26, 2013. CF&J became involved so that there  
19 would be a California firm with class action and complex litigation expertise. Several months later the  
20 Stember firm, which was based in Pittsburgh, withdrew from the case and CF&J took over Stember's  
21 responsibilities. CF&J's participation in the litigation was initially overseen by my former partner,  
22 William Hebert, but I have taken on that role since his retirement in December 2015.

23 14. The work performed in the case is described in detail in the declaration of Andrew  
24 Thomas Sinclair, which I have reviewed. The following chart shows the number of hours (excluding time  
25 written off) of work performed by CF&J during each of the 10 stages of litigation described in the  
26

27  
28 <sup>1</sup> Mr. Hebert's years of experience for attorneys is listed based on the time he stopped working on  
the case.

1 Sinclair Declaration. CF&J has participated in all of the major work tasks described in the Sinclair  
 2 Declaration since entering the case.

3	Stage	From	To	Description	Hours
4	1	3-14-09	7-28-11	Petition for Writ of Mandate to Demurrer	
5	2	7-29-11	3-8-13	First Appeal and <i>Requa</i> Opinion	2.1
6	3	3-9-13	1-21-15	Class Certification and Notice to Class	445.9
7	4	1-22-15	12-8-15	Phase I Trial and Statement of Decision	491.4
8	5	12-9-15	2-27-17	Discovery re “Actual Economic Damages”	760.1
9	6	2-28-17	8-4-17	Order re Complete Class List and Second Notice	268.8
10	7	8-5-17	11-27-17	Decertification	228.8
	8	11-28-17	8-1-18	Second Appeal and <i>Moen</i> Opinion	586.9
	9	8-2-18	12-11-19	Mediation, Trial Preparation, and Settlement	4,629.5
	10	12-12-19	Present	Post-Settlement to February 29, 2020	535.7
				<b>TOTAL HOURS:</b>	<b>7,949.2</b>

11 15. The hours of work performed by the individual timekeepers at CFJ over the 10 stages of  
 12 litigation is set forth in the following chart:

13	Stage	KVF	WNH	RJJ	MSM	AMF	DSP	MLG
14	1							
15	2	2.1						
16	3	10.7	320.6		15.4		37.8	61.4
17	4	8.1	199.3		57.0		171.7	55.3
18	5	85.6		102.8	114.2	257.0	174.2	26.3
19	6	5.4		26.5	0.5	121.4	108.2	6.8
20	7	6.0		1.0	1.0	91.7	124.5	4.6
21	8	76.3		4.3		135.2	341.1	30.0
22	9	1267.1		122.3	872.9	1028.4	1178.4	160.4
23	10	178.1		10.1	13.9	120.5	197.9	15.2
24		<b>1,639.4</b>	<b>519.9</b>	<b>267.0</b>	<b>1,074.9</b>	<b>1,754.2</b>	<b>2,333.8</b>	<b>360.0</b>

25 KVF: Kathleen V. Fisher, Partner  
 26 WNH: William N. Hebert, Partner  
 27 RJJ: Rodney J. Jacob, Partner  
 28 MSM: Maya S. Maravilla, Senior Counsel  
 AMF: Alexander M. Freeman, Senior Counsel  
 DSP: Dominique S. Palacios, Senior Paralegal  
 MLG: Matthew Leon Guerrero, Paralegal

16. Based on my litigation experience over the last 44 years, I can say that the issues  
 presented in this case were unusually complex and demanding. The work that was required to bring this

1 case to the favorable outcome reflected in the Settlement Agreement is set forth in the concurrently filed  
2 Sinclair Declaration, which I have reviewed. As shown in the Sinclair Declaration, over the last year and  
3 a half, addressing the issues in the case was particularly labor intensive, and involved tasks that fell into  
4 several overlapping categories of work. During this period, CF&J participated in all of the work  
5 described in the Sinclair Declaration, along with co-counsel, with particular emphasis on the mediation,  
6 settlement structure, and trial preparation work. All of CF&J's work is reflected in contemporaneous  
7 billing records (as well as timekeeper spreadsheets), which CF&J will promptly provide for the Court's  
8 *in camera* review should the Court request.

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

10 Executed this 17 day of March, 2020 at Oakland, California.

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Kathleen V. Fisher

# **ATTACHMENT 1**

