

Consolidated Appeal Nos. 24-3849, 25-2135, 25-2137, 25-3454

**In The United States Court Of Appeals
For The Ninth Circuit**

HEATHER TURREY, OLIVER FIATY, JORDAN HERNANDEZ, and
JEFFREY SAZON, individually, and on behalf of all others similarly situated,

Plaintiffs-Appellees.

v.

VERVENT, INC.; ACTIVATE FINANCIAL, LLC; and DAVID JOHNSON,

Defendants-Appellants.

Appeal From the United States District Court
for the Southern District of California
No. 3:20-cv-00697-DMS-AHG, Hon. Dana M. Sabraw

**DECLARATION OF TIMOTHY G. BLOOD IN SUPPORT OF
APPELLEES' MOTION FOR ATTORNEY FEES AND NON-
TAXED EXPENSES ON APPEAL**

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*Attorneys for Plaintiffs-Appellees HEATHER TURREY, OLIVER FIATY, JORDAN
HERNANDEZ, and JEFFREY SAZON*

I, Timothy G. Blood, declare:

I am the managing partner of the law firm Blood Hurst & O'Reardon, LLP, one of counsel for Plaintiffs and am court-appointed Class Counsel pursuant to Federal Rule of Civil Procedure 23(g) in this action. I have personal knowledge of the matters set forth in this declaration or believe them to be true based on facts and events made available to me and would be competent to testify as to them.

I. INDEX OF EXHIBITS TO THIS DECLARATION AND IN SUPPORT OF THE MOTION

1. Attached to this declaration are true and correct copies of exhibits submitted in support of this motion:

- **Exhibit 1:** Firm Resume for Blood Hurst & O'Reardon, LLP (BHO);
- **Exhibit 2:** Detailed attorney/paralegal time records for work on appeal;
- **Exhibit 3:** Order Granting in Part Motion for Attorneys' Fees, Costs of Suit, Service Awards entered by the district court in this action, Dist. Ct. Dkt. 385 (S.D. Cal. Feb. 26, 2025);

- **Exhibit 4:** Order Granting Motion for Attorneys' Fees entered by the district court in this action on Plaintiffs' supplemental motion for fees, Dist. Ct. Dkt. 398 (S.D. Cal. May 9, 2025);
- **Exhibit 5:** *Friends of Georges, Inc. v. Mulroy*, No. 2:23-cv-02163-TLP-tmp, Plaintiff's Motion for Attorney's Fees and Costs and Incorporated Memorandum in Support Thereof (W.D. Tenn. June 21, 2023);
- **Exhibit 6:** *In re Nikola Liquidating Corp.*, No. 25-10258-TMH, Declaration of Lorenzo Marinuzzi in Support of Application of the Official Committee of Unsecured Creditors of Nikola Corp. for Entry of an Order Authorizing the Employment and Retention of Morrison & Foerster LLP as Counsel Effective as of March 3, 2025 (Bankr. D. Del. Apr. 1, 2025); and
- **Exhibit 7:** Order Granting Attorney Fees and Expenses on Appeal using a 1.5 multiplier entered by Judge Richard Seeborg in *Montera v. Premier Nutrition Corp.* (N.D. Cal. Feb. 3, 2025).

II. PROCEDURAL SUMMARY OF THE CONSOLIDATED APPEALS

2. On June 22, 2023, the jury entered a verdict in favor of Plaintiffs and the class on their RICO claim as to Defendants Vervent, Inc., Activate Financial, LLC, and Defendant David Johnson, and in favor of defendant Laurence Chiavaro. Dist. Ct. Dkt. 300. The jury awarded Plaintiffs and the class \$4,000,000, pre-trebled.

3. Following post-trial motions, the district court entered judgment against the above three identified Defendants on June 18, 2024. Dist. Ct. Dkt. 360. Defendants filed their notice of appeal on June 20, 2024, appealing the judgment. Defendants filed a notice of appeal on March 27, 2025, appealing the order granting, in part, Plaintiffs' Motion for Attorneys' Fees, Costs of Suit, and Service Awards. Dist. Ct. Dkt. 387. On March 27, 2025, Defendants filed an amended notice of appeal "to encompass all orders or judgments listed in the original Notice of Appeal, as well as the District Court's July 16, 2024 Judgment, February 26, 2025 order, and any other orders or decisions that merge therein." Dist. Ct. Dkt. 388. On May 28, 2025, Defendants filed a notice of appeal, appealing the order granting Plaintiffs' Supplemental Motion for Attorneys' Fees. Dist. Ct. Dkt. 399. On June 5, 2025, the appeals

were consolidated following Defendants' unopposed motion to consolidate. App. Dkt. 27.1.

4. On August 19, 2025, Defendants/Appellants filed their opening brief on appeal and their excerpt of record. On November 3, 2025, Plaintiffs/Appellees filed their answering brief and supplemental excerpt of record. Defendants filed their reply on December 22, 2025.

5. Oral argument was held on May 18, 2026. The Ninth Circuit issued its opinion affirming the judgment on August 12, 2026.

III. THE REQUESTED FEES AND EXPENSES ON APPEAL

6. My firm prosecuted this litigation, including the appeals, on a contingent basis with no guarantee of recovery. Along with co-counsel, we (Plaintiffs' counsel collectively) incurred 100% of the risk in pursuing the litigation over the course of almost 7 years. Following the successful trial, we continued to bear this risk through Defendants' appeal to the Ninth Circuit. We took on and prevailed against two corporate defendants and the individual defendant, David Johnson, that were supported by a team of highly experienced trial and appellate attorneys from three national law firms: Morrison & Foerster LLP; Troutman Pepper Locke LLP; and ArentFox Schiff LLP.

7. The backgrounds and qualifications of the BHO attorneys who worked on the appeal are set forth in the firm resume, a true and correct copy is attached as **Exhibit 1** to this declaration.

8. BHO has significant experience prosecuting class actions from inception through appeal. We have been appointed class counsel by state and federal courts throughout the country, have worked on a number of appeals resulting in decisions presenting class action and consumer protection law issues, and frequently give continuing legal education lectures at seminars about class actions. We are responsible for obtaining landmark appellate decisions in class action cases and for securing the largest, all-cash settlement in dietary supplement class actions following a bellwether trial.

9. BHO attorneys took the lead role on the appeal. For each legal issue on appeal, BHO attorneys, primarily James Davis, read the parties' briefing below and the court orders on the same. I am informed and believe that Mr. Davis also read oral argument hearing transcripts from district court proceedings that were pertinent to issues on appeal, relevant portions of the trial transcript and associated documents such as the jury instructions used by the district court and the parties'

proposed jury instructions. BHO attorneys then read the case law and researched afresh. I find that briefing to the district court may suffer from thin analysis and over-reliance on string citations to unpublished trial court opinions that have no precedential value and little persuasive value to a circuit court of appeal. For some issues, there may be scarce precedential authority making in depth research for analogous cases and situations even more important.

10. Mr. Davis also assisted significantly in my planning and preparations for oral argument.

11. My partner, Leslie Hurst, also contributed significantly to Plaintiffs' answering brief through editing multiple drafts and advising on strategy. Leslie Hurst also contributed significantly to my oral argument preparation.

12. Substantively, Defendants asserted on appeal *inter alia* that the district court erred in not granting judgment in Defendants' favor on Plaintiffs' RICO claim based on timeliness and proximate cause grounds. Defendants also asserted that because judgment should have been entered in their favor, the award granting Plaintiffs' their attorneys' fees, costs, and service awards should be reversed.

13. In Plaintiffs’ answering brief, counsel addressed each argument raised by Defendants and advanced alternative grounds for affirmance. On timeliness, Plaintiffs argued that none of the purported “red flags” identified by Defendants placed Plaintiffs on actual or constructive notice sufficient to trigger accrual of their RICO claims under the applicable injury-discovery rule. Plaintiffs emphasized that Defendants themselves had maintained that those same circumstances did not cause them to suspect wrongdoing in connection with the PEAKS loan program. On causation, Plaintiffs responded to Defendants’ contention that the injuries suffered by Plaintiffs and the student-borrower class were too remote to satisfy RICO’s proximate-cause requirement by explaining that Plaintiffs and the class members were the direct victims of the PEAKS loan scheme. Plaintiffs further argued that Defendants had waived their appellate challenges by failing to preserve them in the district court. The Ninth Circuit ultimately affirmed on one of those alternative grounds, holding that Defendants had failed to preserve the post-trial proximate-cause challenge they advanced on appeal.

14. It is no surprise given the appeals were post-trial, and given the number of issues, that the briefing and record on appeal was substantial. Defendants' opening/reply briefs totaled 95 pages and 17,795 words. Plaintiffs' answering brief came in at 68 pages and 10,768 words. Defendants' excerpt of record was 4 volumes totaling 749 pages; their further excerpt of records was 13 pages. Plaintiffs' supplemental excerpt of record was 4 volumes and 823 pages.

15. I conducted the oral argument in the Ninth Circuit and spent the requisite time needed to prepare with the assistance of other BHO attorneys and co-counsel. As a general practice and also because it was almost seven months between Plaintiffs' answering brief and oral argument, I re-read and summarized the case law (with key cases read multiple times). To prepare for oral argument, I also outlined the issues and then narrowed, focused and re-outlined as the arguments become honed and following multiple mock sessions of oral argument with attorneys in my office and with co-counsel, which time was valuable and necessary to prepare for oral argument.

16. I am thoroughly familiar with the quality and quantity of work done in this case by the lawyers who worked on the appeals. I

attest there was no unnecessary work or duplication of effort. I believe the time expended by my firm on the appeals was imminently reasonable and, in all instances, necessary to succeed on the appeal. I also note that my firm does not have a billable hour requirement and does not award bonuses or raises based on billed hours.

17. The following information regarding my firm's time and out-of-pocket expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of business. The time records were prepared daily or shortly thereafter by each attorney or paralegal working on the appeal.

18. The schedule below provides a summary of the hours expended by timekeepers from my firm who performed work on the appeal. The schedule includes the name of each person who worked on the appeals, hourly billing rates, the number of hours expended, the resulting lodestar, and the bar passage year for each timekeeper.

19. The lodestar calculation, which all relates to work performed since Defendants' notice of appeal was filed, is conservatively based on the firm's 2023 billing rates, even though most work on the appeal occurred after BHO increased their rates to adjust to comparable

prevailing rates. These were the standard rates charged for all litigation work in all our cases, and the rate does not increase for work on appeals. These rates have been determined to be reasonable by numerous other courts in class action litigation, including by Judge Sabraw in awarding attorney fees for our district court work in this case. *See Exhibit 3: Order Granting in Part Motion for Attorneys' Fees, Costs of Suit, And Service Awards, Turrey, et al. v. Vervent, Inc., et al.*, No. 20-cv-697-DMS-AHG (S.D. Cal. February 26, 2025). A sample of other courts that have approved BHO's standard billing rates and attorneys' fees as reasonable include:

- *Montera v. Premier Nutrition Corp.*, No. 16-cv-06980-RS, 2023 U.S. Dist. LEXIS 137187, at *9 (N.D. Cal. Aug. 7, 2023) (approving BHO rates as “consistent with those of many similar firms in this District.”)
- *Harbour v. Cal. Health & Wellness Plan*, No. 5:21-cv-033220EJD, 2024 U.S. Dist. LEXIS 7783, at *23-24 (N.D. Cal. Jan. 16, 2024) (approving BHO rates as “fall[ing] within the range of those approved in other similar cases”);

- *Yamagata v. Reckitt Benckiser Llc*, No. 3:17-cv-03529-VC, 2021 U.S. Dist. LEXIS 244276, at *12 (N.D. Cal. Oct. 28, 2021) (approving BHO rates as “reasonable, and that the hours expended were reasonable”);
- *Warner v. Toyota Motor Sales, U.S.A., Inc.*, No. CV 15-2171 FMO (FFMx), 2017 U.S. Dist. LEXIS 77576, at *42-43 (C.D. Cal. May 21, 2017) (approving BHO rates as reasonable given “the prevailing rates in the community for lawyers of comparable skill, experience, and reputation”);
- *In re Hydroxycut Mktg. & Sales Practices Litig.*, MDL No. 2087, 2014 U.S. Dist. LEXIS 162106, at *192 (S.D. Cal. Nov. 18, 2014) (approving hourly rates of Blood Hurst & O’Reardon, LLP as “typical rates for attorneys of comparable experience”);
- *Hartless v. Clorox Company*, 273 F.R.D. 630, 644 (S.D. Cal. 2011) (overruling objections to hourly rates, stating that BHO’s hourly rates “have been accepted in other class action cases and are comparable to rates approved by other district courts in class action litigation”);

- *In re Skechers Toning Shoe Prods. Liab. Litig.*, MDL No. 2308, 2013 U.S. Dist. LEXIS 67441, at *51-52 (W.D. Ky. May 13, 2013) (approving BHO’s hourly rates, stating that “a lodestar cross-check demonstrates the reasonableness of the fees award”);
- *Dennis v. Kellogg Co.*, No. 09-cv-1786-L (WMC), 2013 U.S. Dist. LEXIS 163118, at *22-23 (S.D. Cal. Nov. 14, 2013) (approving BHO’s hourly rates as “fall[ing] within typical rates for attorneys of comparable experience”);
- *Johnson v. General Mills, Inc.*, No. SACV 10-00061-CJC(ANx), 2013, U.S. Dist. LEXIS 90338, at *19-21 (C.D. Cal. June 17, 2013) (approving hourly rates and time spent by BHO, stating “[t]he Court has considered class counsel’s rates and finds they are reasonable because of the experience of the attorneys and prevailing market rates”) (citing BHO firm resume);
- *Blessing v. Sirius XM Radio, Inc.*, No. 09 CV 10035 (HB), 2011 U.S. Dist. LEXIS 94723, at *17 (S.D.N.Y. Aug. 24, 2011) (approving fee award as “reasonable under both the lodestar and percentage method of calculation”);

- *In re Adobe Systems Inc. Privacy Litig.*, No. 5:13-cv-05226-LHK, Doc. No. 107 (N.D. Cal. Aug. 13, 2015) (approving hourly rates and time spent by BHO, finding “counsel’s hourly rates to be reasonable and in line with the prevailing rates in the community for complex litigation”).

20. Further, based on my knowledge of the class action plaintiff’s bar nationwide, the rates charged by my firm are in line with or lower than the rates charged by other firms that handle class actions of similar size and complexity. *See Orthopaedic Hosp. v. Encore Med., L.P.*, No. 3:19-cv-00970-JLS-AHG, 2021 U.S. Dist. LEXIS 225014, at *40 (S.D. Cal. Nov. 19, 2021) (2020 and 2021 partner rates of \$925-\$1,225, associate rates of \$770-\$1,065); *Hefler v. Wells Fargo & Co.*, No. 16-CV-05479-JST, 2018 U.S. Dist. LEXIS 213045, at *38 (N.D. Cal. Dec. 17, 2018) (approving rates from \$650 to \$1,250 for partners or senior counsel, \$400 to \$650 for associates); *In re Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods. Liab. Litig.*, No. 2672 CRB (JSC), 2017 U.S. Dist. LEXIS 39115, at *732 (N.D. Cal. Mar. 17, 2017) (\$275 to \$1,600 for partners, \$150 to \$790 for associates, and \$80 to \$490 for paralegals); *Schneider v Chipotle Mexican Grill, Inc.*, 336 F.R.D. 588,

601 (N.D. Cal. Nov. 4, 2020) (\$830 to \$1,275 for partners and \$425 to \$695 for associates); *Carlotti v. Asus Comput. Int'l*, No. 18-cv-03369-DMR, 2020 U.S. Dist. LEXIS 108917, at *15 (N.D. Cal. June 22, 2020) (\$950 and \$1,025 for partners); *Dickey v. Advanced Micro Devices, Inc.*, No. 15-cv-04922-HSG, 2020 U.S. Dist. LEXIS 30440, at *22 (N.D. Cal. Feb. 21, 2020) (\$615-\$1,000 for partners and \$275-\$575 for associates); *Gutierrez v. Wells Fargo Bank, N.A.*, No. C 07-5923, 2015 U.S. Dist. LEXIS 67298, at *15 (N.D. Cal. May 21, 2015) (\$475-\$975 for partners, \$300-\$490 for associates, \$150-\$430 for paralegals, and \$250-\$340 for litigation support); *In re Animation Workers Antitrust Litig.*, No. 14-CV-4062-LHK, 2016 U.S. Dist. LEXIS 156720, at *20 (N.D. Cal. Nov. 11, 2016) (up to \$1,200 for senior attorneys and \$290 for paralegals); *In re High-Tech Empl. Antitrust Litig.*, No. 11-CV-02509-LHK, 2015 U.S. Dist. LEXIS 118052, at *33-34 (N.D. Cal. Sept. 2, 2015) (\$490-\$975 for partners, \$310-\$800 for non-partner attorneys, and \$190-\$430 for paralegals, law clerks, and litigation support staff); *In re Anthem, Inc. Data Breach Litig.*, No. 15-MD-02617-LHK, 2018 U.S. Dist. LEXIS 140137, at *122-23 (N.D. Cal. Aug. 17, 2018) (\$400-\$975 for partners, \$185-\$900 for non-partner attorneys, \$95-\$440 for paralegals, law

clerks, and litigation support staff, and \$270-\$345 for summer law clerks).

21. BHO's hourly rates used in the lodestar are considerably lower than the reported rates charged by the attorneys and law firms that represented Defendants on appeal in this action. For instance, for the appeal Defendants hired appellate specialists Joseph Palmore and Aileen McGrath from Morrison & Foerster LLP's Washington D.C. and San Francisco offices. Mr. Palmer was identified in a 2023 federal fee application at an hourly rate of \$1,650. *See Exhibit 5* at 3. Last year, Morrison & Foerster identified the firm's 2025 standard U.S. hourly rate range for partners and senior of counsel as \$1,475 to \$2,475, and declared to the court that its rates are "reasonable and comparable to the rates charged by other firms of similar standing in the legal market." *Exhibit 6* at 5.

22. Each of the BHO attorneys who have worked on the appeals has practiced for the following number of years: Mr. Blood – 36 years; Ms. Hurst – 31 years; Mr. O'Reardon – 19 years; Mr. Davis – 11 years. Based on the years and depth of experience of each of the attorneys and

the paralegal, Dafne Maytorena (24 years of experience), BHO's 2023 hourly rates of \$280 to \$960.00 are below prevailing market rates.

23. The enhancement sought is also justified by the riskiness of this RICO class action. Courts have long recognized the special complexity and difficulty RICO presents. *See Preferred Commc'ns v. City of L.A.*, No. 91-56018, 1994 U.S. App. LEXIS 760, at *7 (9th Cir. Jan. 7, 1994) ("RICO remains a difficult and often surprising area of the law...") (Kleinfeld, J., dissenting); *Cent. Distribs. of Beer v. Conn.*, 5 F.3d 181, 186 (6th Cir. 1993) ("RICO is a difficult statute fraught with problems in its interpretation.") (Wellford, J., dissenting); *O'Malley v. N.Y.C. Transit Auth.*, 896 F.2d 704, 709 (2d Cir. 1990) ("Our circuit, like most others around the country, has had great difficulty with the RICO concepts of "pattern" and "enterprise"...)")

24. Faced with a significant trial record and an opposing team consisting of appellate specialists from Morrison & Foerster LLP, augmented with attorneys from ArentFox Schiff LLP and Troutman Pepper Locke LLP, Plaintiffs' counsel had to dedicate an extraordinary volume of concentrated billing hours to the appeal. Counsel successfully executed multi-layered procedural and substantive parsing to defeat

Defendants' complex legal and fact-based, evidentiary arguments concerning the RICO proximate causation and the injury-discovery rule. We also presented alternate grounds for affirmance on both of the major issues, one of which was successful and obviated Defendants' substantive arguments on RICO causation. This allocation of BHO's limited resources to match an augmented elite corporate defense team represents an extraordinary outlay of legal capital by Plaintiffs' counsel.

25. The total number of hours reasonably attributable to the appeal by professional staff at my firm is 502.45 hours for a total lodestar of \$311,480. That total lodestar is broken down as detailed in the chart below. Additionally, the detailed time entries for which my firm seeks compensation are in **Exhibit 2** attached. The time entries are organized chronologically and include the date, timekeeper name, a detailed description of the work done, and the number of hours as required by Ninth Circuit rules.

26. In connection with this motion, our associate James Davis performed an entry-by-entry analysis to ensure that the billed time and expenses were accurate, efficient, and benefitted the appeal. I consulted with Mr. Davis on his review and myself reviewed certain time and

expense entries. Mr. Davis was intimately involved with the trial and these appellate proceedings, and he has overseen and/or conducted most of the day-to-day activities in the PEAKS litigation since he joined BHO in 2021. The hours set forth below are conservative. As a result of the reviews of the billed time entries, reductions were made in the exercise of billing judgment.

27. The hours incurred include the time spent researching and writing this motion for attorney fees and expenses, this supporting declaration, the motion to transfer the attorney fees from the Ninth Circuit to this Court, and the time spent reviewing and organizing the time and expense records for accuracy and to ensure the bill records were presented and categorized in compliance with the Ninth Circuit rules. *See* Ninth Circuit Rule 39-1.6(b).

Attorney/Paralegal	Hours	Rate	Lodestar	Bar Admission
Timothy G. Blood (Partner)	84.90	\$960	\$81,504.00	1990
Leslie E. Hurst (Partner)	77.30	\$810	\$62,613.00	1995
Thomas J. O'Reardon II (Partner)	4.5	\$710	\$3,195.00	2006
James M. Davis (Associate)	318.90	\$500	\$159,450	2014

Attorney/Paralegal	Hours	Rate	Lodestar	Bar Admission
Dafne Maytorena (Paralegal)	16.85	\$280	\$4,718.00	
TOTALS	502.45		\$311,480	

28. My firm's lodestar figures are based on the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates. I believe that the time reflected in my firm's lodestar calculation is reasonable and was necessary for the effective and efficient litigation of these appeals.

29. As detailed below, my firm's out-of-pocket nontaxed appellate expenses are \$1,494.99. The expenses incurred for the appeal are reflected in the books and records of my firm. These books and records are prepared from expense vouchers, receipts, check records and other source materials and are an accurate record of the expenses incurred in conjunction with the appeals. My associate, James Davis, reviewed the expense records to ensure all expenses sought were incurred for and benefited the appeals. The expense amount sought is separate from and does not include any of the taxable costs (totaling

\$89.10) covered by Plaintiffs' pending Bill of Costs that was filed in the Ninth Circuit Court of Appeals on August 24, 2026.

30. The appellate expenses sought with the motion are:

Date	Non-Taxable Cost	Vendor	Description
12/31/25	\$40.95	In-house photocopies	Photocopies
4/30/26	\$19.60	In-house photocopies	Photocopies
2/28/26	\$8.75	In-house photocopies	Photocopies
6/30/26	\$5.25	In-house photocopies	Photocopies
5/17/2026	\$1,450.22	The Langham Huntington	Hotel accommodations for Timothy G. Blood and James M. Davis the night prior to Ninth Circuit oral argument
5/18/2026	\$44.77	Benny's Tacos	Lunch for Timothy G. Blood, James M. Davis, and David Nagdeman on day of Ninth Circuit oral argument
8/31/2026	\$2.10	In-house photocopies	Photocopies
\$1,571.64 TOTAL NON-TAXED EXPENSES			

31. The necessity and purpose of these expenses are self-explanatory. The lodging and meal expenses were incurred by me, James M. Davis, and David Nagdeman to attend the oral argument. The photocopy expenses were incurred for printing copies for hearing

preparation, editing paper copies of briefs, and printing case law when necessary.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 9, 2026, at San Diego, California.

By: s/ *Timothy G. Blood*
TIMOTHY G. BLOOD

EXHIBIT 1



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FIRM RESUME



Blood Hurst & O'Reardon, LLP ("BHO") is a nationally recognized law firm that primarily focuses on the prosecution of complex class action litigation. The firm advocates for the rights of consumers, workers, insurance policyholders and investors in state and federal trial and appellate courts throughout the country. The principals of Blood Hurst & O'Reardon come from a large firm that represented plaintiffs in class action litigation, where they formed the core of the consumer and insurance practice group. Blood Hurst & O'Reardon's principals have consistently been appointed lead counsel and have held other leadership positions in a wide variety of complex litigation.

Since our founding in 2010, BHO has established itself as a leader in class action litigation. BHO's legacy has been marked by precedent-setting victories on behalf of plaintiffs at class certification, summary judgment, on appeal in courts throughout the country, class action trial victories, and by achieving record-setting settlements. We have played an instrumental role in helping shape and pass pro-consumer legislation, forged partnerships with the Federal Trade Commission to jointly litigate unfair competition claims, and worked alongside governmental entities to prosecute complex litigation against some of the world's largest corporations.

Timothy G. Blood

Mr. Blood is the firm's managing partner. His practice has focused on complex litigation, including class action litigation, since the early 1990's. Mr. Blood has tried class action cases and is highly regarded in the field of consumer protection law, including California's Unfair Competition Law and Consumers Legal Remedies Act. Mr. Blood was named a "Titan of the Plaintiff's Bar" by the national legal publication *Law360*.

Mr. Blood has represented millions of retail consumers, workers, holders of life, automobile and homeowner insurance policies, data breach victims, mortgagors, credit card customers, homeowners, and victims of race discrimination. He practices in both state and federal courts throughout the country and has represented the interests of consumers formally or informally before the Federal Trade Commission, the U.S. Consumer Products Safety Administration, the California Department of Justice, the California Legislative Analyst's Office and the California Department of Insurance. He has worked with the Federal Trade Commission to obtain record setting recoveries for consumers. In *In re Skechers Toning Shoes Prods. Liab. Litig.* (W.D. Ky.), Mr. Blood's work with the Federal Trade Commission resulted in the largest consumer recovery in a false advertising action in FTC history. Other large and record-setting recoveries for consumers include a \$3.4 billion settlement in 2017 for owners of certain Toyota vehicles and the largest false advertising recovery in the history of the food industry.

Since 2010, some of Mr. Blood's court-appointed leadership positions include: Federal Rule of Civil Procedure 23(g) counsel in Court appointed lead counsel in *Turrey v. Vervent, Inc.*, (S.D. Cal.); *Warner v. Toyota Motor Sales* (C.D. Cal); Federal Rule of Civil Procedure 23(g) counsel in *In re: Johnson & Johnson Talcum Powder Prods. Mktg., Sales Practices, and Prods. Liability Litig.* (D.N.J.); Federal Rule of Civil Procedure 23(g) counsel in *Yamagata v. Reckitt Benckiser* (N.D. Cal.); Federal Rule of Civil Procedure 23(g) counsel in *Mullins v. Premier Nutrition Corp.* (N.D. Cal.); Federal Rule of Civil Procedure 23(g) Class Counsel in *Corvello v. Wells Fargo Bank, N.A.* (N.D. Cal.); Executive Committee member in *Snyder v. the Regents of*



the University of California, JCCP No. 589243 (Cal. Super. Ct., Los Angeles Cnty., Hon. John Shepard Wiley, Jr.); Federal Rule of Civil Procedure 23(g) Class Counsel in *Rikos v. The Procter & Gamble Co.*, (S.D. Ohio); Federal Rule of Civil Procedure 23(g) Class Counsel in *Godec v. Bayer Corp.* (N.D. Ohio); Federal Rule of Civil Procedure 23(g) Class Counsel in *Johns v. Bayer Corp.* (S.D. Cal.); Federal Rule of Civil Procedure 23(g) Class Counsel in *In re Skechers Toning Shoes Prods. Liab. Litig.* (W.D. Ky.); Plaintiffs' Liaison Counsel and Steering Committee member by the United States District Court for the Southern District of California in the multidistrict litigation *In re Sony Gaming Networks and Customer Data Sec. Breach Litig.*; Class Counsel by the district court for the District of Massachusetts in *In re Reebok Easytone Litig.*; Class Counsel in *Serochi v. Bosa Dev. Cal.* by the San Diego Superior Court; Co-Lead Class Counsel by the Los Angeles Superior Court in *In re Toyota Motor Cases*, (Toyota Unintended Acceleration Consolidated Litigation); Co-Lead Class Counsel by the United States District Court for the Southern District of California in the multidistrict litigation *In re Hydroxycut Mktg. and Sales Practices Litig.*; Co-Lead Class Counsel by the United States District Court for the Central District of California in *Johnson v. Gen. Mills, Inc.*; Co-Lead Class Counsel by the United States District Court for the Northern District of Ohio in *Gemeles v. The Dannon Co.*; Co-Lead Class Counsel by the United States District Court for the Southern District of California in *Hartless v. Clorox Co.*; and Class Counsel by the United States District Court for the Southern District of Florida in *Smith v. Wm. Wrigley, Jr. Co.*

Mr. Blood has litigated many data breach privacy actions, including leading as Co-Liaison Counsel and member of the Plaintiff's Steering Committee *In re Sony Gaming Networks and Customer Data Security Breach Litigation*, MDL 2258 (S.D. Cal.), one of the largest data breach cases at the time. He represents the City of San Diego in *People for Experian Data Corp.* Case No. 37-2019-01047183 (Cal. Super. Ct., Orange Cnty) in data breach notification action on behalf of the People of the State of California against a leading consumer credit reporting and data aggregation company and represented plaintiffs in *Patton v. Experian Data Corp.*, No. SACV 15-1871 JVS (C.D. Cal.), a multi-state data breach notification action against arising out of the same conduct. Mr. Blood is a member of the Plaintiff's Executive Committee in *Snyder v. the Regents of the University of California*, JCCP No. 589243 (Cal. Super. Ct., Los Angeles Cnty), among others.

Mr. Blood has also drafted legislation aimed at modernizing data breach and related privacy laws, including drafting portions of, lobbying for, and testifying before both houses of the California Legislature in support of the landmark California Consumer Privacy Act of 2018 and the California Privacy Rights Act of 2020, which amended and expanded the CCPA. The CCPA passed unanimously through both houses of the California legislature and provides the most sweeping digital privacy protection in the United States. It is a model for other proposed state and federal laws.

Mr. Blood also serves on the San Diego Privacy Advisory Board, which reviews the vast array of technology used by the City of San Diego to make recommendations to protect data and privacy. Mr. Blood serves in the Attorney/Legal Scholar board seat.

Mr. Blood has acted as lead counsel in numerous "functional food" false advertising class actions, including cases against General Mills and The Dannon Company filed in federal courts



around the country. The *Dannon* litigation resulted in the largest settlement in food industry history for false advertising.

He was lead trial counsel in *Turrey v. Vervent, Inc.* (S.D. Cal. 2023), a rare nationwide civil RICO class action tried to jury verdict. There, he successfully represented a class of ITT Tech student loan borrowers who were forced into loans used in a scheme to defraud them, taxpayers, and the federal government. He was co-lead trial counsel *Montera v. Premier Nutrition Corporation* (N.D. Cal. 2022), an unfair business practices and false advertising class action where he represented a class of arthritic dietary supplement purchasers. The case also was successfully tried to a jury verdict. He also was lead counsel in *Lebrilla v. Farmers Ins. Grp., Inc.* (Cal. Super. Ct., Orange Cnty.) a multistate class action which settled on terms favorable to the class after a month long trial and just before closing arguments. He was also co-lead trial counsel in *In re Red Light Photo Enft Cases* (Cal. Super. Ct. San Diego Cnty.), an action brought on behalf of California motorists.

Mr. Blood has represented millions of purchasers of food, food supplements and over-the-counter drugs arising out of various advertising claims made by manufacturers and retailers. He has also represented owners of motor vehicles in product liability cases and consumer credit and mortgage borrowers against a number of major lending institutions, including Bank of America, Washington Mutual, Countrywide, GMAC and Wells Fargo.

Mr. Blood has wide-ranging experience litigating against life, auto and other insurance carriers on behalf of consumers. His experience litigating against life insurance companies includes representing owners, holders and beneficiaries of industrial life insurance in race discrimination cases (with class periods dating back to the late 1800's). He also represented those holding traditional life insurance policies in market conduct actions such as the "vanishing premium" life insurance actions. Mr. Blood was responsible for one of only two litigated cases where classes were certified in the vanishing premium series of cases. He was one of the few plaintiffs' attorneys to obtain class-wide recoveries in the "imitation parts" automobile insurance actions. Insurance companies against whom Mr. Blood has litigated include the American General companies, Farmers Insurance Group of companies, Mercury Insurance Group, Allstate, State Farm, Great Southern Life, Metropolitan Life, United Life Insurance Company, Midland National Life Insurance Company and General American Insurance Company.

Mr. Blood has also represented consumers in traditional false advertising actions, those victimized by so-called "negative option" sales practices, and owners of a variety of different types of faulty computer equipment and software from manufacturers. Some of these retailers and manufacturers include Apple, Dell, IBM, Procter & Gamble, General Mills, The Dannon Company, Bayer, AG, Bosa Development, Kellogg Company, and General Dynamics.

Mr. Blood has been involved in many precedent-setting appellate decisions in areas which include consumer and insurance law and class action procedure. These appellate decisions include: *Turrey v. Vervent, Inc.*, __ F.4th __ (9th Cir. 2026) (statute of limitations, class action jury verdict, RICO fraud); *People v. Experian Data Corp.*, 106 Cal. App. 5th 799 (2024) (discovery rule, data breach, consumer protection); *Montera v. Premier Nutrition Corp.*, 111 F.4th 1018 (9th Cir. 2024) (consumer protection and false advertising); *Kuhns v. Scottrade, Inc.*,



868 F.3d 711 (8th Cir. 2017) (first 8th Circuit decision finding Article III standing in a data breach case); *Rikos v. The Procter & Gamble Co.*, 799 F.3d 497 (6th Cir. 2015) (class certification) *cert. denied*, 2016 U.S. LEXIS 2244 (U.S. Mar. 28, 2016); *Corvello v. Wells Fargo Bank, NA*, 728 F.3d 878 (9th Cir. 2013) (consumer protection and banking); *Fitzpatrick v. Gen. Mills, Inc.*, 635 F.3d 1279 (11th Cir. 2011) (class certification, consumer law and false advertising); *Westwood Apex v. Contreras*, 644 F.3d 799 (9th Cir. 2011) (CAFA jurisdiction); *Kwikset Corp. v. Super. Ct. (Benson)*, 51 Cal. 4th 310 (2011) (consumer law and false advertising); *Martinez v. Wells Fargo Home Mortg., Inc.*, 598 F.3d 549 (9th Cir. 2010) (banking and preemption); *Troyk v. Farmers Grp., Inc.*, 171 Cal. App. 4th 1305 (2009) (insurance law); *Haw. Med. Ass'n v. Haw. Med. Serv. Ass'n*, 148 P.3d 1179 (Haw. 2006) (health insurance); *McKell v. Wash. Mut. Bank, Inc.*, 142 Cal. App. 4th 1457 (2006) (banking law and consumer law); *Santiago v. GMAC Mortg. Grp., Inc.*, 417 F.3d 384 (3d Cir. 2005) (consumer and banking law); *Lebrilla v. Farmers Grp., Inc.*, 119 Cal. App. 4th 1070 (2004) (automobile insurance and class action procedure); *Moore v. Liberty Nat'l Life Ins. Co.*, 267 F.3d 1209 (11th Cir. 2001), *cert. denied*, 535 U.S. 1018 (2002) (life insurance and civil rights); *Kruse v. Wells Fargo Home Mortg., Inc.*, 383 F.3d 49 (2d Cir. 2004) (consumer and banking law); and *Lavie v. Procter & Gamble Co.*, 105 Cal. App. 4th 496 (2003) (consumer law and false advertising).

Mr. Blood has testified before the California State Assembly and State Senate Judiciary Committees, as well as the Assembly and Senate Committees on Banking, Finance & Insurance. He has worked at both the state and federal level with lawmakers and government agencies to shape legislation to protect consumer rights, including lobbying on the Class Action Fairness Act of 2005 and working to defeat a California state ballot initiative designed to weaken the class action device.

Mr. Blood is a frequent continuing legal education speaker on topics which include complex litigation, class action procedure, data breach and privacy litigation, consumer fraud, false advertising, financial fraud litigation and insurance litigation. He has been an invited speaker for American Bar Association practice groups, the Practicing Law Institute, UCLA School of Law, University of California at Irvine School of Law; University of San Diego School of Law, University of Arizona Sandra Day O'Connor School of Law, Loyola Law School, Chapman University School of Law; the Grocery Manufacturers Association, the American Association of Justice, Consumer Attorneys of California, ALI-ABA, the Practicing Law Institute, Bridgeport Continuing Education, Law Seminars International, and the Consumer Attorneys of San Diego, for which he has chaired multi-day seminars on class action litigation.

He also speaks at conferences of cybersecurity professionals to educate them about companies' legal obligations under various laws and the standards those laws set for compliance.

Mr. Blood is frequently consulted by the media. He has appeared on Good Morning America, ABC World News Tonight, and major network affiliates on behalf of his clients. He has been interviewed for stories featuring consumer rights issues and his cases by *The New York Times*, *The Wall Street Journal*, *Bloomberg*, Reuters, the Associated Press, *The Los Angeles Times*, *The San Diego Union-Tribune*, National Public Radio, the *Daily Journal*, *Adweek*, the *Los Angeles Daily News*, CNBC, Fox News, the Korean Broadcasting Service, and others.



Mr. Blood is a member of the Board of Directors of the Consumer Attorneys of California and a member of its executive board from 2014 to 2016. He was the 2015 President of the Consumer Attorneys of San Diego and a member of the CASD Foundation, a charitable giving non-profit. In 2018 he received the statewide Marvin E. Lewis Award by the Consumer Attorneys of California for his “guidance, loyalty and dedication, all of which have been an inspiration to fellow attorneys.” He also was awarded the 2018 Consumer Advocate of the Year by Consumer Attorneys of San Diego. In 2007, he was a finalist for the Consumer Attorneys of California Lawyer of the Year award for his trial work in a multistate class action against Farmers Insurance. He has been named a “Super Lawyer” since 2007 and has achieved an “AV” rating by Martindale Hubbell. In 2014, Mr. Blood was named a “Titan of the Plaintiff’s Bar” by the national legal publication *Law360*. Mr. Blood was elected a Fellow of the American Bar Foundation. Mr. Blood is also the Legislative Column Editor for *Trial Bar News*. Mr. Blood is also a founding member of the San Diego ESI Forum, a group of judges and lawyers devoted to teaching legal professionals in federal and state court about electronic discovery.

Mr. Blood was a founding partner of the firm now known as Robbins Geller Rudman & Dowd, LLP.

Mr. Blood is admitted to practice in the state of California, as well as the U.S Supreme Court, the United States Courts of Appeal for the Second, Third, Fifth, Sixth, Seventh, Eighth, Ninth and Eleventh Circuits, and the United States District Courts for the Northern, Eastern, Central and Southern Districts of California, the Eastern and Western Districts of Arkansas, the District of Colorado, the Northern District of Illinois, and the Eastern District of Michigan. Before starting Blood Hurst & O’Reardon, Mr. Blood was a partner in Milberg Weiss Bershad Hynes & Lerach, LLP and a founding partner in the firm now known as Robbins Geller Rudman & Dowd, LLP. Mr. Blood received his Juris Doctor from George Washington University in 1990 and his Bachelor of Arts with honors in Economics from Hobart College in 1987.

Leslie E. Hurst

Ms. Hurst is a co-founding partner of the firm. Prior to founding the firm, Ms. Hurst was a partner in Coughlin Stoia Geller Rudman & Robbins, LLP and an associate at Milberg Weiss Bershad Hynes & Lerach, LLP.

Her practice has focused on complex class action lawsuits, including federal multi-district litigation and California Judicial Council Coordinated Proceedings, with an emphasis on consumer fraud, false advertising, and insurance cases under California’s consumer protection statutes.

Ms. Hurst works in a number of practice areas, including areas focusing on cases against: (1) life insurers for misrepresenting the terms of vanishing premium life insurance; (2) auto insurers for repairs with non-OEM parts, diminished value claims, improper collection of installment service charges and breach of contract, and against auto manufacturers for sale of defective vehicles; (3) financial institutions for a variety of conduct; (4) insurance companies for race-based discrimination in the sale of small value “industrial” or “burial” insurance policies; (5) consumer goods manufacturers for false and deceptive advertising; (6) real estate developers



for fraud and false advertising; and (7) improper collection and over collection of fees from residents by the City of Los Angeles.

Ms. Hurst is instrumental in the firm's appellate practice. She has argued before the Second, Seventh, Eighth and Ninth Circuit Courts of Appeal and before California and Missouri Courts of Appeal. She obtained reversals of the trial courts in *Bell v. Publix Super Mkts., Inc.* (7th Cir.); *Kroessler v. CVS Health Corp.* (9th Cir.); *Sonner v. Schwabe International* (9th Cir.); *Corvello v. Wells Fargo Bank, NA* (9th Cir.); *Goodman v. Wells Fargo Bank, NA* (Cal. 2d DCA), and *Guerra v. San Diego Gas & Elec.* (Cal. 4th DCA). Ms. Hurst also briefs most of the firm's appeals including *Rikos v. The Procter & Gamble Co.* (6th Cir.); *In re Enfamil LIPIL Mktg. & Sales Practices Litig.* (11th Cir.); *Hartless v. Clorox Co.* (9th Cir.); *Garcia v. Sony Comput. Entm't* (9th Cir.); *Gutierrez v. Wells Fargo Bank, N.A.* (9th Cir.), various SLUSA appeals in the 2nd, 8th and 9th Circuits, and *Sonner v. Schwabe International* (9th Cir.); *Sonner v. Premier Nutrition Corporation* (9th Cir.); *Heier v. Fire Ins. Exchange* (Cal. 2nd DCA); *Reed v. Dynamic Pet Products* (Mo. Ct. App.); *O'Connor v. Road Runner Sports, Inc.* (Cal. 4th DCA); and *Gotstev v. Skillz Platform, Inc.* (Cal. 1st DCA).

The most recent settlements on which Ms. Hurst was instrumental include: *Adlouni v. UCLA Health Systems* (Cal. Super. Ct., Los Angeles Cnty.) (over \$25 million in free identity theft insurance in data breach case); *Austin v. Western Concrete* (S.D. Cal.) (backpay in employment case); *Serochi v. Bosa Dev.* (Cal. Super. Ct., San Diego Cnty.) (\$16.75 million settlement to condominium purchasers for square footage misrepresentations by the developer); *Chakhalyan v. City of Los Angeles* (Cal. Super. Ct., Los Angeles Cnty.) (full refunds of overcharges and a revamping of L.A. billing practices); *Hartless v. Clorox Co.* (S.D. Cal.) (nationwide settlement in excess of \$10 million that provided 100% recovery of damages to class members); *In re Enfamil LIPIL Mktg. & Sales Practices Litig.* (S.D. Fla.) (nationwide settlement in excess of \$8 million involving false advertising of infant formula); *In re Skechers Toning Shoes Prods. Liab. Litig.* (W.D. Ky.) (nationwide settlement of \$45 million); *Weight v. The Active Network, Inc.* (Cal. Super. Ct., San Diego Cnty.) (full refunds plus a multiplier); *Bransford v. City of Los Angeles* (Cal. Super. Ct., Los Angeles Cnty.) (full refunds); *Warner v. Toyota Motor Sales, U.S.A., Inc.* (C.D. Cal.) (warranty extensions, refunds and free vehicle inspections).

Between 2003 and 2005, Ms. Hurst took a sabbatical from law and moved to Sri Lanka where she worked for CARE International as the Coordinator for Strategic Planning with an emphasis on development of CARE's long-term strategic plan for the conflict-affected areas.

Ms. Hurst is admitted to practice in the state of California, as well as the United States Courts of Appeal for the Second, Sixth, Seventh, Eighth and Ninth Circuits, and the United States District Courts for the Northern, Eastern, Central and Southern Districts of California. Ms. Hurst received her Juris Doctor degree from the University of California, Hastings College of the Law in 1995. She earned her Master of Arts degree in Sociology from the University of California, Berkeley and a Bachelor of Arts degree in Sociology (*cum laude*) from the University of San Diego. Ms. Hurst is an active member of the Consumer Attorneys of San Diego, and Consumer Attorneys of California. She was named a "Super Lawyer" for 2011-2023, and 2026.



Thomas J. O'Reardon II

Mr. O'Reardon is a co-founding partner of the firm. His practice focuses exclusively on complex class action lawsuits involving consumer fraud, insurance fraud and antitrust violations. Mr. O'Reardon received his Juris Doctor degree from the University of San Diego School of Law and his Bachelor of Arts degree in Politics from Wake Forest University. He is admitted to practice in the state of California, as well as the United States Courts of Appeal for the Sixth, Eighth and Ninth Circuits, and the United States District Courts for the Northern, Eastern, Central and Southern Districts of California and the Northern District of Illinois.

Prior to founding the firm, Mr. O'Reardon was an associate at Lerach Coughlin Stoia Geller Rudman & Robbins, LLP, now known as Robbins Geller Rudman & Dowd, LLP. There, Mr. O'Reardon worked on numerous complex class action litigation matters, including actions involving: annuity policies marketed and sold to senior citizens; insurer kickbacks known as "contingent commissions" in the property and casualty insurance brokerage industry; Sherman Act claims against the world's largest manufacturers of random access memory for computers; invasions of credit card holder's rights of privacy; false and deceptive advertising of consumer goods and wireless telephone services; automobile insurers' unlawful practices with respect to installment pay plans; and dangerous and defective products, including recalled children's toys. He was also part of the team representing the California Department of Insurance against five of the largest employee benefit insurance companies for violations relating to their failure to disclose payments of contingent commissions to brokers. As a result of the action, all five defendants agreed to sweeping changes in their disclosure practices.

Some of the actions on which Mr. O'Reardon has worked include: *Yamagata v. Reckitt Benckiser LLC* (N.D. Cal.) (certified class action involving false advertising of Move Free Advanced glucosamine and chondroitin supplement with nationwide settlement of \$50 million); *Mullins/Montera v. Premier Nutrition Corp.* (N.D. Cal.) (certified class action involving false advertising of Joint Juice glucosamine and chondroitin supplement with jury verdict (affirmed on appeal) in favor of Plaintiff and the Class and subsequent nine-state settlement of \$90 million); *Costa v. Road Runner Sports, Inc.* (Cal. Super. Ct., San Diego Cnty.) (certified class action involving fraudulent, automatically billing scheme); *Rikos v. The Proctor & Gamble Co.* (S.D. Ohio) (certified class action involving false advertising of P&G's Align probiotic, affirmed by the Sixth Circuit); *In re Skechers Toning Shoes Prods. Liab. Litig.* (W.D. Ky.) (nationwide settlement of \$45 million involving false advertising of Skechers' Shape-ups toning shoes products); *In re Reebok Easytone Litig.* (D. Mass.) (nationwide settlement of \$25 million involving false advertising of Reebok toning footwear and apparel products); *Murr v. Capital One Bank (USA), N.A.* (E.D. Va.) (nationwide settlement in excess of \$7.3 million involving 0% APR billing practices); *Dolfo v. Bank of Am.* (S.D. Cal.) (certified class action involving mortgage modification banking practices); *Johnson v. Gen. Mills, Inc.* (C.D. Cal.) (certified class action involving false advertising of General Mills' YoPlus yogurt, which resulted in a nationwide settlement of \$8.5 million); *Fitzpatrick v. Gen. Mills, Inc.* (S.D. Fla.) (certified class action reviewed and approved by the Eleventh Circuit); *Johns v. Bayer Corp.* (S.D. Cal.) (certified class action involving false advertising of Bayer's One-A-Day multivitamins); *Godec v. Bayer Corp.* (N.D. Ohio) (certified class action involving false advertising of Bayer's One-A-Day multivitamins, which settled on a classwide basis); *Corvello v. Wells Fargo Bank, NA* (N.D.



Cal.) (certified class action involving mortgage modification practices where order granting motion to dismiss was reversed by the Ninth Circuit in a published opinion); *Rosales v. FitFlop USA LLC* (S.D. Cal.) (nationwide settlement of \$5.3 million involving false advertising of toning footwear); *Blessing v. Sirius XM Radio, Inc.* (S.D.N.Y.) (nationwide settlement valued in excess of \$180 million involving monopoly price increases arising out of the merger between Sirius and XM); *In re Dynamic Random Access Memory Antitrust Litig.* (N.D. Cal.) (settlement of more than \$300 million); *In re Mattel, Inc. Toy Lead Paint Prods. Liab. Litig.* (C.D. Cal.) (nationwide settlement valued at over \$50 million); *Gemelas v. Dannon Co., Inc.* (N.D. Ohio) (nationwide settlement in excess of \$45 million involving false advertising of Dannon's Activia and DanActive yogurt products); *In re Enfamil LIPIL Mktg. & Sales Practices Litig.* (S.D. Fla.) (certified class action involving false advertising of infant formula, which resulted in nationwide settlement in excess of \$8 million); *Smith v. Wm. Wrigley Jr. Co.* (S.D. Fla.) (nationwide settlement in excess of \$7 million involving false advertising of Wrigley Eclipse chewing gum and mints); *Duffer v. Chattem, Inc.* (S.D. Cal.) (nationwide settlement of up to \$1.8 million involving false advertising of ACT Total Care mouthwash); *In re Enron Corp. Sec. Litig.* (S.D. Tex.) (settlements of \$7.3 billion); *AOL Time Warner Cases* (Cal. Super. Ct., Los Angeles Cnty.) (settlements of approximately \$630 million); *Morris v. CBS Broad., Inc.* (S.D.N.Y.) (nationwide settlement on behalf of purchasers of asbestos-laden children's toys); *In re Aqua Dots Prods. Liab. Litig.* (N.D. Ill.) (multidistrict litigation on behalf of purchasers of more than 4 million toxic children's toys); *Berry v. Mega Brands, Inc.* (D.N.J.) (litigation on behalf of purchasers of more than 10 million lethal children's toys); *In re Toyota Motor Cases*, (Cal. Super. Ct., Los Angeles Cnty.) (litigation on behalf of consumers who purchased vehicles subject to "sudden unintended acceleration"); and *In re Hydroxycut Mktg. and Sales Practices Litig.* (S.D. Cal.) (multidistrict litigation on behalf of purchasers of unsafe and ineffective weight-loss products, which resulted in a nationwide settlement valued in excess of \$20 million). With the exception of the *Blessing v. Sirius XM* litigation, Mr. O'Reardon and/or his firm served as court-appointed Lead or Co-Lead Counsel in each of the above-mentioned class actions. In granting final settlement approval, which included appointing Mr. O'Reardon as Class Counsel, the Court's order in the *Johnson v. Gen. Mills, Inc.* (C.D. Cal.) action states that Mr. O'Reardon is "vastly experienced" in consumer class action litigation.

Mr. O'Reardon is an active member of the Consumer Attorneys of San Diego, the Consumer Attorneys of California, and a founding member of the CAOC Young Lawyers Division. In 2015-2021, Mr. O'Reardon was named a "Super Lawyers Rising Star," a designation provided to less than 2.5 percent of lawyers in California. He was named a "Super Lawyer" for 2022-2026. He has also been a member of, and contributing author for, The Sedona Conference Working Group on Electronic Document Retention and Production. Mr. O'Reardon has been an invited speaker for the University of San Diego School of Law, Consumer Attorneys of California, the Consumer Attorneys of San Diego, and the San Diego ESI Forum on topics which include complex litigation, electronic discovery, and the class action settlement process.

Jennifer L. MacPherson

Ms. MacPherson is an associate with the firm. Her practice focuses on complex class action litigation. Ms. MacPherson received her Juris Doctor degree from the University of San Diego School of Law in 1997 with a J.D. and an L.L.M in tax and earned her Bachelor of Arts



degree in International Business and Marketing from the University of Hawaii in 1994. During law school she was a summer law clerk to the Honorable Walter S. Kirimitsu (Ret.) in the Hawaii Intermediate Court of Appeals and was a research assistant to Professor C. Hugh Friedman author of *California Practice Guide: Corporations*. She is a member of the California Bar and is licensed to practice before the United States District Courts for the Central, Southern and Northern Districts of California.

For over two decades, Ms. MacPherson has prosecuted class actions on behalf of consumers, policyholders, investors, employees, and medical practitioners against the nation's largest retailers and manufacturers of consumer products, insurers of homes and automobiles, banks, and employers for violations of federal and state consumer, antitrust, securities and labor laws. During this time she has actively litigated complex class action litigation matters involving: false and deceptive advertising by one of the nation's largest retail mall chains for selling gift cards subject to a monthly service fee in violation of state law; truth in lending claims against a national bank for suspending borrower's home equity lines of credit; breach of contract claims against national lenders for failing to modify borrower's home loans after successful completion of a trial period plan; product defect claims against the world's largest manufacturers of laptops and cell phones; RICO claims against the nation's largest health insurance companies for denying, delaying and reducing payments to health care providers nationwide; privacy claims against national pharmacies for allegedly using prescription information to conduct targeted marketing campaigns on behalf of drug companies; data breach lawsuits against national banks and retailers for failing to properly safeguard consumer's personal information.

Some of these actions include: *Solomon v. Anthem, Inc.* (S.D. Fla.); *In re Sony VAIO Comput. Notebook Trackpad Litig.* (S.D. Cal.); *Horvath v. LG Elecs. MobileComm U.S.A., Inc.*, (S.D. Cal.); *Kazemi v. Westfield Am., Inc.* (Cal. Super. Ct., Los Angeles Cnty.); *Frost v. LG Elecs. Mobilecomm U.S.A., Inc.* (Cal. Super. Ct., Los Angeles Cnty.); *Shamrell v. Apple, Inc.* (Cal. Super. Ct., Los Angeles Cnty.); *Ivo Kolar v. CSI Financial Services LLC* (Cal. Super. Ct., San Diego Cnty.) (data breach settlement); *Harbour, et al. v. California Health & Wellness Plan, et al.* (N.D. Cal.) (data breach settlement); *Huntzinger v. Suunto Oy, et al.* (Cal. Super. Ct., San Diego Cnty.) (defective dive computer settlement); and *Pulkrabek, et al. v. Toyota Motor Sales, USA, Inc.* (E.D. Tex.) (defective vehicle settlement).

James M. Davis

Mr. Davis is an associate with the firm. His practice focuses on complex class action litigation with an emphasis on consumer fraud and defective products. Mr. Davis graduated from UCLA School of Law and earned his Bachelor of Arts from Davidson College. He is admitted to practice in the state of California, as well as the United States Courts of Appeal for the Ninth Circuit, and the United States District Courts for the Northern, Central and Southern Districts of California.

Mr. Davis has been practicing law since 2014. In 2022-2026, Mr. Davis was named a "Super Lawyers Rising Star," a designation provided to less than 2.5 percent of lawyers in California. Before joining the firm, Mr. Davis prosecuted class actions on behalf of consumers, unfair competition law claims on behalf of public entities, and mass torts involving



pharmaceuticals. Mr. Davis also served as a prosecuting attorney at the San Diego County District Attorney's Office in its Economic Crimes Unit. In that role, he prosecuted environmental and consumer fraud civil actions, as well as environmental and consumer felonies. Mr. Davis began his career at a full-service law firm, where he represented both defendants and plaintiffs in unfair competition, environmental, and class action cases.

In addition to his professional accomplishments, Mr. Davis has worked with the University of San Diego Veterans Legal Clinic, providing representation to veterans against for-profit educational institutions.

Adam M. Bucci

Mr. Bucci is an associate with the firm. His practice focuses on complex class action litigation. Mr. Bucci graduated from California Western School of Law and earned his Bachelor of Arts from Loyola Marymount University. He is admitted to practice in the state of California, as well as the United States District Courts for the Northern, Central and Southern Districts of California. In 2026, Mr. Bucci was named a "Super Lawyers Rising Star."

Mr. Bucci has been practicing law since 2019. Before joining the firm, Mr. Bucci served as a Plaintiff's attorney in matters of complex business litigation, specifically in the payment processing industry. Mr. Bucci began his career as a criminal prosecutor with the San Diego County District Attorney's Office and served in both general channels and the Family Protection Unit. In that role, he prosecuted numerous misdemeanor and felony cases concerning domestic violence and child abuse.

EXHIBIT 2

Date	Timekeeper	Services Category	Description	Hours
6/21/2024	Dafne Maytorena	Obtaining and Reviewing Records	Profile defendants' notice of appeal to judgment	0.25
7/9/2024	Tim Blood	Interviews and Conferences	Telephone conference with Ninth Circuit mediator and parties	0.5
8/13/2024	Dafne Maytorena	Interviews and Conferences	Calendar 9th Cir. Mediation; Edit appeal briefing calendar; Profile ECF notifications	0.5
11/7/2024	James Davis	Preparing Briefs	Draft 9th Cir. mediation statement	4
11/7/2024	James Davis	Preparing Briefs	Teams call with co-counsel to discuss mediation statement, strategy	0.2
11/8/2024	James Davis	Preparing Briefs	Work on mediation statement	3
11/11/2024	James Davis	Preparing Briefs	Work on mediation statement	4
11/12/2024	James Davis	Preparing Briefs	Work on mediation statement	4
11/13/2024	James Davis	Preparing Briefs	Calculate damages, interest, exposure, prepare Excel spreadsheet for mediation	2.4
11/13/2024	James Davis	Preparing Briefs	Work on mediation statement	3
11/14/2024	James Davis	Preparing Briefs	Draft mediation statement, confidential mediation statement	4
11/15/2024	James Davis	Preparing Briefs	Finalize mediation statement, confidential mediation statement; serve on mediator and defense counsel	2.5
11/18/2024	James Davis	Interviews and Conferences	Call with co-counsel to prepare for mediation	0.6
11/18/2024	James Davis	Interviews and Conferences	Call with Tim Blood to discuss mediation	0.2
11/18/2024	Tim Blood	Interviews and Conferences	Prepare for mediation and meeting with Defendants' in house counsel, including call with co-counsel	1.5
11/18/2024	Tim Blood	Interviews and Conferences	Meet with D. Gamble re mediation and follow up regarding same.	1.5
11/19/2024	James Davis	Interviews and Conferences	Prep meeting with Tim Blood, John Grogan, Paula Brown (and Irv Ackelsberg via phone) re settlement conference (11/20)	1
11/20/2024	James Davis	Interviews and Conferences	Mediation session with Ninth Circuit mediator	5.5
11/26/2024	Tim Blood	Interviews and Conferences	Telephone conference with Ninth Circuit mediator and follow up with co-counsel.	0.7
12/19/2024	James Davis	Legal Research	Research re need to file notice of appeal if we decide to do so	0.2
12/30/2024	Tim Blood	Other - Appeal Bond	Call with defense counsel and co-counsel regarding appeal bond and follow up with J. Grogan	0.5
1/3/2025	Tim Blood	Other - Appeal Bond	Review and follow up on email from defendant regarding appeal bond	0.1
1/27/2025	Tim Blood	Other - Appeal Bond	Review bond cases provided by defense counsel and telephone conference with M. Ladner regarding bond amount	0.7
2/12/2025	Tommy O'Reardon	Research	Research latest case law on appeal bond issues and review and redline defendants proposed stipulation, order and appeal bond form and circulate same to group	1.2
3/12/2025	Tim Blood	Other - Appeal Bond	Follow up on increased bond issue.	0.1
3/13/2025	James Davis	Other - Appeal Bond	Teams call with M Ladner, Tim Blood, John Grogan re bond; follow up call with Tim Blood	0.2
4/2/2025	Tim Blood	Other - Appeal Bond	Work on stipulation regarding appeal bond and communicate with co-counsel and defense counsel regarding same.	0.5
4/4/2025	Dafne Maytorena	Obtaining and Reviewing Records	Calendar all appeal dates re: 2 appeals; Edit calendar entries	0.3
4/7/2025	Tim Blood	Other - Appeal Bond	Review for approval stipulation for appeal bond and related issues and proposed order.	0.3
4/7/2025	Tim Blood	Interviews and Conferences	Follow up on appellate mediation questionnaire	0.2
5/12/2025	James Davis	Research	Research Defendants' obligation(s) to increase bond in light of supplemental fees award	0.2
5/14/2025	Tim Blood	Other - Requests for Extension	Follow up on defendants' request for extension to file opening brief	0.3
6/3/2025	Tim Blood	Other - Requests for Consolidation	Follow up on defendants' request to consolidate appellate briefs	0.1
6/5/2025	Tim Blood	Other - Appeal Bond	Work on bond issue.	0.5
6/5/2025	Tommy O'Reardon	Other - Appeal Bond	Review defs draft of bond stipulation and order, review atty fee orders and calculate prejudgment interest on same and review caselaw on accrual date options, revise bond stipulation and follow up with T Blood and J Davis about same	1.7
6/11/2025	James Davis	Preparing Briefs	Work on statement of case, background, for answering brief	3
6/11/2025	Tim Blood	Other - Appeal Bond	Work on appeal bond issue	0.3
6/11/2025	Tommy O'Reardon	Other - Appeal Bond	Correspondence with defense counsel about fee award bond along; research law on quantum judgment and interest accrual and calculating bond amount	1.6
6/12/2025	James Davis	Preparing Briefs	Work on statement of case, background, for answering brief	3
6/13/2025	James Davis	Preparing Briefs	Work on statement of case, background, for answering brief	1
6/23/2025	James Davis	Preparing Briefs	Work on answering brief	1
6/24/2025	James Davis	Preparing Briefs	Work on answering brief	1
6/26/2025	James Davis	Preparing Briefs	Work on answering brief	1
6/27/2025	James Davis	Preparing Briefs	Work on answering brief	0.8
7/22/2025	James Davis	Preparing Briefs	Work on answering brief's summary of case	1.5
8/1/2025	James Davis	Preparing Briefs	Work on statement of case; review trial transcripts	3.2
8/6/2025	James Davis	Preparing Briefs	Call with David Nagdeman, John Grogan and Tim Blood re appeal	0.5

8/6/2025	Tim Blood	Preparing Briefs	Conference with co-counsel regarding strategy to respond to anticipated appeal and other strategy issues	0.5
8/8/2025	James Davis	Preparing Briefs	Work on statement of case	1.2
8/11/2025	James Davis	Preparing Briefs	Work on answering brief	3
8/12/2025	James Davis	Preparing Briefs	Work on appeal - answering brief	6
8/14/2025	James Davis	Preparing Briefs	Work on appeal (statement of case; background)	2
8/15/2025	James Davis	Preparing Briefs	Work on appeal (statement of case; background)	2
8/19/2025	James Davis	Preparing Briefs	Review opening brief	1
8/19/2025	James Davis	Preparing Briefs	Work on answering brief	1
8/20/2025	James Davis	Preparing Briefs	Work on statement of case for answering brief	1
8/21/2025	James Davis	Preparing Briefs	Call with co-counsel re appeal	0.3
9/8/2025	Dafne Maytorena	Other - Requests for Extension	Draft motion for extension of time to file Answering Brief (Consolidated Appeal)	0.4
9/8/2025	James Davis	Other - Requests for Extension	Work on motion requesting time extension to file answering brief	0.5
9/30/2025	James Davis	Preparing Briefs	Work on answering brief	1.5
9/30/2025	Leslie Hurst	Preparing Briefs	review/summarize opening brief on appeal and review draft answering brief (in part)	1.8
10/1/2025	James Davis	Preparing Briefs	Work on answering brief	1.5
10/1/2025	Leslie Hurst	Preparing Briefs	review and summarize draft answering brief; call w/ JD to discuss strategy; problems and weakness of brief; how to fix and how to divide up with co-counsel	2.2
10/2/2025	James Davis	Preparing Briefs	Work on answering brief	1
10/3/2025	James Davis	Preparing Briefs	Work on answering brief	1.4
10/6/2025	James Davis	Preparing Briefs	Work on answering brief	2
10/7/2025	James Davis	Preparing Briefs	Work on answering brief	2
10/8/2025	James Davis	Preparing Briefs	Work on answering brief	1
10/9/2025	James Davis	Preparing Briefs	Work on answering brief	1
10/13/2025	James Davis	Preparing Briefs	Work on answering brief	7
10/14/2025	James Davis	Preparing Briefs	Work on answering brief	9
10/15/2025	James Davis	Preparing Briefs	Work on answering brief	10
10/15/2025	Leslie Hurst	Preparing Briefs	call with TB and JD on appeal arguments for answering brief	1.5
10/16/2025	James Davis	Preparing Briefs	Work on answering brief	8.5
10/17/2025	James Davis	Preparing Briefs	Work on answering brief	7
10/20/2025	James Davis	Preparing Briefs	Work on answering brief	8.3
10/20/2025	James Davis	Preparing Briefs	Call with co-counsel re answering brief	0.3
10/21/2025	James Davis	Preparing Briefs	Work on answering brief	9
10/22/2025	James Davis	Preparing Briefs	Work on answering brief	10
10/23/2025	James Davis	Preparing Briefs	Work on answering brief	11
10/24/2025	Dafne Maytorena	Preparing Briefs	Identify and retrieve documents for the FER	1.6
10/24/2025	James Davis	Preparing Briefs	Work on answering brief	8
10/24/2025	James Davis	Preparing Briefs	Work on answering brief	7
10/27/2025	James Davis	Preparing Briefs	Work on answering brief	6.4
10/27/2025	Leslie Hurst	Preparing Briefs	work on answering brief on appeal	6.2
10/28/2025	James Davis	Preparing Briefs	Work on answering brief	8.4
10/28/2025	Leslie Hurst	Preparing Briefs	work on answering brief	3.9
10/28/2025	Tim Blood	Preparing Briefs	Work on response brief	3.5
10/29/2025	Dafne Maytorena	Preparing Briefs	Excerpts of record	2
10/29/2025	James Davis	Preparing Briefs	Call with Leslie Hurst and co-counsel re answering brief	0.5
10/29/2025	James Davis	Preparing Briefs	Work on answering brief	8
10/29/2025	Leslie Hurst	Preparing Briefs	call with co-counsel to discuss answering brief; restructures; edits; etc. Work on ans. brief in light of co-counsel comments	4.2
10/29/2025	Tim Blood	Preparing Briefs	Work on appellate response brief	1.5
10/30/2025	James Davis	Preparing Briefs	Work on answering brief	7
10/30/2025	Leslie Hurst	Preparing Briefs	work on/edit answering brief	3.9
10/30/2025	Tim Blood	Preparing Briefs	Work on appellate response brief	1.7
10/31/2025	Dafne Maytorena	Preparing Briefs	Put together supplemental excerpt of records (4 vols.). Input SER references to brief	6
11/2/2025	James Davis	Preparing Briefs	Work on answering brief	3
11/3/2025	Dafne Maytorena	Preparing Briefs	Cite check and edit response brief	5.6
11/3/2025	James Davis	Preparing Briefs	Work on answering brief, SER, index -- prepare for filing	2.8
12/22/2025	Tim Blood	Preparing Briefs	Review and analyze appellate reply brief	0.8
1/20/2026	James Davis	Other - Scheduling	Review oral argument email, available dates	0.1
1/21/2026	Dafne Maytorena	Other - Scheduling	Calendar time to file Form 32 re: oral argument	0.2
1/21/2026	James Davis	Preparing for and Attending Oral Argument	Call with co-counsel re appeal	0.2
1/21/2026	Leslie Hurst	Preparing for and Attending Oral Argument	teams call to discuss appeal oral argument	1
3/20/2026	James Davis	Preparing for and Attending Oral Argument	Call with co-counsel re appeal	0.5
3/20/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for appellate argument including conference call regarding same	0.8
3/23/2026	James Davis	Preparing for and Attending Oral Argument	Assist Tim Blood oral argument preparation	6.8

3/24/2026	James Davis	Preparing for and Attending Oral Argument	Assist Tim Blood oral argument preparation	5.7
3/25/2026	James Davis	Preparing for and Attending Oral Argument	Assist Tim Blood oral argument preparation	6.5
3/26/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for appeal oral argument	3
3/27/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for appeal oral argument	4.2
3/30/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for appeal oral argument	3.2
3/31/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for appeal oral argument	2.8
4/1/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for appeal oral argument	4
4/2/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for appeal oral argument	5
4/7/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for appeal oral argument	3
4/7/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for oral argument	2.9
4/8/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for appeal oral argument	4.3
4/8/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for oral argument	7
4/9/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for appeal oral argument	4
4/9/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for oral argument	4.8
4/10/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for appeal oral argument	4.2
4/14/2026	James Davis	Preparing for and Attending Oral Argument	Review appellate briefs to prepare for prep call on 4/16 with co-counsel	1.3
4/15/2026	James Davis	Preparing for and Attending Oral Argument	Review appellate briefs to prepare for prep call on 4/16 with co-counsel	1
4/16/2026	James Davis	Preparing for and Attending Oral Argument	Prepare for and attend prep call with co-counsel	1
4/16/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for and participate in prep call with co-counsel	1
4/27/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for oral argument (review briefs, issues, prepare key cites to record)	2.1
4/28/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for oral argument (review LGD answers to issues)	1
5/6/2026	James Davis	Preparing for and Attending Oral Argument	Prepare key record citations for TGB	4.5
5/7/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for oral argument	6
5/8/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for oral argument	7
5/11/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for appeal	2.5
5/11/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for oral argument	5.9
5/12/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for oral argument; call with co-counsel re same	5
5/12/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for oral argument	7
5/13/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for oral argument	4.5
5/13/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for appellate argument	6.8
5/14/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for oral argument	4.5
5/15/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for oral argument	1.5
5/16/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for oral argument	1
5/16/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for oral argument	4.5
5/17/2026	James Davis	Preparing for and Attending Oral Argument	Assist TGB in preparing for oral argument	2
5/17/2026	James Davis	Preparing for and Attending Oral Argument	Travel to Pasadena for oral argument	2
5/18/2026	James Davis	Preparing for and Attending Oral Argument	Travel to and from and attend oral argument	6
5/18/2026	Tim Blood	Preparing for and Attending Oral Argument	Prepare for appellant argument, argue, follow up on same and travel back to San Diego	8
6/17/2026	James Davis	Research	Research procedure for transferring attorney fee motion to district court	0.3
8/12/2026	James Davis	Obtaining and Reviewing Records	Review 9th Circuit opinion	0.4
8/12/2026	Tim Blood	Obtaining and Reviewing Records	Review and analyze appellate opinion and follow up regarding same	1
8/17/2026	Leslie Hurst	Preparing Briefs	Review record for attorney fee request on appeal (prior orders, motions, decls); review rules and forms for Mtn to Tax Costs on appeal; draft Mtn to Transfer atty fees on appeal to SDCA.	6
8/18/2026	Leslie Hurst	Other - Settlement Discussions	call w/co-counsel on def proposal to amend judgment on remittitur; research rules on extending atty fee motion on appeal and ethical obligations regarding the potential amended judgment	2.5
8/18/2026	Leslie Hurst	Preparing Briefs	work on Mtn to Transfer request for fees/costs on appeal; work on fee/cost request itself.	2.4
8/19/2026	Leslie Hurst	Other - Settlement Discussions	Research Def's proposal to amend judgment. Look into Rule 23e requirements and "one payment" rule and other procedural impediments to def's proposal; read case law.	2.7
8/19/2026	Leslie Hurst	Preparing Briefs	Draft mtn to extend time for appellate fee brief; draft mtn to transfer fees to DC; work on mtn for fees/expense on appeal	5.2
8/20/2026	Leslie Hurst	Preparing Briefs	work on atty fee/expense brief for fees on appeal	8
8/21/2026	Leslie Hurst	Preparing Briefs	Work on atty fee brief for fees on appeal and supporting declaration.	7
8/24/2026	Leslie Hurst	Preparing Briefs	work on mtn for fees/expenses on appeal	3.5
8/25/2026	Leslie Hurst	Preparing Briefs	work on appellate fee brief and TGB declaration	1.4
8/26/2026	Leslie Hurst	Preparing Briefs	work on mtn for atty fees on appeal; email to def counsel re: mtn to transfer atty fees on appeal to DC	2.4

8/27/2026	Leslie Hurst	Preparing Briefs	re-write application for atty fees on appeal to account for federal fee shifting restrictions/requirements on lodestar enhancements ie, Purdue v. Kenny	6.5
8/31/2026	James Davis	Preparing Briefs	Work on fee declaration and organize lodestar and costs; discussion with Leslie Hurst re same	5.5
9/1/2026	James Davis	Preparing Briefs	Work on fee declaration, organize hours and costs	4
9/1/2026	Leslie Hurst	Preparing Briefs	work on TB decl ISO of fees on appeal; pull and review exhibits for TB decl.	1.3
9/2/2026	Leslie Hurst	Preparing Briefs	review and make redlined changes to atty fee brief and TB declaration in support thereof.	3.7
9/3/2026	James Davis	Preparing Briefs	Work on fees motion and declaration; review and organize time and costs	2.2
9/8/2026	James Davis	Preparing Briefs	Work on fees motion and declaration; review and organize time and costs	2.5
9/8/2026	Tim Blood	Preparing Briefs	Review and revise Blood declaration in support of fees motion	0.4
9/9/2026	James Davis	Preparing Briefs	Work on fees motion and declaration; review and organize time and costs	1

Total: 502.45

EXHIBIT 3

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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**
11

12 HEATHER TURRY, et al.,

13 Plaintiffs,

14 v.

15 VERVENT, INC., etc., et al.

16 Defendants.
17

Case No.: 20-cv-697-DMS-AHG

**ORDER GRANTING IN PART
MOTION FOR ATTORNEYS' FEES,
COSTS OF SUIT, AND SERVICE
AWARDS**

18
19 Pending before the Court is Plaintiffs' motion for attorneys' fees, costs of suit, and
20 service awards for class representatives. (Motion, ECF No. 357). Defendants filed a
21 response in opposition, (Opp'n, ECF No. 370), and Plaintiffs filed a reply. (Reply, ECF
22 No. 372). The motion is suitable for resolution without oral argument pursuant to Civil
23 Local Rule 7.1(d)(1). (ECF No. 373). For the reasons discussed below, the Court finds
24 that Plaintiffs are entitled to **\$4,086,277.04** in attorneys' fees, **\$465,149.76** for costs of suit,
25 and **\$85,000** in service awards for the class representatives.

26 **I. BACKGROUND**

27 The background of this case has been summarized in numerous prior orders. (ECF
28 Nos. 128, 140, 151, 180). The facts below are relevant to the subject motion.

1 In April 2020, Plaintiffs filed their class action complaint against Defendants
2 Vervent, Inc., Activate Financial, LLC, David Johnson, Christopher Schuler, Lawrence
3 Chiavaro (“Defendants”), and Deutsche Bank Trust Company Americas (“DBTCA”).
4 (ECF No. 1). The initial complaint named Jody Aliff, Marie Smith, and Heather Turrey as
5 class representatives, and alleged the following claims: (1) Racketeer Influenced and
6 Corrupt Organizations Act (“RICO”); (2) Fair Debt Collection Practices Act (“FDCPA”);
7 (3) Rosenthal Fair Debt Collection Practice Act (“RFDCPA”); (4) California’s Unfair
8 Competition Law (“UCL”); and (5) negligent misrepresentation. (*Id.* at 30–45).
9 Defendants and DBTCA filed motions to compel arbitration. (ECF Nos. 31–32). The
10 Court granted DBTCA’s motion and denied Defendants’ motion. Defendants appealed,
11 and thereafter the Ninth Circuit affirmed the Court’s denial of arbitration.

12 The case proceeded through voluminous discovery. The parties exchanged hundreds
13 of thousands of documents and took part in several discovery conferences before
14 Magistrate Judge Goddard. During that process, Plaintiffs amended their complaint and
15 added new class representatives following Defendants’ settlement with some of the named
16 Plaintiffs. (ECF No. 84). The parties engaged in extensive motion practice: Defendants
17 filed a motion for summary judgment (ECF No. 85); Plaintiffs filed a motion for class
18 certification (ECF No. 87); Defendants filed a motion to dismiss—which they
19 subsequently withdrew (ECF Nos. 100; 104); Plaintiffs filed an amended motion for class
20 certification (ECF No. 143); and Defendants filed a second motion for summary judgment
21 (ECF No. 158). Ultimately, the Court denied Defendants’ summary judgment motions and
22 granted in part Plaintiffs’ amended motion for class certification. As the case approached
23 trial, Defendants filed motions to modify the scheduling order and decertify the class, (ECF
24 No. 183), which were denied. (ECF No. 193). The parties also filed several motions in
25 limine and *Daubert* motions.

26 On June 8, 2023, a seven-day class action jury trial commenced. During the trial
27 and nearing the close of Plaintiffs’ case in chief, the Court expressed skepticism that
28 Plaintiffs’ FDCPA, RFDCPA, and negligent misrepresentation claims could be adjudicated

1 on a class-wide basis and stated that it was inclined to decertify those claims. Plaintiffs
2 elected to dismiss those claims and not pursue them on an individual basis. Defendants
3 thereafter filed a motion for judgment as a matter of law pursuant to Rule 50(a) and
4 challenged Plaintiffs' sole remaining class-claim under RICO, (ECF No. 280), which was
5 denied. (ECF No. 287). The jury returned a verdict in favor of Plaintiffs and all class
6 members on that claim and awarded \$4,000,000 in damages,¹ (ECF No. 300), which was
7 trebled under the statute for a total award of \$12,000,000.

8 Post-verdict, this Court scheduled a bench trial for Plaintiffs' remaining equitable
9 claim under the UCL. After additional briefing by the parties, the Court dismissed the
10 UCL claim on jurisdictional grounds and vacated the bench trial. (ECF No. 338). Plaintiffs
11 also filed a motion to alter or amend the judgment pursuant to Rule 59(e), (ECF No. 313),
12 which was denied. (ECF No. 345).

13 II. LEGAL STANDARD

14 Under the RICO statute, "[a]ny person injured in his business or property by reason
15 of a violation of section 1962 of this chapter may sue therefor in any appropriate United
16 States district court and shall recover threefold the damages he sustains and the cost of the
17 suit, including a reasonable attorney's fee." 18 U.S.C. § 1964(c). Courts routinely
18 interpret this language to mandate an award of attorneys' fees and costs to a party injured
19 by a RICO violation. *See Valadez v. Aguallo*, No. C-08-03100, 2009 WL 10680866, at *4
20 (N.D. Cal. Dec. 10, 2009), *aff'd*, 433 Fed. App'x 536 (9th Cir. 2011)). Because Plaintiffs
21 prevailed on their RICO claim, the parties contest only the amount of attorneys' fees, costs,
22 and service awards.

23 III. DISCUSSION

24 To calculate attorneys' fees, the Court starts with the lodestar method. *See*
25 *Gisbrecht v. Barnhart*, 535 U.S. 789, 801 (2002) ("The 'lodestar' figure has, as its name
26

27
28 ¹ The jury did not find Defendant Chiavaro liable under the RICO claim, (ECF No. 300), and all claims
against Defendant Schuler were dismissed. (ECF No. 360).

suggests, become the guiding light of our fee-shifting jurisprudence.” (quoting *Burlington v. Dague*, 505 U.S. 557, 562 (1992)); see also *In re Apple Inc. Device Performance Litig.*, 50 F.4th 769, 784 (9th Cir. 2022) (“When calculating an attorney’s fee award, a district court can employ one of two methods—the lodestar or a percentage of the recovery.”). Here, the parties agree the lodestar method is appropriate. “Under the lodestar method, the district court ‘multiplies the number of hours the prevailing party reasonably spent on litigation by a reasonable hourly rate to determine a presumptively reasonable fee award.’” *In re Apple*, 50 F.4th at 784 (quoting *Kim v. Allison*, 8 F.4th 1170, 1180 (9th Cir. 2021)). After the initial lodestar calculation, the court can apply upward or downward adjustments “to account for factors such as ‘the quality of representation, the benefit obtained for the class, the complexity and novelty of the issues presented, and the risk of nonpayment.’” *Id.* (quoting *Kim*, 8 F.4th at 1180–81).

A. Reasonable Hourly Rate

The reasonable hourly rate is set by the “prevailing market rates in the relevant community.” *Gonzalez v. City of Maywood*, 729 F.3d 1196, 1205 (9th Cir. 2013) (quoting *Dang v. Cross*, 422 F.3d 800, 813 (9th Cir. 2005)). “Generally, when determining a reasonable hourly rate, the relevant community is the forum in which the district court sits”—here the Southern District of California. *Id.* (quoting *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 454 (9th Cir. 2010)). The Court employs currently prevailing rates in its calculations. See *In re Washington Pub. Power Supply Sys. Sec. Litig.*, 19 F.3d 1291, 1305 (9th Cir. 1994) (“Full compensation requires charging current rates for all work done during the litigation, or by using historical rates enhanced by an interest factor.”).

Plaintiffs’ counsel Blood, Hurst & O’Reardon, LLP requests hourly rates of or between \$660 to \$960 for partners, \$675 for Of Counsel, \$500 to \$575 for associates, \$175 to \$280 for paralegals, and \$215 for summer associates. (Blood Decl., ECF No. 357-2 ¶ 75). Langer, Grogan & Diver P.C. requests hourly rates of \$950 for partners, \$950 for “Senior Attorney,” \$550 for associates, and \$280 for paralegals. (Ackelsberg Decl., ECF

No. 357-14 ¶ 39). The Law Office of Paul Arons requests a \$700 hourly rate for attorney Paul Arons. (Grace Decl., ECF No. 357-17 ¶ 13). Any variation within each category is explained by years of legal experience. Defendants do not dispute these hourly rates.

After reviewing Plaintiffs' counsels' rates, the Court finds them to be reasonable. They are approximately in line with past hourly rates approved in this district. *See In re Outlaw Lab 'ys, LP Litig.*, No. 18-CV-840-GPC-BGS, 2023 WL 6522383, at *3 (S.D. Cal. Oct. 5, 2023) (approving hourly rates of \$996 for senior partners and \$855 for other attorneys); *CliniComp Int'l, Inc. v. Cerner Corp.*, No. 17-cv-02479, 2023 WL 2604816, at *3 (S.D. Cal. Mar. 22, 2023) (approving hourly rates of over \$1,000 for partners); *Lopez v. Mgmt. & Training Corp.*, No. 17-cv-1624, 2020 WL 1911571, at *8-9 (S.D. Cal. Apr. 20, 2020) (approving hourly rates ranging from \$500 to \$900).

As for the paralegals, the requested hourly rates are also consistent with their years of experience. This district has awarded paralegal fees in line with the \$175 to \$280 hourly rates requested by Plaintiffs' counsel. *See Durruthy v. Charter Commc'ns, LLC*, No. 20-CV-01374-W-MSB, 2021 WL 6883423, at *6 (S.D. Cal. Sept. 30, 2021) (collecting cases). Dafne Maytorena and Kim Ferrari have over 21 years of experience as paralegals. Their requested \$280 hourly rate is consistent with awards in this district. *See, e.g., In re Maxwell Techs., Inc., Derivative Litig.*, No. 13CV966 BEN (RBB), 2015 WL 12791166, at *5 (S.D. Cal. July 13, 2015). Though no experience-level was provided for paralegal Daniela Rodriguez, her requested \$175 hourly rate is generally consistent with approved rates in this district for paralegals without significant experience. *Id.*

Finally, Langer, Grogan & Diver P.C. requests a \$215 hourly rate for its summer associate's work. Reasonable rates for summer associates have been assessed in this district between \$125 and \$150 per hour. *See Stross v. Z Lifestyle LLC*, No. 20-CV-177-DMS-AGS, 2020 WL 13556135, at *8 (S.D. Cal. Nov. 5, 2020) (finding a \$200 hourly rate for summer associates "on the high end for [the Southern] District" and instead finding a \$150 hourly rate to be reasonable); *Grace Church of N. Cnty. v. City of San Diego*, No. 07CV0419 H(RBB), 2008 WL 11508664, at *9 (S.D. Cal. Sept. 9, 2008) (awarding a

\$125 hourly rate for summer associate work). Given a summer associate’s dearth of legal experience, the Court finds a slight reduction to a \$175 hourly rate is warranted. This finding is consistent with the hourly rate assigned for paralegals without significant experience. *See Stross*, 2020 WL 13556135, at *8 (setting the same hourly rate for summer associates and paralegals).

B. Reasonable Number of Hours Expended

“In determining the appropriate number of hours to be included in a lodestar calculation, the district court should exclude hours that are excessive, redundant, or otherwise unnecessary.” *McCown v. City of Fontana*, 565 F.3d 1097, 1102 (9th Cir. 2009) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983)). Plaintiffs “bear[] the burden of documenting the appropriate hours expended in the litigation and must submit evidence in support of those hours worked.” *Gates v. Deukmejian*, 987 F.2d 1392, 1397 (9th Cir. 1992). Defendants bear the “burden of rebuttal that requires submission of evidence to the district court challenging the accuracy and reasonableness of the hours charged or the facts asserted by the prevailing party in its submitted affidavits.” *Id.* at 1397–98.

Plaintiffs’ counsel request a collective lodestar based on 7,024 hours.² Motion, at 23–24; Blood Decl. ¶ 75; Ackelsberg Decl. ¶ 39. Counsel claim that these hours “represent[] only time spent that benefited the Class” and “exclude[] billable hours related to work on certain post-trial briefing, including Plaintiffs’ failed UCL claim, the motion to alter or amend the judgment, the motion for leave to amend the Second Amended Complaint, work exclusively related to researching and calculating prejudgment interest, and work exclusively related to dismissed defendant DBTCA.” Blood Decl. ¶ 74; *see also* Ackelsberg Decl. ¶ 39.

² The Court notes that Plaintiffs’ Motion requests 6,660.40 hours for reimbursement. (Motion, at 24). This figure appears to exclude hours billed by the late Paul Arons. However, Plaintiffs’ accompanying affidavits include Mr. Arons’ hours and billable rates. *See* Blood Decl., ¶ 84; Ackelsberg Decl. at 20; Grace Decl. ¶ 11. Accordingly, the Court interprets Plaintiffs’ Motion to request reimbursement for a total of 7,024 hours of work.

1 1. Relation of Unsuccessful Claims

2 “A plaintiff is not eligible to receive attorney’s fees for time spent on unsuccessful
3 claims that are unrelated to a plaintiff’s successful [RICO] claim. Such unrelated claims
4 must be treated as if they had been raised in a separate lawsuit to realize ‘congressional
5 intent to limit awards to prevailing parties.’” *McCown v. City of Fontana*, 565 F.3d 1097,
6 1103 (9th Cir. 2009) (quoting *Hensley*, 461 U.S. at 435). However, “in a lawsuit where
7 the plaintiff presents different claims for relief that ‘involve a common core of facts’ or are
8 based on ‘related legal theories,’ the district court should not attempt to divide the request
9 for attorney’s fees on a claim-by-claim basis. Instead, the court must proceed to the second
10 part of the analysis and ‘focus on the significance of the overall relief obtained by the
11 plaintiff in relation to the hours reasonably expended on the litigation.’” *Id.* (quoting
12 *Hensley*, 461 U.S. at 435) (internal citations omitted).

13 Defendants argue that Plaintiffs’ four unsuccessful claims—FDCPA, RFDCPA,
14 negligent misrepresentation, and UCL—were unrelated and should be excluded from the
15 lodestar. (Opp’n, at 20). These claims, according to Defendants, did not “share[] any legal
16 or factual overlap with the RICO theory” and were instead “about particular regulatory
17 requirements.” (*Id.* at 23). Plaintiffs argue that each claim centered on the same “common
18 core of facts”—the PEAKS loan scheme. (Reply, at 9).

19 The Court agrees with Plaintiffs. Although based on different legal theories, each
20 of Plaintiffs’ claims focused on the fraudulent PEAKS loan program. The RICO
21 conspiracy presented to the jury encompassed all acts of Defendants’ alleged wrongdoing,
22 including those acts under the dismissed claims. As the Court previously noted, while the
23 validity of the PEAKS loans is principally related to Plaintiffs’ FCPA, RFDCPA, UCL,
24 and negligent misrepresentation claims, the asserted invalidity of the underlying loans is
25 relevant to Plaintiff’s RICO conspiracy claim and Defendants’ knowledge of the
26 conspiracy, as it is one of the red flags Plaintiffs claim put Defendants on notice of ITT’s
27 fraudulent loan scheme. (ECF No. 180, at 3). Accordingly, the Court declines to engage
28 in Defendants’ proposed claim-by-claim division of attorneys’ fees.

Defendants also appear to argue that because Plaintiffs’ counsels’ work on these related claims were unsuccessful, the Court should excise those hours from the lodestar. (Opp’n, at 26–27). As stated, Ninth Circuit precedent is primarily concerned with the relatedness of the claims—not whether those claims were ultimately successful. While the Court agrees that Plaintiffs should not be compensated for unnecessary and irrelevant work, the dismissed claims were neither unnecessary nor irrelevant.

2. Staffing

“[T]he participation of more than one attorney does not necessarily constitute an unnecessary duplication of effort.” *McGrath v. Cnty. of Nevada*, 67 F.3d 248, 255 (9th Cir. 1995) (quoting *Kim v. Fujikawa*, 871 F.2d 1427, 1435 n.9 (9th Cir. 1989)). “A reduction of fees is warranted only if the attorneys are *unreasonably* doing the *same* work. An award for time spent by two or more attorneys is proper as long as it reflects the distinct contribution of each lawyer to the case and the customary practice of multiple-lawyer litigation.” *Herring Networks, Inc. v. Maddow*, No. 19-CV-1713-BAS-AHG, 2021 WL 409724, at *9 (S.D. Cal. Feb. 5, 2021) (quoting *Noyes v. Grossmont Union High Sch. Dist.*, 331 F. Supp. 2d 1233, 1250 (S.D. Cal. 2004), *rev’d on other grounds*, *Evan v. Grossmont Union High Sch. Dist.*, 197 Fed. App’x 648 (9th Cir. 2006)).

Defendants further argue that Plaintiffs’ counsel overstaffed their case and that a reduction in attorney hours is warranted. (Opp’n, at 25–26). Defendants’ particular gripes with Plaintiffs staffing include (1) the fact that Plaintiffs’ counsel had seventeen unique timekeepers to Defendants’ two; and (2) Plaintiffs’ counsel had multiple attorneys present at depositions and at trial versus Defendants’ two attorneys. (*Id.* at 25).

The Court declines Defendants’ invitation to penalize Plaintiffs’ counsel for their staffing decisions. “While it is appropriate to consider the skill required to perform a task, the district court may not set the fee based on speculation as to how other firms would have staffed the case.” *Moreno*, 534 F.3d at 1114 (internal citations omitted). The Ninth Circuit in *Moreno* noted that “[t]he cost effectiveness of various law firm models is an open question, and it is by no means clear whether a larger law firm would have billed more or

less for the entire case.” *Id.* Accordingly, the Court declines to reduce the amount of attorney hours based on Plaintiffs’ staffing decisions.

3. Attorney Hours Related to Appeal

Defendants contend that Plaintiffs should not be compensated for any work relating to Defendants’ appeal of this Court’s Order denying Defendants’ motion to compel arbitration. Defendants argue that, “RICO does not authorize attorneys’ fees on appeal,” and Plaintiffs had to but “did not request a fee determination from the Ninth Circuit.” (Opp’n, at 29). Plaintiffs disagree, noting that other courts have held that the RICO statute authorizes awarding fees and costs spent on appeals. (Reply, at 12).

The Court agrees with Plaintiffs. At the outset, courts in this Circuit and others have routinely held that RICO authorizes reimbursement for attorneys’ fees spent on appeals. *See Int’l Bus. Machines Corp. v. Brown*, No. 94-56001, 1998 WL 10751, at *4 (9th Cir. Jan. 9, 1998) (granting respondent’s request for attorneys’ fees on appeal); *Int’l Floor Crafts v. Dziemit*, 420 Fed. App’x 6, 18–19 (1st Cir. Apr. 21, 2011) (“We assume for present purposes that appellate fees are part of the fees calculable as costs under RICO.”); *C.f. Bullock v. Abbott and Ross Credit Servs., L.L.C.*, No. A-09-CV-413 LY, 2009 WL 4598330, at *5 & n.10 (W.D. Tex. Dec. 3, 2009) (finding RICO appeal costs reimbursements “appropriate only in the event an appeal takes place”). Plaintiffs were not required to request attorneys’ fees from the Ninth Circuit. Defendants’ single cited authority involved an appeal of a claim under 42 U.S.C. § 1988, which specifically requires that attorneys’ fees incurred on appeal “must be filed in the first instance in the circuit court.” *Wheeler v. Coss*, No. 06-CV-00717-RAM, 2010 WL 2628667, at *6 (D. Nev. June 28, 2010). No such requirement exists under the RICO statute, 18 U.S.C. § 1964. Accordingly, the Court declines to omit counsels’ work caused by Defendants’ appeal of the Order denying Defendants’ motion to compel arbitration.

4. Attorney Hours Related to Discovery Disputes

Defendants also argue that Plaintiffs should not be entitled to any compensation relating to discovery disputes because no discovery motions were filed. (Opp’n, at 28–29).

1 However, courts in this district routinely include in lodestar calculations work done on
2 discovery disputes regardless of whether a motion to compel was filed. *See Shames v.*
3 *Hertz Corp.*, No. 07-CV-2174-MMA WMC, 2012 WL 5392159, at *19 (S.D. Cal. Nov. 5,
4 2012) (noting “discovery disputes, lengthy meet and confer efforts, . . . and other extensive
5 discovery-related work” when calculating the lodestar); *Hawkins v. Kroger Co.*,
6 No. 15CV2320 JM (AHG), 2022 WL 345639, at *10 (S.D. Cal. Feb. 4, 2022) (noting
7 “numerous discovery disputes” when calculating the lodestar). Accordingly, the Court
8 declines to omit from the lodestar calculation attorney time related to resolution of
9 discovery disputes.

10 5. Sufficient Documentation

11 Defendants argue that Plaintiffs’ counsel did not meet their burden because they
12 failed to provide time records and documentation showing “with any specificity the tasks
13 completed . . . for attorney spent time on each task.” (Opp’n, at 16). The consequence for
14 this lack of specificity, according to Defendants, should be a reduction of attorneys’ fees
15 on a percentage basis or denial of Plaintiffs’ request for attorneys’ fees and costs. (*Id.*).
16 However, time records are not required where, as here, the reviewing court has “detailed
17 declarations” and other documentation sufficient to address the request for fees. *See*
18 *Planned Parenthood Fed’n of Am., Inc. v. Ctr. For Med. Progress*, No. 16-cv-236-WHO,
19 2020 WL 7626410, at *6–7 (N.D. Cal. Dec. 22, 2020); N.D. Cal. Civ. L.R. 54-5(b)(2) (no
20 submission of time records with fee motion unless ordered by the court). Class counsel
21 here submitted detailed descriptions, declarations, and tables of information supporting
22 their fees motion.

23 Nevertheless, counsels’ general description of what hours were not billed—asserting
24 they “voluntarily cut their lodestar by 11%[,]” (Reply, at 2)—left some gaps in an
25 otherwise satisfactory record. Accordingly, the Court applies a 5% reduction to Plaintiffs’
26 total requested hours. *See Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir.
27 2008) (“[T]he district court can impose a small reduction, no greater than 10 percent—a
28

‘haircut’—based on its exercise of discretion and without a more specific explanation.”). Consequently, the Court finds Plaintiffs’ counsels’ reasonable hours to be 6,672.8 hours.

C. The Resulting Lodestar

Based on the foregoing discussion, Plaintiffs’ initial lodestar calculation is \$5,060,405. After the 5% reduction, the lodestar is **\$4,807,384.75**.

Law Firm	Individual	Hours	Hourly Rate	Total
BHO	Timothy G. Blood	493.75	\$960	\$474,000
BHO	Leslie E. Hurst	480.5	\$810	\$389,205
BHO	Thomas J. O’Reardon II	10.50	\$710	\$7,455
BHO	Paula R. Brown	270.25	\$660	\$178,365
BHO	James M. Davis	1,011.5	\$500	\$505,750
BHO	Jennifer MacPherson	12.75	\$675	\$8,606
BHO	Craig W. Straub	25.5	\$575	\$14,663
BHO	Aleksandr J. Yarmolinet	137.25	\$565	\$77,546
BHO	Joseph Tull	37.75	\$175	\$6,606
BHO	Dafne Maytorena	260.25	\$280	\$72,870
BHO	Daniela Rodriguez	15	\$175	\$2,625
LGD	Irv Ackelsberg	1,571.20	\$950	\$1,492,640
LGD	John J. Grogan	1,135.50	\$950	\$1,078,725
LGD	Mary Catherine Roper	15.60	\$950	\$14,820
LGD	David A. Nagdeman	538.20	\$550	\$296,010
LGD	Kevin Trainer	20.10	\$550	\$11,055
LGD	Kim Ferrari	624.80	\$280	\$174,944
PA	Paul Arons	363.6	\$700	\$254,520
		7,024		\$5,060,405.00
				x 0.95
				\$4,807,384.75

D. Adjustments to the Lodestar

Although the lodestar is presumptively reasonable, the Court may adjust it by an appropriate multiplier “reflecting a host of reasonableness factors, including the quality of representation, the benefit obtained for the class, the complexity and novelty of the issues presented, and the risk of nonpayment.” *Yamada v. Nobel Biocare Holding AG*, 825 F.3d 536, 546 (9th Cir. 2016) (quoting *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 941 (9th Cir. 2011)) (internal quotations omitted). Of these factors, “a party’s success in the litigation is the ‘most critical.’” *Id.* (quoting *Hensley*, 461 U.S. at 436). “[W]here the plaintiff has achieved ‘only limited success,’ counting *all* hours expended on the litigation—even those reasonably spent—may produce an ‘excessive amount.’” *In re Bluetooth*, 654 F.3d at 942 (quoting *Hensley*, 461 U.S. at 436).

1. Level of Success

“When an adjustment is requested on the basis of either the exceptional or limited nature of the relief obtained by the plaintiff, the district court should . . . consider[] the relationship between the amount of the fee awarded and the results obtained.” *Yamada*, 825 F.3d at 546. A party’s level of success includes “the damages award, potentially a related settlement amount, and ‘the significant nonmonetary results . . . achieved for [plaintiffs] and other members of society.’” *In re Outlaw Lab ’ys*, 2023 WL 6522383, at *8 (quoting *Morales v. City of San Rafael*, 96 F.3d 359, 365 (9th Cir. 1996)). “[T]he district court must consider the excellence of the overall result, not merely the amount of damages won.” *McCown*, 565 F.3d at 1104. Nonetheless, “a district court should ‘give primary consideration to the amount of damages awarded as compared to the amount sought.’” *Id.* (quoting *Farrar v. Hobby*, 506 U.S. 103, 114 (1992)).

Plaintiffs’ counsel argue that they achieved “an [e]xceptional [r]esult for the Class” after having “battled for years with formidable adversaries and prevail[ing] in a complex and difficult trial against three of four defendants.” (Motion, at 28). Defendants have a different interpretation of the result, noting that Plaintiffs prevailed on only one of five claims and were awarded approximately 7% of their requested damages. (Opp’n, at 18).

1 As a result, Defendants recommend an 80% reduction to the lodestar to reflect Plaintiffs’
2 20% success rate on the claims they brought. (*Id.* at 20).

3 The Court starts with Plaintiffs’ monetary success. Plaintiffs prevailed on their
4 RICO claim and were awarded a total recovery of \$12,000,000. Plaintiffs’ victory falls
5 short of their goal of \$51,509,051, but it was a significant win as it proved up a massive
6 loan scheme that Defendants facilitated under challenging facts and circumstances.

7 The Court next considers Plaintiffs’ nonmonetary success, specifically the
8 “excellence of the overall result.” “[T]he district court should consider whether, and to
9 what extent, [Plaintiffs’] suit benefitted the public. The public benefit of a suit must have
10 enough of an impact to justify a fully compensatory fee award despite limited success on
11 damages claims. To determine this impact, the district court should consider whether the
12 plaintiff has affected a change in policy or a deterrent to widespread civil rights violations.”
13 *McCown*, 565 F.3d at 1105. In the context of RICO suits, consideration of nonmonetary
14 success is particularly appropriate since “fee-shifting under 18 U.S.C. § 1964(c) ensures
15 that persons with legitimate racketeering concerns can obtain representation.” *In re Outlaw*
16 *Lab’ys*, 2023 WL 6522383, at *8. Thus, “it would be wrong to evaluate the extent of the
17 results Plaintiffs’ counsel obtained based solely on the number of dollars they recovered
18 for their clients.” *Gonzalez*, 729 F.3d at 1210.

19 As noted, Plaintiffs successfully litigated a challenging and hard-fought RICO claim.
20 Where counsel’s work and the duration of an action are “short,” additional scrutiny of a
21 fee request is warranted. *See Lo v. Oxnard European Motors, LLC*, No. 11CV1009 JLS
22 MDD, 2012 WL 1932283, at *3 (S.D. Cal. May 29, 2012) (“[E]xpress[ing] concern over
23 awarding attorneys’ fees in excess of twenty-five percent of the settlement fund given the
24 short duration of the action and the fact that the complaint appear[ed] to be a boilerplate
25 complaint that Plaintiff’s counsel need only amend slightly in each case it files alleging a
26 TCPA violation, of which there are many.”). However, as here, where counsel actively
27 litigated the case through extensive dispositive motion practice, class certification
28 challenges, and an appeal, courts have noted the significant benefit to class members

beyond the monetary value of the damages awarded. *See Keegan v. Am. Honda Motor Co, Inc.*, No. CV 10-09508 MMM (AJWX), 2014 WL 12551213, at *27 (C.D. Cal. Jan. 21, 2014) (finding “settlement conferred a significant benefit on class members” where counsel prevailed on class certification and defendant’s motion to dismiss and petition for interlocutory appeal).

Plaintiffs’ success on their RICO claim also conferred nonmonetary benefits to the public by generally “detering similar conduct by others.” *Tanedo v. E. Baton Rouge Par. Sch. Bd.*, No. SA CV10-01172 JAK (MLGx), 2013 WL 12173894, at *17 (C.D. Cal. Sept. 6, 2013). Though the precise value of this deterrence is uncertain, the Court may consider it as part of Plaintiffs’ nonmonetary success. *See Gonzalez*, 729 F.3d at 1210 (considering as part of the litigation’s success that the “filing and prosecution of these lawsuits . . . and subsequent decision to shut down its beleaguered police department.”).

Finally, as to Defendants’ proportionality argument, although Plaintiffs succeeded on only one of its claims, that fact alone does not warrant a proportional 80% reduction to the lodestar. A “test of strict proportionality” is inappropriate under the circumstances. *See McCown*, 565 F.3d at 1104. Rather, courts in this circuit have found that a party’s success on only one of five claims—depending on the nature of that success—may warrant only a modest lodestar reduction between 10-20%. *See Yamada*, 825 F.3d at 546 (20%); *In re Outlaw Lab’ys*, 2023 WL 6522383, at *9 (15%); *Hamed v. Macy’s W. Stores, Inc.*, No. 10-2790, 2011 WL 5183856, at *7 (N.D. Cal. Oct. 31, 2011) (10%). As noted, this is so here because the overarching RICO conspiracy advanced by Plaintiffs encompassed all aspects of Defendants’ alleged wrongdoing under each claim, including those claims that were dismissed during trial.

2. Risk of Nonpayment

Plaintiffs’ counsel request a multiplier on the lodestar to reflect the risk they incurred by taking this case on a contingency if “the Court were to reduce either the number of hours or hourly rates requested.” (Motion, at 27). While the Court may “apply a risk multiplier to the lodestar ‘when (1) attorneys take a case with the expectation they will receive a risk

enhancement if they prevail, (2) their hourly rate does not reflect that risk, and (3) there is evidence the case was risky[.]” *Stanger v. China Elec. Motor, Inc.*, 812 F.3d 731, 741 (9th Cir. 2016) (quoting *Fischel v. Equitable Life Assurance Soc’y of U.S.*, 307 F.3d 997, 1008 (9th Cir. 2002)), Plaintiffs never addressed any of these factors. The Court therefore declines to consider risk of nonpayment in calculating a lodestar multiplier.

3. Lodestar Multiplier

After considering the level of Plaintiffs’ monetary and nonmonetary successes as compared to the amount of damages sought, the Court finds that a 0.85 multiplier to the lodestar is warranted. This reduction is consistent with other courts in this district where Plaintiffs succeeded on one of five related claims. Consequently, the adjusted lodestar amount is $\$4,807,384.75 \times 0.85 = \$4,086,277.04$.

D. Cost of Suit

Under RICO, the injured party may recover “the cost of the suit.” 18 U.S.C. § 1964(c). Recoverable costs include “standard out-of-pocket litigation expenses, such as printing and legal research, as well as costs that are normally non-taxable, such as travel expenses.” *In re Outlaw Lab’ys*, 2023 WL 6522383, at *9. Plaintiffs request costs for “expert fees, deposition costs, mediation fees, electronic discovery database support, issuing class notice, filing and service of process, travel, online research, photocopies, postage, telephone charges, and the jury trial.” (Motion, at 28). These costs are typical and supported by invoices. (*Id.*; ECF Nos. 357-7–357-13; 357-16). Defendants’ sole objection to the request is that Plaintiffs do not differentiate between costs incurred for their RICO and non-RICO claims, and thus an 80% reduction is warranted. (Opp’n, at 29–30). For the reasons discussed above, the Court finds that Plaintiffs’ costs incurred due to their dismissed claims are related to their successful RICO prosecution. Accordingly, the Court finds that Plaintiffs are entitled to costs in the sum of **\$465,149.76**.

E. Service Awards

“[N]amed plaintiffs . . . are eligible for reasonable incentive payments. The district court must evaluate their awards individually, using ‘relevant factors includ[ing] the

actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, . . . the amount of time and effort the plaintiff expended in pursuing the litigation . . . and reasonabl[e] fear[s of] workplace retaliation.” *Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003) (quoting *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998)). The purpose of service awards is to “compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.” *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 958–59 (9th Cir. 2009).

Plaintiffs request \$25,000 in service awards for Plaintiff Turrey and \$20,000 each for Plaintiffs Fiaty, Hernandez, and Sazon. (Motion, at 29). These requests are consistent with service awards issued in other cases. *See Pelletz v. Weyerhaeuser Co.*, 592 F. Supp. 2d 1322, 1329-30 & n.9 (W.D. Wash. 2009) (collecting decisions approving awards ranging from \$5,000 to \$40,000).

Plaintiff Turrey served as class representative throughout the entirety of the litigation. (ECF No. 357-21 ¶ 2). She played an active and vital role during discovery, answering questions and producing documents necessary for her attorneys to answer interrogatories and requests for production. (*Id.* ¶ 7). She prepared for and participated in her own deposition, the March 22, 2023 settlement conference, and trial. (*Id.* ¶¶ 8–12). The Court finds that the time and effort Plaintiff Turrey spent on this litigation and the benefit her efforts provided to the class justify a \$25,000 service award. Similarly, the efforts of Plaintiffs Fiaty, Hernandez, and Sazon all benefited the class. Each of them provided necessary information and documents for their attorneys to answer interrogatories and requests for production. (ECF No. 357-18 ¶ 6; ECF No. 357-19 ¶ 6; ECF No. 357-20 ¶ 6). These Plaintiffs also prepared for and participated in depositions, the March 22, 2023 settlement conference, and trial. (ECF No. 357-18 ¶¶ 7–11; ECF No. 357-19 ¶¶ 7–11; ECF No. 357-20 ¶¶ 7–11). The principal difference between these Plaintiffs and Plaintiff Turrey was that they (Fiaty, Hernandez, and Sazon) were designated as class

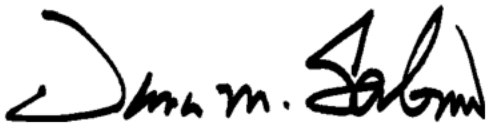
1 representatives later in the litigation. Accordingly, the Court finds that a \$20,000 service
2 award for Plaintiffs Fiaty, Hernandez, and Sazon is appropriate for each of them under the
3 circumstances.

4 **IV. CONCLUSION**

5 For these reasons, Plaintiffs are awarded **\$4,086,277.04** in attorneys' fees and
6 **\$465,149.76** for costs of suit. The Court also awards Plaintiff Turrey **\$25,000**, and
7 Plaintiffs Fiaty, Hernandez, and Sazon **\$20,000** each in service awards.

8 **SO ORDERED.**

9 Dated: February 26, 2025

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11 _____

12 Hon. Dana M. Sabraw
13 United States District Judge
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EXHIBIT 4

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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**
11

12 HEATHER TURRY, et al.,

13 Plaintiffs,

14 v.

15 VERVENT, INC., etc., et al.

16 Defendants.
17

Case No.: 20-cv-697-DMS-AHG

**ORDER GRANTING MOTION FOR
ATTORNEYS' FEES**

18 Pending before the Court is Plaintiffs' supplemental motion for attorneys' fees.
19 (Supplemental Motion, ECF No. 386). Defendants filed a response in opposition, (Opp'n,
20 ECF No. 389), and Plaintiffs filed a reply. (Reply, ECF No. 394). The matter is suitable
21 for resolution without oral argument pursuant to Civil Local Rule 7.1(d)(1). (ECF
22 No. 395). For the reasons discussed below, the Court finds that Plaintiffs are entitled to
23 **\$76,971** in attorneys' fees.

24 **I. BACKGROUND**

25 The background of this case has been summarized in numerous prior orders. (ECF
26 Nos. 128, 140, 151, 180, 384, 385). After receiving a favorable jury verdict on their RICO
27 claim in this consumer class action, Plaintiffs moved for attorneys' fees, costs, and service
28

awards. At approximately the same time, Defendants moved for judgment as a matter of law under Rule 50(b). The Court denied Defendants’ Rule 50(b) motion and granted in part Plaintiffs’ attorneys’ fees motion. (Initial Fees Order, ECF No. 385). Plaintiffs now file a Supplemental Motion to recover additional attorneys’ fees incurred for opposing Defendants’ Rule 50(b) motion and filing the initial attorneys’ fees motion, the present motion, and all other briefings and filings related to the fees motions. (Supplemental Motion, at 2).

As the Court previously held in the Initial Fees Order, Plaintiffs are entitled to reasonable attorneys’ fees under RICO for their successful prosecution. *See* Initial Fees Order, at 3; *Valadez v. Aguillo*, No. C-08-03100 JW, 2009 WL 10680866, at *4 (N.D. Cal. Dec. 10, 2009), *aff’d*, 433 Fed. App’x 536 (9th Cir. 2011)). Additionally, “time spent in establishing the entitlement to and amount of the fee is compensable.” *Camacho v. Bridgeport Fin., Inc.*, 523 F.3d 973, 981 (9th Cir. 2008) (citation omitted). Accordingly, Plaintiffs are entitled to recover reasonable attorneys’ fees for work performed in opposing Defendants’ Rule 50(b) motion and filing motions for recovery of fees and costs. Thus, the only debate now is over the amount of Plaintiffs’ additional fees.

II. DISCUSSION

“Under the lodestar method, the district court ‘multiplies the number of hours the prevailing party reasonably spent on litigation by a reasonable hourly rate to determine a presumptively reasonable fee award.’” *In re Apple Inc. Device Performance Litig.*, 50 F.4th 769, 784 (9th Cir. 2022) (quoting *Kim v. Allison*, 8 F.4th 1170, 1180 (9th Cir. 2021)). After the initial lodestar calculation, the court may apply upward or downward adjustments “to account for factors such as ‘the quality of representation, the benefit obtained for the class, the complexity and novelty of the issues presented, and the risk of nonpayment.’” *Id.* (quoting *Kim*, 8 F.4th at 1180–81).

A. Reasonable Hourly Rate

Plaintiffs’ counsel Blood Hurst & O’Reardon, LLP (“BHO”) and Langer, Grogan & Diver P.C. (“LGD”) request hourly rates that are identical to the rates they requested in

their initial fees motion. Davis Decl., ECF No. 386-2 ¶ 10; Nagdeman Decl., ECF No. 386-3 ¶ 12. Defendants do not dispute the reasonableness of these rates. *See generally* Opp’n. Accordingly, the Court incorporates its reasoning as to the reasonableness of counsels’ hourly rates from its previous order and finds the requested rates are reasonable. *See* Initial Fees Order, 4–6.

B. Reasonable Number of Hours Expended

“In determining the appropriate number of hours to be included in a lodestar calculation, the district court should exclude hours that are excessive, redundant, or otherwise unnecessary.” *McCown v. City of Fontana*, 565 F.3d 1097, 1102 (9th Cir. 2009) (quoting *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983)). Plaintiffs “bear[] the burden of documenting the appropriate hours expended in the litigation and must submit evidence in support of those hours worked.” *Gates v. Deukmejian*, 987 F.2d 1392, 1397 (9th Cir. 1992). Defendants bear the “burden of rebuttal that requires submission of evidence to the district court challenging the accuracy and reasonableness of the hours charged or the facts asserted by the prevailing party in its submitted affidavits.” *Id.* at 1397–98.

Plaintiffs request a collective lodestar based on 142.85 hours. Davis Decl. ¶ 10; Nagdeman Decl. ¶ 12. Counsel attest that these hours were reasonably incurred and represent only time spent on briefing the initial and present fee motions, preparing the opposition to Defendants’ Rule 50(b) motion, and drafting Plaintiffs’ proposed final judgment. *See* Davis Decl. ¶ 5; Nagdeman Decl. ¶ 6. The distribution of hours is as follows:

Category	LGD Hours	BHO Hours
Initial Attorneys’ Fees Motion	8.75	1.5
Initial Fees Reply Brief	58.8	29.4
Notice of Supplemental Authority re Attorneys’ Fees	1.7	0.5
Proposed Final Judgment	3.5	4.7

Rule 50(b) Opposition	12.5	14
Supplemental Fee Motion	5.7	1.8
Total:	90.95	51.9

1. Sufficient Documentation

In the Initial Fees Order, the Court applied a 5% reduction to the fees award to reflect “gaps in an otherwise satisfactory record” to the amount of fees requested. (Initial Fees Order, at 10–11). Defendants suggest those gaps still exist and a commensurate reduction is warranted here. (Opp’n, at 4–5) (arguing the Court should reduce Plaintiffs’ supplemental fees request by the “same percentage by which Plaintiffs’ underlying ‘merits fees’ were reduced”). Plaintiffs’ counsel disagree, noting that they have “describe[d] precisely which fees they exclude[,]” and that the fees requested “relate exclusively to Plaintiffs’ successful RICO claim, and not [Plaintiffs’ unsuccessful claims].” (Supplemental Motion, at 7).

The Court agrees with Plaintiffs that a 5% reduction is not warranted on the present motion. Plaintiffs’ initial fees request was supported only by general descriptions of what hours were not billed, and summarized in Plaintiffs’ voluntary 11% reduction of fees. (Initial Fees Order, at 10). In contrast, the present motion carefully details the number of hours spent by counsel on tasks relating to the fees motions and opposing Defendants’ Rule 50(b) motion. *See* Davis Decl. ¶ 10; Nagdeman Decl. ¶ 12. Accordingly, the Court declines to reduce the fees requested here on this ground.

2. Time Spent Reviewing Billing Entries for Initial Fees Reply Brief

Defendants next argue the Court should exclude time spent reviewing time entries and billing records for preparing the initial fees reply brief.¹ (Opp’n, at 5–7). Plaintiffs disagree and argue that the time entry review was necessary to “prepare BHO’s time

¹ Most of the hours billed towards reviewing time entries and billing records were logged by BHO attorney Jim Davis and LGD paralegal Kim Ferrari. Davis Decl., at 4 n.1; Nagdeman Decl., at 5 n.1.

1 entries . . . for submission if ordered by this court, (Davis Decl., at 4 n.1), and to “confirm[]
2 the exact numbers of hours and lodestar that LGD excluded from the initial fee motion.”
3 Nagdeman Decl., at 5 n.1.

4 “[A] prevailing . . . plaintiff is entitled to recover a reasonable attorney’s fee for
5 every item of service which, at the time rendered, would have been undertaken by a
6 reasonable and prudent lawyer to advance or protect his client’s interest in the pursuit of a
7 successful recovery of . . . damages.” *Moore v. James H. Matthews & Co.*, 682 F.2d 830,
8 839 (9th Cir. 1982) (quoting *Twin City Sportservice v. Charles O. Finley & Co.*, 676 F.2d
9 1291, 1313 (9th Cir. 1982)). Thus, it may be reasonable for a court to award attorney’s
10 fees for work that was never filed “as long as the work is ‘useful’ or a task ‘of a type
11 ordinarily necessary’ to secure the final result.” *United States ex rel. Cretney-Tsosie v.*
12 *Creekside Hospice II, LLC*, No. 13-cv-00167-APG-PAL, 2018 WL 4409367, at *5 (D.
13 Nev. Sept. 17, 2018) (quoting *Pennsylvania v. Del. Valley Citizens’ Council for Clean Air*,
14 478 U.S. 546, 561 (1986)).

15 Plaintiffs’ proffer for re-reviewing time entries and billing records justifies the fees-
16 on-fees request. Preparing time entries for potential submission to this Court was a
17 “useful” or “ordinarily necessary” task for Plaintiffs’ initial fees motion because many
18 courts, including this Court, have requested such records where the circumstances of a
19 particular case warrant such review. *See, e.g.*, ECF No. 370, at 15 (collecting cases);
20 *Aispuro v. Ford Motor Co.*, No. 18-CV-2045 DMS (KSC), 2020 WL 4582677, at *6 (S.D.
21 Cal. Aug. 10, 2020); *Spangler v. Nat’l College of Tech. Instruction*, No. 14-cv-3005 DMS
22 (RBB), 2018 WL 846930, at *3 (S.D. Cal. Jan. 5, 2018). That this Court issued its Initial
23 Fees Order without requesting line-by-line billing records does not undercut the
24 reasonableness of Plaintiffs’ efforts on the present motion.

25 Accordingly, the Court declines to omit time spent reviewing time entries and billing
26 records. The Court further finds that Plaintiffs’ counsel reasonably devoted 142.85 hours
27 to the tasks identified in the present motion. The resulting lodestar calculation based on
28 the foregoing discussion is **\$76,971**, calculated as follows:

Fees Motion			
BHO			
Individual	Hours	Rate	Total
Timothy G. Blood	9.55	\$960	\$9,168
Leslie Hurst	.2	\$810	\$162
James M. Davis	53.2	\$500	\$26,600
Dafne Maytorena	11.95	\$280	\$3,346
LGD			
John Grogan	5	\$950	\$4,750
David Nagdeman	5.7	\$550	\$3,135
Kim Ferrari	22.5	\$280	\$6,300
Rule 50(b) Opposition and Proposed Final Judgment			
BHO			
Individual	Hours	Rate	Total
Timothy G. Blood	3.5	\$960	\$3,360
Leslie Hurst	3.5	\$810	\$2,835
James M. Davis	8.8	\$500	\$4,400
Dafne Maytorena	.25	\$280	\$70
LGD			
John Grogan	6.4	\$950	\$6,080
David Nagdeman	12.3	\$550	\$6,765
Kim Ferrari	0	\$280	\$0
Total	142.85		\$76,971

D. Adjustments to the Lodestar

As discussed in the Court’s Initial Fees Order, the lodestar is presumptively reasonable. (Initial Fees Motion, at 12). However, the Court may adjust the lodestar by an appropriate multiplier “reflecting a host of reasonableness factors, including the quality of representation, the benefit obtained for the class, the complexity and novelty of the issues presented, and the risk of nonpayment.” *Yamada v. Nobel Biocare Holding AG*, 825 F.3d 536, 546 (9th Cir. 2016) (quoting *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 941 (9th Cir. 2011)) (internal quotations omitted). Of these factors, “a party’s success in the litigation is the ‘most critical.’” *Id.* (quoting *Hensley*, 461 U.S. at 436). “[W]here the plaintiff has achieved ‘only limited success,’ counting *all* hours expended on the litigation—even those reasonably spent—may produce an ‘excessive amount.’” *In re Bluetooth*, 654 F.3d at 942 (quoting *Hensley*, 461 U.S. at 436).

A district court may “reduce the fees-on-fees requested without providing an additional explanation for its actions . . . [when] it already has provided a ‘concise but clear explanation of its reasons for the [merits] fee award’ and that same explanation underlies and supports the decision to award fee-on-fees in the same (or, as here, about the same) percentage.” *Schwarz v. Sec’y of Health & Human Servs.*, 73 F.3d 895, 909 (9th Cir. 1995). However, a district court may also renew its adjustment analysis for fees-on-fees litigation. *See Atkins v. Apfel*, 154 F.3d 986, 990 (9th Cir. 1998) (noting “*Hensley*’s results obtained analysis applies to such [fees-on-fees] as well and that ‘fees for fee litigation should be excluded to the extent that the applicant ultimately fails to prevail in such litigation’” (quoting *Comm’r, I.N.S. v. Jean*, 496 U.S. 154, 163 n.10 (1998))).

The Court adjusted the lodestar by 15% in its Initial Fees Order to reflect Plaintiffs’ degree of success. (Initial Fees Order, at 15). Defendants argue the Court should adjust the present lodestar by the same amount. (Opp’n, at 2). Plaintiffs argue that reapplication of the Initial Fees Order lodestar multiplier is inappropriate because the present motion only seeks fees incurred for Plaintiffs’ successful opposition to Defendants’ Rule 50(b) motion and prosecution of the RICO claim. (Supplemental Motion, at 3).

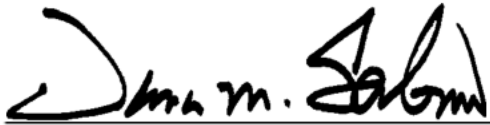
1 Regarding Defendants' Rule 50(b) motion, Plaintiffs' opposition brief focused
2 solely on defeating Defendants' motion (which they did) and preserving their RICO
3 verdict. The Court declines to adjust the lodestar for time billed to oppose Defendants'
4 Rule 50(b) motion under those circumstances. Regarding the RICO prosecution, the initial
5 merits fees request was reduced because the RICO claim was the only claim of five closely
6 related claims on which Plaintiffs prevailed. (Initial Fees Order, at 12–14). In contrast,
7 the fees-on-fees request here is based only on the successful RICO prosecution.
8 Accordingly, the Court declines to adjust the lodestar on the present motion.

9 **III. CONCLUSION**

10 For these reasons, Plaintiffs are awarded **\$76,971** in attorneys' fees.

11 **IT IS SO ORDERED.**

12 Dated: May 9, 2025

13 
14 _____

15 Hon. Dana M. Sabraw
16 United States District Judge
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EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF TENNESSEE

FRIENDS OF GEORGE’S, INC.	)	
	)	
PLAINTIFF,	)	
	)	
v.	)	Case No. 2:23-cv-02163-TLP-tmp
	)	
	)	
STEVEN J. MULROY, in his official and	)	
individual capacity as District Attorney	)	
General of Shelby County, TN,	)	
	)	
DEFENDANT.	)	

**PLAINTIFF’S MOTION FOR ATTORNEY’S FEES AND COSTS AND
 INCORPORATED MEMORANDUM IN SUPPORT THEREOF**

Plaintiff, Friends of George’s, Inc., (hereinafter “Plaintiff”), by and through its undersigned counsel, submit this Motion for Attorney’s Fees and Incorporated Memorandum in Support Thereof. In support of its motion, Plaintiff states as follows:

I. PROCEDURAL HISTORY

Plaintiff is a registered 501(c)(3) nonprofit organization based in Memphis, Tennessee, that produces drag-centric performances, comedy sketches, and plays. On March 27, 2023, after the enactment of Tennessee’s “adult cabaret entertainment” law (“AEA”) but before its effective date (April 1, 2023), Plaintiff sued under 42 U.S.C. §1983 to enjoin enforcement of the statute, alleging that it was an unconstitutional restriction on free speech under the First Amendment, as incorporated by the states by the Fourteenth Amendment of the United States Constitution. After an hearing, the Court issued a temporary restraining order that enjoined enforcement of the statute in Tennessee. (ECF No. 26.) The Court and Parties agreed to consolidate the preliminary injunction

hearing and the trial on the merits under Federal Rule of Civil Procedure 65(a)(2). (ECF No. 30.)

The Parties exchanged briefs and the Court held a bench trial on May 22-23, 2023.

After considering the briefs and evidence presented at trial, the Court found that the AEA was “an **UNCONSTITUTIONAL** restriction on the freedom of speech and **PERMANETLY ENJOIN[ED]** Defendant Steven Mulroy from enforcing the unconstitutional statute.” (ECF No. 91, PageID 1395.)

II. ATTORNEYS’ FEES AND EXPENSES

Brice Timmons (hereinafter “Mr. Timmons”), from Donati Law, PLLC, served as lead counsel for this case with his team and worked with additional co-counsel from Apperson Crump, PLC. The case involved condensing what should have been years of litigation and preliminary investigation into seventy-two (72) days from the filing of the Complaint (ECF No. 1). to Judgement (ECF No. 92) in Plaintiff’s favor. The case was time sensitive and legal research and briefing heavy. Plaintiff’s counsel spent over 540 hours in time to assist Plaintiff, as the Declarations of counsel attest.

Plaintiffs are seeking attorney fees and costs as follows. Each firm is responsible for its own billing and record keeping, and each firm agrees that their applications should be evaluated separately under the appropriate factors for fee awards under 42 U.S.C. §1988:

Timekeeper	Firm	Hourly Rate	Hours Expended	Total
Brice M. Timmons	Donati Law	\$450.00	140.9	\$63,405.00
Craig Edgington	Donati Law	\$275.00	27.8	\$7,645.00
Melissa Stewart	Donati Law	\$250.00	237.3	\$59,325.00

Timekeeper	Firm	Hourly Rate	Hours Expended	Total
Jacob Brown	Apperson Crump	\$385	46.7	\$17,979.50
Sara McKinney	Apperson Crump	\$225	56.4	\$12,690.00
Joseph Palmore	Morrison-Foerster	\$1,650	1.75	\$2,887.50
Katie Viggiani	Morrison-Foerster	\$1,200	19.25	\$23,100.00
Rachel Dolphin	Morrison-Foerster	\$1,135	7.75	\$8,796.25
Victor Lopez	Morrison-Foerster	\$930	29.5	\$27,435.00
Shelby Teeter	Morrison-Foerster	\$810	20.75	\$16,807.50

Plaintiff also seeks an award of costs of \$1,937.70 for filing fees and transcripts. Plaintiff's counsel did not bill for and has not sought reimbursement for incidental expenses such as online research, printing, or PACER fees and has not sought compensation for paralegal time even though paralegals were involved in the preparation of this case.

In addition to the Joint Declaration of Mr. Timmons, Mr. Edgington, and Ms. Stewart (Ex. A), Plaintiff submits Attorney Jake Brown's (hereinafter "Mr. Brown") Declaration (Ex. B), Attorney Sarah McKinney's (hereinafter "Ms. McKinney") Declaration (Ex. C), and Attorney Katie Viggiani's (hereinafter "Ms. Viggiani") Declaration (Ex. D) in support of their time expended in this matter. Plaintiff additionally submits the declarations of Attorneys Justin Gilbert (Ex. E) and Mike McLaren (Ex. F) as to the reasonableness of the requested awards.

Lead trial counsel in this case charged rates of \$450 per hour for Mr. Timmons, whose practice is exclusively focused on civil rights litigation and the representation of individuals with disabilities. The vast majority of his practice is civil rights litigation under the ADA,

Section 1983 and Title IX. Mr. Brown charged \$385 per hour and has litigated dozens of jury trials for which his special expertise was sought. Attorney Craig Edgington, Mr. Timmons's associate with significant experience in federal civil rights litigation, charged \$275 per hour. Attorneys Melissa J. Stewart, Mr. Timmons's newest associate, charged \$250 per hour. Sara McKinney, Mr. Brown's newest associate, both charged \$225 per hour for their contributions.

Mr. Timmons has what is likely one of the top-three civil rights practices in the state of Tennessee. Over ninety percent (90%) of his practice is devoted to complex federal civil rights litigation including class action civil rights litigation, Title II of the Americans with Disabilities Act ("ADA"), Section 504 of the Rehabilitation Act of 1972, Title IX of the Civil Rights Act of 1973, and 42 U.S.C. § 1983 suits against state and local governments and government officials. Mr. Timmons has litigated multiple federal class action lawsuits under both the ADA and 42 U.S.C. § 1983, all of which have produced positive results for his clients and has procured millions of dollars in settlements and extensive injunctive relief for plaintiffs, the vast majority of which has been in the federal civil rights context.

A. As the Prevailing Party, Plaintiffs Are Entitled to Costs, Attorneys' Fees, and Related Expenses.

Under Federal Rule of Civil Procedure 54(d)(2), attorneys' fees and related expenses are available by motion upon a showing of the judgment and statute that entitles the movant to the award and a statement or fair estimate of the amount of such an award. Courts are authorized to award the prevailing party reasonable attorney fees in any action or proceeding to enforce a provision of section 1983. 42 U.S.C. § 1988(b)

Obtaining a "judgment on the merits" makes one a "prevailing party." *Buckhannon Bd. & Care Home v. W. Va. Dept. of Health & Human Res.*, 532 U.S. 598, 603-04 (2001). The

Supreme Court has stressed the importance of awarding attorneys' fees to prevailing parties in civil rights cases in particular, in order to encourage attorneys to act as "private attorneys-general," vindicating the most basic constitutional and congressional policies against discrimination. *Newman v. Piggie Park Enters.*, 390 U.S. 400, 402 (1968); *see also City of Riverside v. Rivera*, 477 U.S. 561, 574 (1986); *Hensley v. Eckerhart*, 461 U.S. 424, 429 (1983). All taxpayers indirectly benefit from the redress and elimination of unconstitutional statutes and practices. *See Newman*, 390 U.S. at 402; *see also Blanchard v. Bergeron*, 489 U.S. 87, 96 (1989) ("Congress has elected to encourage meritorious civil rights claims because of the benefits of such litigation for the named plaintiff and for society at large . . ."); *Rivera*, 477 U.S. at 574. Fees in civil rights cases need not be proportionate to a monetary recovery. *Id.* In fact, Congress intended for fees in civil rights litigation to be awarded to encourage litigation designed to deter civil rights violations by institutions, just as in the case at bar. *Id.*

B. Principles for Calculating Attorneys' Fees

In calculating the initial estimate of reasonable attorneys' fees, the court should use the "lodestar method," multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate. *Blum v. Stenson*, 465 U.S. 886, 888 (1984). This number may then be adjusted in consideration of other factors, such as the difficulty of the case, the type and amount of the attorneys' usual fee, awards in similar cases, and the experience, reputation, and ability of counsel. *Blanchard*, 489 U.S. at 94 (citing the factors laid out in *Johnson v. Georgia Hwy. Exp.*, 488 F.2d 714, 717 (5th Cir. 1974)).

The primary concern in an attorney fee case is that the fee awarded be reasonable. *Reed v. Rhodes*, 179 F.3d 453, 471 (6th Cir. 1999) (citing *Blum*, 465 U.S. at 893). The award should be "adequately compensatory to attract competent counsel," but also "avoid[] producing a windfall

for lawyers.” *Adcock-Ladd v. Sec’y of Treasury*, 227 F.3d 343, 349 (6th Cir. 2000). After the lodestar, “[t]he trial judge may then, within limits, adjust the ‘lodestar’ to reflect relevant considerations peculiar to the subject litigation.” *Id.* (citing *Reed*, 179 F.3d at 471–72). In performing its post-lodestar analysis, the court may consider the twelve factors listed in *Johnson*. See *Adcock-Ladd*, 227 F.3d at 349 (citing *Hensley*, 461 U.S. at 434 n.9).

In summary, the calculation of attorney’s fees is a two-step process. *Jordan v. City of Cleveland*, 464 F.3d 584, 602 (6th Cir. 2006). The starting point for determining the amount of a reasonable attorney fee is the “lodestar” amount, which is calculated by multiplying the number of hours reasonably spent on the case by an appropriate hourly rate in the relevant community for such work. *Id.* The court may then, within reason, “adjust the lodestar to reflect relevant considerations peculiar to the subject litigation.” *Adcock-Ladd*, 227 F.3d at 349.

The twelve *Johnson* factors are (1) the time and labor involved; (2) the novelty and difficult of the questions; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the undesirability of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. *Johnson*, 488 F.2d at 717–19.

1. **LODESTAR**

A reasonable hourly rate for an attorney is calculated according to the prevailing market rates in the community “for similar services by lawyers of reasonably comparable skill, experience, and reputation.” *Blum*, 465 U.S. at 895–96. Plaintiff relies on its declarations filed

in support of this matter in aiding the Court in determining the reasonable hourly rate.

As for time, counsel should be paid “for all time reasonably expended on a matter.” *Blanchard*, 489 U.S. at 91. Hours that can be properly billed to a client can be properly billed to an adversary party. *Binta B. v. Gordon*, 710 F.3d 608, 627–28 (6th Cir. 2013). An attorney “is not required to record in great detail how each minute of his time was expended but should at least identify the general subject matter of his time expenditures.” *Hensley*, 461 U.S. at 437 n.12. Rather, fee applicants are expected to exercise “billing judgment” and the same ethical billing practices they would use if they were submitting a bill to a client. *NE Ohio Coal. For the Homeless v. Husted*, 831 F.3d 686, 702 (6th Cir. 2016). The Court, in turn, need not act as a “green-eyeshade accountant[]” but rather “must simply do ‘rough justice.’” *Id.* at 703. “Hours spent in reviewing records, talking to other lawyers or experts, preparing legal documents and the like cannot be fully verified and therefore require the court to trust the lawyer’s word that the hours claimed represent necessary work actually performed.” *Id.* at 706. Detailed billing records and declarations are sufficient to overcome “conclusory allegations that the award [is] excessive.” *Id.* at 705.

2. APPLYING THE JOHNSON FACTORS

Consideration of the *Johnson* factors is optional but endorsed by the Supreme Court in *Blanchard* and the Sixth Circuit. *See Jordan v. City of Cleveland*, 464 F.3d 584, 604 (6th Cir. 2006). These factors assess the reasonableness of an award as well as whether enhancement is appropriate. *Id.*

a. Time and Labor.

The required effort to procure vindication of Plaintiff’s rights was extraordinary. The hours of work are attested to through over ninety-two (92) docket entries filed within seventy-

two (72) days. Combined, the temporary injunction hearing and preliminary injunction hearing/bench trial lasted three (3) days. The issue at hand was hardly run-of-the-mill. This case involved an extremely rare First Amendment facial challenge to a criminal statute and required Plaintiff to repeatedly litigate a plethora of nuanced issues unique to civil rights cases and the First Amendment.

b. Novelty and Difficulty.

The difficulty of this case was exceptionally high. Few area attorneys (or even in this state) handle civil rights in general, and even fewer direct their actions against the State of Tennessee due to various standing and immunity issues that afford State actors substantial protections from suit. These cases are often extraordinarily complex, both legally and factually, protracted, and financially and psychologically taxing.

Novelty and difficulty go hand in hand. But difficulty was *increased* here because Donati Law’s attorneys began their work without the assistance of groups such as Tennessee’s American Civil Liberties Union (“ACLU”) or later obtained co-counsel.

Here, the ACLU took the position it would only challenge the AEA if and when it was used to punish a drag performer or shut down a family-friendly LGBTQ event.¹ It was not until after Plaintiff had secured their temporary restraining order that Plaintiff was able to secure the assistance of co-counsel. (See ECF No. 51, 68).

Defendant Mulroy was represented by seasoned, experienced lawyers including Jim Newsom, the lead attorney in the Memphis regional office of the Attorney General’s Office. Mr. Newsom has served in that role since 2016, prior to that Mr. Newsom was Chancellor for the Chancery Court for the 30th Judicial District, as well as more than 30 years in private

¹ [ACLU-TN Reaction to Law Targeting Drag Shows - ACLU of Tennessee](#)

practice. Mr. Newsom was joined by Steven J. Griffin, Matthew Rice, and Robert Wilson of the Attorney General's Office.

Mr. Rice graduated from Berkley School of Law before accepting a prestigious clerkship to the Court of Appeals for the Ninth Circuit. He later served as law clerk to Justice Clarence Thomas and held a prestigious associateship at Williams and Connolly, LLP before accepting a position as Associate Solicitor General and Special Assistant to the Solicitor General of Tennessee.

Mr. Griffin graduated *Magna Cum Laude* from the University of Mississippi School of Law in 2009 where he worked on the Law Journal, served on the Dean's Leadership Council, and participated in the Christian Legal Society. Mr. Griffin served as a shareholder in the law firm Daniel Coker Horton & Bell, P.A.. There he managed a diverse litigation defense firm, which emphasized defending government entities, corporations and individuals in Section 1983 civil rights and common law tort litigation. Mr. Wilson was with the firm for 12 years before he began practice as an Assistant Attorney General in 2022.

Mr. Wilson graduated in the top 15% of his class from the University of Memphis Cecil C. Humphreys School of Law in 2015. Furthermore, he was an Articles Editor for *The University of Memphis Law Review*. After a short stint in private practice, Mr. Wilson was hired by the Attorney General's Office and has served as an Assistant Attorney General since 2016.

It should also be noted that during the pendency of this case, Attorney General Jonathan Skrmetti announced the hiring of ten (10) more attorneys who would comprise a new "strategic litigation unit" with an average salary of \$146,600. That unit's focus will be on "proactive

litigation of defending the separation of powers and the constitutional rights of Tennesseans.”² It could very well be argued that the attorney general believes Mr. Timmons’ team is doing the work of more than a dozen attorneys since he is placing that many attorneys on staff to fight his continually losing constitutional battles.

In the present case, the issues were complex, as reflected above, requiring strong writing, oral advocacy, and trial skills. However, uniquely, this case involved marathon argument sessions on nuanced issues involving nearly every aspect of standing and every aspect of the speech clause of the First Amendment as well as its interplay with the vagueness doctrine of the Fourteenth Amendment. As evidenced by the Court’s seventy (70) page ruling, the legal issues in this case required an incredible level of analysis that could only realistically be litigated by experts in their field.

c. Preclusion of Employment.

Brice Timmons receives dozens of requests and referrals for representation in Tennessee *each month*, which include nearly all individual civil rights suits. For years he has maintained multiple simultaneous civil rights class action suits, and at the time of trial in this matter was actively engaged in one class action lawsuit filed in Wyoming District Court under the Trafficking Victims Protection Reauthorization Act (“TVPRA”) as lead counsel that is now a case of first impression in the United States before the Tenth Circuit regarding the interpretation of the TVPRA as it relates to child labor. It is a staggering workload to balance. This reflects an incredible demand for help within Tennessee’s public citizenry and that of other

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https://www.tba.org/?pg=TBA Today&pubAction=viewIssue&pubIssueID=28457&pubIssueItemID=150990&utm_campaign=tba-today&utm_content=thursday-may-4-2023&utm_medium=email&utm_source=membercentralpublications

states that have an even more substantial dearth of civil rights attorneys and, no doubt, the lack of supply of attorneys capable of meeting it. With regard to this case specifically, Mr. Timmons had to pause accepting referral cases from a prominent, nationally recognized civil rights law firm with whom he had recently expended significant time cultivating a relationship in order to focus on this matter. Thus, in any case that Mr. Timmons and his practice group accept, there is always a trade off with work that has a higher (or guaranteed) probability of success whenever he elects to take on public interest litigation like this challenge to the AEA.

d. Customary Fee.

The fee rates fall well within the rates for complex litigation and civil rights litigation in the Western District. (Ex. F, McLaren Dec.; and Ex. E. Gilbert Dec.) As mentioned above, this case involved novel issues, presented numerous challenges, and, presented an issue of first impression nationally. Therefore, arguably there is no forum market to determine a customary fee. Plaintiff therefore requests rates consistent with the highest hourly rate awarded to attorneys with their level of expertise in federal civil rights litigation generally in the Western District of Tennessee.

e. Fixed Fee or Contingent.

The entirety of this representation was contingent, and all costs were advanced by counsel. All of the risk in this matter was borne by Plaintiff's counsel, and Mr. Timmons personally, Apperson Crump, or Morrison-Foerster bore the expense of salaries for all associate attorneys involved for the entirety of this litigation. Mr. Timmons personally assumed all risk for costs. Mr. Timmons took on an additional degree of risk because the size of his practice group, for which he bears all financial responsibility personally, and because he brought the suit *before* this Court's Temporary Restraining Order counseled a likelihood of success that served

as an inducement to additional counsel joining the litigation.

f. Time Limitations.

At the time Mr. Timmons was presented with the case, time was of the essence. Mr. Timmons did not have time to develop the case or investigate as fully as would be typical. The nature of temporary restraining orders and preliminary injunctions, of course, are urgent. On February 27, 2023, Governor Bill Lee signed the AEA into law, to take effect on April 1, 2023. Plaintiff immediately took action and sought legal assistance from organizations such as the ACLU and other qualified attorneys in the state of Tennessee and the surrounding area without success. It was not until March 16, 2023, sixteen (16) days prior to the AEA taking effect, that Plaintiff was able to obtain the services of Mr. Timmons. Despite this short notice, Mr. Timmons altered the entire way his practice was operating, and devoted himself and Ms. Stewart's entire existence to overcoming this unconstitutional infringement of the rights of the citizens of Tennessee.

g. Results and Amount of Time Involved.

While listed as the eighth *Johnson* factor, results should probably be the first factor evaluated. Plaintiff's counselors are *particularly* proud of the result obtained. Plaintiff accomplished what it set out to do: obtain injunctive relief preventing Defendant from enforcing the AEA. Likely more importantly, Plaintiff obtained declaratory relief putting the entire state on notice that the enforcing the AEA would violate the constitutional rights of Tennessee citizens.

There are over ninety (90) docket entries which were filed in seventy-two (72) days. Additionally, Plaintiff's counsel have worked in excess of 540 hours. (Ex. A, B, C, D.)

h. Experience, Reputation, and Ability of the Attorneys.

Here, in the context of a fee application, it is required for counsel to address their experience, reputation, etc. The undersigned (Mr. Timmons's) declaration addresses his experience, reputation, and ability in civil rights and disability cases. (*See gen. Ex. A, Timmons Dec.*) Arguably, no private active lawyer in Shelby County has had a greater impact for civil rights, from tackling a misguided efforts by the Governor of Tennessee to prohibit mask mandates within Tennessee schools to prevent the spread of COVID-19, to challenging systematic abuses in the "therapeutic boarding school" and "troubled teen" industry, to assisting students with access to educational facilities, to obtaining more than one "first-in-the-nation" preliminary injunction in the education civil rights context both under Title IX and the ADA. Mr. Timmons also litigates extensively on behalf of incarcerated individuals with disabilities and individuals with disabilities against caregiver institutions such as mental health facilities and group homes. No other lawyer in Tennessee has this constellation of skills, rendering Mr. Timmons a "lawyer of last resort" for many plaintiffs.

Few lawyers bring constitutional facial challenges against an officer of the State of Tennessee. This suit marks the fifth such case in which Mr. Timmons has been counsel of record at the trial or appellate level and his fourth such case to be successful. *See G.S. v. Lee*, 560 F. Supp. 3d 1113, 2021 U.S. Dist. LEXIS 182934, 2021 WL 4268285, at *14 (W.D. Tenn. Sept. 17, 2021); *R.K. v. Lee*, 568 F. Supp. 3d 895, 2021 U.S. Dist. LEXIS 204078, 2021 WL 4942871, at *18 (M.D. Tenn. Oct. 22, 2021); *S.B. v. Lee*, 2021 U.S. Dist. LEXIS 195663, 2021 WL 4755619, at *28 (E.D. Tenn. Oct. 12, 2021); *R.K. v. Lee*, 2022 U.S. App. LEXIS 12622, *7, 2022 FED App. 0194N (6th Cir. 2022), 2022 WL 1467651.³

³ Mr. Timmons and his team initially prevailed in *R.K. v. Lee II* but were reversed on appeal for lack of standing.

To accept such cases is not primarily a monetarily motivated decision; because the lawyers put in most of the time unpaid, and the reward is, at best, being reimbursed for time and risk already outlaid. Over time, unless one prevails in every case, this is a losing economic and business strategy. In order to pursue these types of litigation on behalf of individuals whom few others will represent and can competently represent, Mr. Timmons set aside an hourly-rate general civil litigation practice that earned hundreds of thousands of dollars per year. Following her graduation from Duke Law, Attorney Stewart turned down a lucrative associate position with Morrison-Foerster to accept a compensation package with a fraction the guaranteed salary and the rest of her compensation based on contingency fees in order to take on this type of litigation. Put differently, it is critically important to be paid fully for the victories because the losses are not paid at all. If the purpose of 42 U.S.C. § 1988 is to induce private practice attorneys to act as “private attorneys general” as Congress intended, the amount of compensation must account for these risks and sacrifices. *Tex. State Teachers Ass'n v. Garland Indep. Sch. Dist.*, 489 U.S. 782, 793 (1989).

Attorney Brown has significant experience in federal civil rights litigation and has litigated dozens of jury trials. His assistance and that of Attorney McKinney were critical to ensuring that this matter could be successfully litigated in the limited time before the expiration of the Temporary Restraining Order, permitting the efficient administration of justice by avoiding the costly necessity of an interlocutory appeal. Apperson Crump, PLLC bore the expense of Mr. Brown and Ms. McKinney’s salaries during the pendency of this litigation and should be compensated for doing so.

The Morrison-Foerster attorneys have substantial litigation experience. Joseph Palmore is the managing partner of their Washington, D.C. office and heads their Supreme Court and

Appellate Practice division where has appeared before the Supreme Court on multiple occasions. Katie Viggiani is a partner in Morrison-Foerster's litigation department; she represents clients in complex federal litigation, including both civil and white-collar criminal litigation. Along with their associates, Attorneys Palmore and Viggiani provided essential, extensive research at a time when Plaintiff's other counsel were already working late into the night to complete projects. (Defendant's trial brief contained numerous citations to 125 individual cases, necessitating hours of citation checking on short notice.) Notably, any fee awarded to Morrison-Foerster will be contributed to their *pro bono* litigation fund ensuring that other individuals and organizations who lack access to justice can receive services.

i. Nature of the Professional Relationship with the Client.

Prior to March 16, 2023, Mr. Timmons had no previous relationship with Plaintiff. Civil rights cases typically do not involve repeat litigation for the same client, as in a business relationship case. Counsel have worked diligently, without any conflict at all with their client's goals. Mr. Timmons accepted Plaintiff's case when no other lawyer, not even non-profit civil rights organizations like the ACLU would do so.

j. Awards in "Similar" Cases.

The novelty factor, above, is opposite of a "similarity" factor. This matter was the nation's first challenge to a legislatively enacted criminalization of drag performances. As such, there are not *any* reported similar damages or fee award cases that Plaintiff's counsel can provide for this Court. However, Plaintiff's counsel recently obtained injunctive relief against the state in a masking case brought under the ADA with similar time constraints. In that case, Plaintiff's counsel sought and also received injunctive relief against the government. Plaintiff avers that rates ranging from \$450/hour for lead counsel and \$250/hour for associate counsel are commensurate with rates

recommended or awarded in other, recent federal civil rights litigation against governmental entities across Tennessee.

In *Turnage v. Oldham*, 2021 U.S. Dist. LEXIS 239877, *33, 2021 WL 5855637 1467651 (W.D. Tenn. Dec. 9, 2021) (Mays, J.) awarded Mr. Timmons \$420 per hour and Mr. Edgington \$275 per hour in a court-approved class action settlement based on a Lodestar calculation with no multiplier. *Turnage* was a desirable case with substantial, calculable damages and a clear-cut path to liability. Numerous firms filed similar lawsuits which were ultimately consolidated with Frank Watson, Bill Burns, Michael G. McLaren, and Timmons acting as co-lead-counsel. In that same case, McLaren and Watson were awarded \$500/hour and Burns \$495/hour.

In, *G.S. et al, v. Governor Gill Bill Lee*, 2:21-cv-02552-SHL-atc (W.D. Tenn. 2022), a case of similar risk and novelty arose during the COVID pandemic, when the Governor issued Executive Order 84 (“EO 84”) which allowed parents to opt out of any order or requirement for a student in kindergarten through twelfth-grade to wear a face covering at school, on a school bus, or at school functions, and its progeny in violation of Plaintiffs’ rights to access school under the ADA and Section 504 of the Rehabilitation Act, Judge Sheryl H. Lipman awarded attorneys from Donati Law similar rates. (ECF No. 140). There, Mr. Timmons was awarded \$400 per hour and Mr. Edgington was awarded \$260 per hour. *G.S.* represents a good comparator case because it involved the same type of relief, similar work, and was also expedited taking only fifty-nine (59) days from the filing of plaintiff’s complaint (ECF No. 1) to the court issuing its Judgment (ECF No. 141). There, Judge Lipman’s preliminary ruling was issued on September 17, 2021⁴, after only

⁴ It should be noted that the rates awarded to Mr. Timmons and Mr. Edgington were calculated based off work performed in 2021. Plaintiff’s counsel avers that a 6 – 10 percent per annum increase in their annual rates is appropriate in light of increases in experience and substantial inflation since that date.

sixty-two (62) docket entries. (ECF No. 62).

In *S.B. a minor student, by and through his parents, M.B. and L.H., et al. v. Governor Bill Lee*, 3:21-cv-317-JRG-dcp (E.D. Tenn. 2019), the masking challenge to EO 84 out of Knoxville, Tennessee, Magistrate Judge Debra C. Poplin recently recommended awarding two attorneys substantially higher rates. Judge Poplin recommended awarding \$650 per hour to Justin Gilbert and \$500 per hour to Jessica Salonus (ECF No. 165), for substantially similar work Plaintiff's counsel performed in G.S.⁵

C. Enhancement

Multipliers, or enhancements, are for rare cases. For exceptional success, courts have discretion to increase the hourly rate itself (the lodestar)⁶ or use a multiplier on the end-result.⁷ As noted by Attorneys Justin Gilbert and Michael G. McLaren in their affidavits (Ex. E and F), an enhancement of a 1.75 multiplier on the end-result, should be used in this case. Footnote 7 contains a list of cases utilizing a 1.75 or greater multiplier on end results. None of those cases involved the vindication of the constitutional rights of all citizens of the state by way of a facial constitutional challenge to a criminal statute. Certainly, safeguarding the rights of all Tennesseans to a right so fundamental as the freedom of speech is of at least as much importance as successfully vindicating

⁵ Timmons acted as appellate counsel in this case.

⁶ A recent example of this is *S.B. et. al. v. Governor Bill Lee*, No 3:21-cv-317 (E.D. Tenn), D.E. 165, April 28, 2023. There, the court increased my lodestar of \$425 to \$650 for exceptionally strong results. *Id.* at p. 14.

⁷ See *Barnes v. City of Cincinnati*, 401 F.3d 729, 745-46 (6th Cir. 2005)(using 1.75 multiplier). Additionally, in *Doe v. Bd. of Educ. of Memphis City Sch.*, 2007 U.S. Dist. LEXIS 103207, at *6 (W.D. Tenn. Jan. 9, 2007), the 1.75 multiplier was used, in part, because of bringing about “greater compliance by the School Board” in matters of harassment. See also *Linneman v. Vita-Mix Corp.*, 2019 U.S. Dist. LEXIS 240495, at *20 (S.D. Ohio Sep. 11, 2019) (using 1.81 enhancement, and collecting cases, including *Barnes*).

the rights of an individual litigant under Title VII or other statutory schemes. *See Barnes*, 401 F.3d at 745-46. Plaintiff requests a multiplier of 1.75 on the Lodestar.

D. Costs

As for expenses, Plaintiffs incurred other expenses for filing fees and transcripts. See: Mr. Timmons and Mr. Brown's declarations. (Ex. A, Timmons Dec.; Ex. B, Brown Dec.) These expenses were necessary for success in Plaintiffs' case. Those costs are \$1,937.70.

Counsel did not bill for online research expenses, printing, copying, PACER fees, and other small, incidental expenses for which they are entitled to bill. Neither did counsel bill for any paralegal time despite employing paralegals who actively worked on these cases. Plaintiff asks that the lack of billing for incidental costs and paralegal expenses be considered when determining Plaintiff's hourly rates.

III. CONCLUSION

For the reasons stated herein and in the contemporaneously filed declarations, Plaintiff requests an award of attorneys' fees and suit expenses as follows:

1. For the work of Donati Law, PLLC \$130,375 with a multiplier of 1.75 for fees of \$228,156.25 plus costs of \$1,937.70, for a total of \$230,093.95;
2. For the work of Apperson Crump, PLLC; \$30,669.50 with a multiplier of 1.75 for a total of \$53,671.63; and
3. For the work of Morrison-Foerster, LLP \$79,026.25 with a 1.75 multiplier enhancement for a total of \$138,295.94.

Respectfully submitted,

/s/ Brice M. Timmons

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon all parties of record via the Court's ECF system on the 21st day of June, 2023.

/s/ Brice M. Timmons

EXHIBIT 6

EXHIBIT B

Declaration of Lorenzo Marinuzzi

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Nikola Corp., *et al.*,¹

Debtors.

Chapter 11

Case No. 25-10258 (TMH)

(Jointly Administered)

**DECLARATION OF LORENZO MARINUZZI IN SUPPORT OF
APPLICATION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
OF NIKOLA CORP., *ET AL.*, FOR ENTRY OF AN ORDER AUTHORIZING THE
EMPLOYMENT AND RETENTION OF MORRISON & FOERSTER LLP AS
COUNSEL EFFECTIVE AS OF MARCH 3, 2025**

I, Lorenzo Marinuzzi, hereby declare, pursuant to 28 U.S.C. § 1746, as follows:

1. I am a partner in the law firm of Morrison & Foerster LLP (“Morrison & Foerster” or the “Firm”), with offices at 250 West 55th Street, New York, New York 10019, among other locations, and I am duly authorized to make this declaration (the “Declaration”) on behalf of Morrison & Foerster. I am an attorney duly admitted and in good standing to practice before the Bar of the State of New York, the United States Court of Appeals for the Second Circuit, and the United States District Court for the Southern and Eastern Districts of New York. There are no disciplinary proceedings pending against me.

2. I submit this declaration pursuant to Section 1103 of Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rule 2014-1 in support of the accompanying

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal tax identification number, are: Nikola Corporation (registered to do business in California as Nikola Truck Manufacturing Corporation) (1153); Nikola Properties, LLC (3648); Nikola Subsidiary Corporation (1876); Nikola Motor Company LLC (0193); Nikola Energy Company LLC (0706); Nikola Powersports LLC (6771); Free Form Factory Inc. (2510); Nikola H2 2081 W Placentia Lane LLC (N/A); 4141 E Broadway Road LLC (N/A); and Nikola Desert Logistics LLC (N/A). The Debtors’ headquarters are located at 4141 East Broadway Road, Phoenix, AZ 85040.

application (the “Application”)² of the Official Committee of Unsecured Creditors (the “Committee”) of Nikola Corp., *et al.* (collectively, the “Debtors”), for entry of an order authorizing the retention and employment of Morrison & Foerster as counsel to the Committee, effective as of March 3, 2025.

3. Unless otherwise stated in this Declaration, I have personal knowledge of the facts hereinafter set forth. To the extent that any information disclosed herein requires amendment or modification upon Morrison & Foerster’s completion of further analysis or as additional information becomes available to Morrison & Foerster, a supplemental declaration will be submitted to the Court. Subject to the approval of this Court and in compliance with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and the Local Rules, Morrison & Foerster intends to apply for compensation for professional services rendered in connection with these Chapter 11 Cases, plus reimbursement of actual, necessary expenses and other charges incurred by Morrison & Foerster during the Chapter 11 Cases.

SERVICES TO BE PROVIDED

4. With offices in New York, Los Angeles, San Francisco, San Diego, and Washington, D.C., among other locations both domestic and in Europe and Asia, Morrison & Foerster is an internationally recognized law firm. Morrison & Foerster has extensive general legal experience and knowledge and, in particular, has substantial expertise in the field of creditors’ rights and business reorganization under Chapter 11 of the Bankruptcy Code. That expertise includes representing official creditors’ committees in large and complex bankruptcy cases. For example, the professionals that will be primarily responsible for this engagement have represented official creditors’ committees in the bankruptcies of American Tire Distributors, Inc.,

² Capitalized terms not defined herein shall have the meanings given to them in the Application.

Accuride Corporation, Fisker Inc., Thrasio Holdings, Inc., Wesco Aircraft Holdings, Inc., Peer Street, Inc., Clovis Oncology, Inc., Valaris plc, Murray Energy Holdings Co., Westmoreland Coal Company, Cloud Peak Energy Inc., Armstrong Energy, Inc., Peabody Energy Corp., Walter Energy, Inc., Patriot Coal Corp., Windstream Holdings, Inc., Northwest Airlines, Aloha Airlines, Eclipse Aviation, Gemini Air Group, Global Aviation Holdings, Hawaiian Airlines, Independence Air, Mesa Air Group, the NORDAM Group, U.S. Airways, Energy Future Holdings Corp., Avaya, Inc., 21st Century Oncology Holdings, Inc., and UCI International, LLC, among others. Since the Committee's appointment, Morrison & Foerster has been working closely with the Debtors and other parties in interest to become familiar with the Debtors' businesses and many of the potential legal issues that may arise in the context of these Chapter 11 Cases. I believe that Morrison & Foerster is well qualified to represent the Committee in these proceedings in an efficient and timely manner and that the employment of Morrison & Foerster to provide the services described herein, and other such services as may be necessary for the Committee to satisfy its obligations to the Debtors' unsecured creditor constituency, is appropriate and in the best interests of the Debtors' estates and their creditors.

5. In connection with these Chapter 11 Cases and subject to orders of this Court, the Committee has requested court authorization to retain Morrison & Foerster as counsel for the Committee, to provide a range of services to the Committee,³ including, but not limited to, the following:

- (a) advising the Committee in connection with its powers and duties under the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules;
- (b) assisting and advising the Committee in its consultation with the Debtors relative to the administration of these Chapter 11 Cases;

³ By separate application the Committee has filed an application to retain Morris James as Delaware counsel to the Committee. Morrison & Foerster will coordinate the division of responsibilities with Morris James throughout the engagement to ensure that there is no duplication of services rendered on the Committee's behalf.

- (c) attending meetings and negotiating with the representatives of the Debtors and other parties in interest;
- (d) assisting and advising the Committee in its examination and analysis of the conduct of the Debtors' affairs;
- (e) assisting and advising the Committee in connection with any sale of the Debtors' assets pursuant to Section 363 of the Bankruptcy Code;
- (f) assisting the Committee in the review, analysis, and negotiation of any Chapter 11 plan(s) of reorganization or liquidation that may be filed and assisting the Committee in the review, analysis, and negotiation of the disclosure statement accompanying any such plan(s);
- (g) taking all necessary action to protect and preserve the interests of the Committee, including: (i) possible prosecution of actions on its behalf; (ii) if appropriate, negotiations concerning all litigation in which the Debtors are involved; and (iii) if appropriate, review and analysis of claims filed against the Debtors' estates;
- (h) generally preparing on behalf of the Committee all necessary motions, applications, answers, orders, reports, replies, responses, and papers in support of positions taken by the Committee;
- (i) appearing, as appropriate, before this Court, the appellate courts, and the U.S. Trustee, and protecting the interests of the Committee before those courts and before the U.S. Trustee; and
- (j) performing all other necessary legal services in these Chapter 11 Cases as may be directed by the Committee.

PROFESSIONAL COMPENSATION

6. Morrison & Foerster intends to apply for compensation for professional services rendered on an hourly basis and reimbursement of expenses in connection with these Chapter 11 Cases, subject to the Court's approval and in compliance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases*, effective November 1, 2013, established by the Executive

Office for the United States Trustee (the “U.S. Trustee Guidelines”), and any other applicable procedures and orders of the Court (collectively, the “Fee Guidelines”).

7. Morrison & Foerster’s hourly rates are set at a level designed to fairly compensate the Firm for the work of its attorneys and paraprofessionals and to cover fixed and routine overhead expenses. These hourly rates are based on a variety of factors, including seniority, distinction, and expertise in one’s field, and are subject to periodic adjustments to reflect economic and other conditions.⁴ I believe that these rates are reasonable and comparable to the rates charged by other firms of similar standing in the legal market. In particular, Morrison & Foerster’s standard hourly rates for matters that may be implicated in these Chapter 11 Cases will range as follows:

Billing Category	2025 U.S. Range
Partners and Senior Of Counsel	\$1,475 to \$2,475
Of Counsel	\$1,250 to \$1,925
Associates	\$795 to \$1,330
Paraprofessionals	\$390 to \$645

8. Consistent with the Firm’s policy with respect to its other clients, Morrison & Foerster will also seek to be reimbursed, subject to the Court’s approval, for all actual out-of-pocket expenses incurred by Morrison & Foerster on the Committee’s behalf, such as travel expenses, “working meals” and transportation, computer-assisted legal research, photocopying, postage, overnight courier expenses, printing, transcripts, filing fees, messengers, and similar items. Morrison & Foerster intends that all requests for reimbursement of expenses will be consistent with the Fee Guidelines.

⁴ As set forth in the proposed order, Morrison & Foerster will provide ten (10) business days’ notice to the Committee, the Debtors, and the U.S. Trustee before implementing any periodic increases, and will file such notice with the Court.

9. The Committee and Morrison & Foerster expect to develop a prospective budget and staffing plan to comply with the U.S. Trustee's requests for information and additional disclosures, and any other orders of the Court, recognizing that, in the course of these Chapter 11 Cases, there may be unforeseeable fees and expenses that will need to be addressed by the Committee and Morrison & Foerster.

10. No promises were received by Morrison & Foerster, any partner, any attorney who is "of counsel" to Morrison & Foerster, or any associate of Morrison & Foerster, as to compensation in connection with these Chapter 11 Cases, other than in accordance with the provisions of the Bankruptcy Code. Neither Morrison & Foerster, nor any partner of Morrison & Foerster, any attorney who is "of counsel" to Morrison & Foerster, or any associate of Morrison & Foerster, has any agreement with any other entity to share with such entity any compensation received by Morrison & Foerster in connection with these Chapter 11 Cases.

DISINTERESTEDNESS AND DISCLOSURE OF CONNECTIONS

11. In connection with its proposed retention by the Committee in these Chapter 11 Cases, Morrison & Foerster undertook to determine whether it had any conflicts or other relationships that might cause it not to be disinterested or to hold or represent an interest adverse to the Committee. Specifically, Morrison & Foerster obtained from the Debtors and their representatives the names of individuals and entities that may be parties in interest in these Chapter 11 Cases (the "Potential Interested Parties") and such parties are listed on **Schedule 1** attached hereto.

12. Morrison & Foerster's New Business Department, under the supervision of attorneys in Morrison & Foerster's Business Restructuring & Insolvency Group, conducted an internal search in Morrison & Foerster's computerized conflict database for its connections to the

entities listed on **Schedule 1** attached hereto. An attorney then reviewed the results and removed from consideration obvious name coincidences or other “false hits.” In addition, after Morrison & Foerster identified all potential client relationships with the Potential Interested Parties over the past three years, Morrison & Foerster circulated a survey email to the billing, supervising, and/or other relationship attorney at Morrison & Foerster with respect to such clients asking for a response as to whether the attorney was aware of any connection between Morrison & Foerster’s representation of such clients and the Debtors and these Chapter 11 Cases, and that inquiry did not reveal any connections. Additionally, to the extent that I have been able to ascertain that Morrison & Foerster has been retained within the last three years to represent any of the Potential Interested Parties (or their affiliates, as the case may be) in matters unrelated to these Chapter 11 Cases, such facts are disclosed on **Schedule 2** attached hereto.

13. Morrison & Foerster and certain of its partners and associates may have in the past represented, may currently represent, and likely in the future will represent, entities that may be parties in interest in these Chapter 11 Cases in connection with matters unrelated to the Debtors and these Chapter 11 Cases. Morrison & Foerster has searched on its electronic database for its connection to the entities listed on **Schedule 1** attached hereto. The information listed on **Schedule 1** may have changed without our knowledge and may change during the pendency of these Chapter 11 Cases. Accordingly, Morrison & Foerster will update this Declaration as necessary and when Morrison & Foerster becomes aware of additional material information. The following is a list of the categories that Morrison & Foerster has searched:

- a) Affiliate of Current Client;
- b) Bankruptcy Judges and Clerks;
- c) Bankruptcy Professionals;

- d) Banks;
- e) Current Client;
- f) Current & Former Directors & Officers;
- g) Current Shareholders;
- h) Debtors;
- i) Debtors' Affiliates;
- j) Former Client;
- k) Insurance;
- l) Landlords;
- m) Litigation Parties;
- n) Ordinary Course Professionals;
- o) Significant Customers;
- p) Significant Vendors;
- q) Taxing & Regulatory Authorities;
- r) Top 30 Unsecured Creditors;
- s) U.S. Trustee Office;
- t) Utility Providers.

14. Listed on **Schedule 2** to this Declaration are the results of Morrison & Foerster's conflicts searches of the above-listed entities.⁵ This search revealed that certain Potential

⁵ As a general matter, Morrison & Foerster discloses active representations as well as inactive representations if (a) there was time billed within the three (3) years of the date of the disclosure, or (b) if the representation was ended within three (3) years of the date of the disclosure and time was billed within three (3) years of the date of the disclosure, but does not disclose connections if time was billed prior to such dates. The list generated from Morrison & Foerster's conflicts search system is over-inclusive. Whether an actual client relationship exists can only be determined by reference to the documents governing Morrison & Foerster's representation rather than its potential listing in Morrison & Foerster's conflicts search system. As referenced in **Schedule 2**, the term "active representation" means an entity listed as a client in Morrison & Foerster's conflicts search system to whom time was posted in the 2024 or 2025 calendar year and for which the client representation remains open. As referenced

Interested Parties are or may be currently represented by Morrison & Foerster. Based on the results of this search, and through direct inquiries with Morrison & Foerster attorneys, Morrison & Foerster determined that the representation of the Interested Parties disclosed on **Schedule 2** hereto concerned matters in which such clients were not adverse to the Debtors, the Debtors' estates, or the members of the Committee, except as disclosed on **Schedule 2** or otherwise described herein.

15. For the avoidance of doubt, Morrison & Foerster will not commence a cause of action in these Chapter 11 Cases against the entities listed on **Schedule 2** that are clients with an "active representation" (including entities listed below under the "Specific Disclosures" section of this Declaration) unless Morrison & Foerster has an applicable waiver on file or first receives a waiver from such entity allowing Morrison & Foerster to commence such an action. To the extent that a waiver does not exist or is not obtained from such entity, and it is necessary for the Committee to commence an action against that entity, the Committee will be represented in such particular matter by Morris James or other conflicts counsel.

16. Based on the conflicts search conducted to date and described herein, to the best of my knowledge, neither I, Morrison & Foerster, nor any partner or associate thereof, insofar as I have been able to ascertain, has any connection with the Debtors, their creditors, or any other parties in interest, their respective attorneys and accountants, the U.S. Trustee, any person employed by the U.S. Trustee, or any Bankruptcy Judge currently serving on the United States

in **Schedule 2**, the term "inactive representation" means an entity listed as a client in Morrison & Foerster's conflicts search system to whom time was posted (a) during the 2022, 2023, calendar years, but not the 2024 and 2025 calendar year, or (b) during the 2022, 2023, 2024, or 2025 calendar years, but for which the client representation has been closed. **Schedule 2** does not disclose connections to "co-clients" if such entities are not otherwise clients with an "active representation" or an "inactive representation." If a Morrison & Foerster client was a "hit" for more than one Potential Interested Party searched, then that representation is only disclosed once on **Schedule 2**.

Bankruptcy Court for the District of Delaware, except as disclosed on **Schedule 2** or otherwise described herein.

SPECIFIC DISCLOSURES

17. As specifically set forth below and in the attached **Schedule 2**, Morrison & Foerster represents certain of the Potential Interested Parties in ongoing matters unrelated to the Debtors and these Chapter 11 Cases. None of the representations described herein are materially adverse to the interests of the Debtors' estates.

18. Morrison & Foerster currently represents, and has in the past represented, Ducera Partners LLC ("**Ducera**"), the Committee's investment banker, in a variety of its matters. Morrison & Foerster's representations of Ducera, in the aggregate, accounted for less than 1% of Morrison & Foerster's fee receipts for the 2024 calendar year. All of Morrison & Foerster's current and prior representations of Ducera have been unrelated to the Debtors and these Chapter 11 Cases. I do not believe that Morrison & Foerster's representation of Ducera precludes Morrison & Foerster from meeting the disinterestedness standard under the Bankruptcy Code.

19. Morrison & Foerster currently represents, and has in the past represented in a variety of its matters, Bank of America, N.A., a top 25 shareholder of the Debtors, and certain of its affiliates (collectively, "**Bank of America**"). Morrison & Foerster's representations of Bank of America, in the aggregate, accounted for less than 1% of Morrison & Foerster's fee receipts for the 2024 calendar year. All of Morrison & Foerster's current and prior representations of Bank of America Bank and its affiliates have been unrelated to the Debtors and these Chapter 11 Cases. I do not believe that Morrison & Foerster's representation of Bank of America and its affiliates precludes Morrison & Foerster from meeting the disinterestedness standard under the Bankruptcy Code.

STATEMENT REGARDING U.S. TRUSTEE GUIDELINES

20. The following is provided in response to the request for additional information set forth in Paragraph D.1. of the U.S. Trustee Guidelines:

Question 1: Did you agree to any variations from, or alternatives to, your standard or customary billing arrangements for this engagement?

Response: No.

Question 2: Do any of the professionals included in this engagement vary their rate based on the geographic location of the bankruptcy case?

Response: No.

Question 3: If you represented the client in the 12 months prepetition, disclose your billing rates and material financial terms for the prepetition engagement, including any adjustments during the 12 months prepetition. If your billing rates and material financial terms have changed postpetition, explain the difference and the reasons for the difference.

Response: Morrison & Foerster did not represent the Committee prior to these Chapter 11 Cases.

Question: 4 Has your client approved your prospective budget and staffing plan, and, if so for what budget period?

Response: The Committee and Morrison & Foerster expect to develop a prospective budget and staffing plan to comply with the U.S. Trustee's requests for information and additional disclosures, and any other orders of the Court, recognizing that in the course of these Chapter 11 Cases there may be unforeseeable fees and expenses that will need to be addressed by the Committee and Morrison & Foerster.

AFFIRMATIVE STATEMENT OF DISINTERESTEDNESS

21. Based on the conflicts search conducted to date and described herein, to the best of my knowledge and insofar as I have been able to ascertain, (a) I believe that Morrison & Foerster is a "disinterested person" within the meaning of Section 101(14) of the Bankruptcy Code, as required by Section 328 of the Bankruptcy Code, and does not hold or represent an interest adverse to the Debtors, their estates, their creditors, or the Committee and the members thereof;

(b) Morrison & Foerster does not represent any entity having an adverse interest in connection with the Chapter 11 Cases as required by Section 1103 of the Bankruptcy Code; and
(c) Morrison & Foerster has no connection to the Debtors, their estates, their creditors, the Committee, and the members thereof, or other parties in interest, except as disclosed herein.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Date: April 1, 2025

/s/ Lorenzo Marinuzzi
Lorenzo Marinuzzi

Schedule 1¹

The following lists contain the names of the reviewed entities as described more fully in the *Declaration of Lorenzo Marinuzzi in Support of Application of the Official Committee of Unsecured Creditors of Nikola Corp., et al., for Entry of an Order Authorizing the Employment and Retention of Morrison & Foerster LLP as Counsel Effective as of March 3, 2025* (the “Marinuzzi Declaration”). Where the names of the entities reviewed are incomplete or ambiguous, the scope of the search was intentionally broad and inclusive, and Morrison & Foerster LLP reviewed each entity in its records, as more fully described in the Marinuzzi Declaration, matching the incomplete or ambiguous name.

¹ The following list was provided to the Committee by Debtors’ counsel. The Committee has not independently verified the contents of the list as being a complete and accurate list of all of the potential parties in interest, and the nature of their claims or interests in the Debtors and these Chapter 11 Cases.

List of Potential Interested Parties

NIKOLA CORP.
POTENTIAL PARTIES IN INTEREST

Debtors

Nikola Corporation
Nikola Properties LLC
Nikola Subsidiary Corp.
Nikola Motor Company, LLC
Nikola Energy Co, LLC
Nikola Powersports LLC
Free Form Factory, Inc.
Nikola H2 Placentia
4141 East Broadway RD LLC
Nikola Desert Logistics LLC

Kim Brady
Tom Okray
Mary Chan
Ole Hoefelmann
Joe Pike
Britton Worthen
Pablo Koziner
Carey Mendes
Joe Capello
Michael Erickson
Michael Lohscheller

Debtors' Affiliates

Camions Nikola Inc.
Nikola AG23 LLC
Nikola GmbH
Nikola Motor Canada, Inc.
Romeo Power, Inc.
Romeo Systems, Inc.
Romeo Systems Technology, LLC
Wabash Valley Resources, LLC

Banks

Bank of America, N.A.
Citibank, N.A.

Current & Former Directors & Officers

Lon Stalsberg
Trevor Milton
Mark Russell
DeWitt Thompson
Sophia Jin
Jeff Ubben
Lynn Forester DeRothchild
Mike Mansuetti
Stephen Girsky
Steve Shindler
Jon Pertchik
John Vesco
Andy Vesey
Bruce Smith
Mary Petrovich
Carla Tully

Current Shareholders (Top 25 as of 1.30.25)

Norges bank Investment Management
The Vanguard Group
Millennium Management
BlackRock Institutional Trust
Bank of America Corporation
Van Eck Associates Corporation
Mirae Asset Global Investments
Geode Capital Management
Mirae Asset Securities
Alyeska Investment Group
Jane Street Capital
State Street Global Advisors
Balyasny Asset Management
Citi Investment Research
Citigroup Inc.
SG Americas Securities LLC
Charles Schwab Investment Management
Morgan Stanley
Coatue Management LLC
Goldman Sach Group Inc.
Tidal Investments LLC
BNP Paribas Financial Markets SNC
Northern Trust Global Investments
ALPS Advisors Inc.
Girsky, Stephen*
Quadrature Capital Limited

Top 30 Unsecured Creditors

U.S. Securities and Exchange Commission
 U.S. Bank Trust Company, National
 Association
 Robert Bosch LLC
 Shareholder Securities Litigation Parties
 Robert Bosch LLC (EUR)(*)
 The Lion Electric Company
 Iveco S.p.A (*)
 American Air Liquide Holdings, Inc.
 Microsoft Corporation
 ZF North America, Inc.
 BDO USA LLP
 Hexagon Purus GmbH
 Ansys, Inc.
 Chart Inc.
 Altair Engineering Inc.
 Duotec De Norteamerica S.A. de RL DE
 C.V.
 First Insurance Funding
 Fiedler Group
 Norma Mi, Inc.
 Knorr Brake Holding Corporation
 SAP America, Inc.
 Aztek Technologies S.A. de C.V.
 Senvias, Inc.
 commercial Vehicle Group, Inc.
 Smithers Tire & Automotive Testing
 Allison Transmission, Inc.
 Arbomex LCM, S.A. de C.V.
 CWL Holding Company LLC
 OMR SPA

Significant Customers

Alta
 Cleveland Brother Equipment
 Ethero
 B.D. Holt Company
 ITD Industries Inc.
 Net Generation Truck
 Quinn
 The Truck Stop
 Thompson Machinery Commerce
 Corporation
 Tom's Truck Center
 Wagner Equipment Company

Worldwide Equipment
 Ziegler Truck Group LLC

Significant Vendors

Robert Bosch LLC (EUR)(*)
 Mack Trucks, Inc.
 Hexagon Purus GmbH(*)
 Hellmann Worldwide Logistics Inc
 Taylor-Wharton America Inc.
 FPT Industrial S.p.A.
 Robert Bosch S de RL de CV
 Chart Inc.(*)
 American Air Liquide Holdings, Inc.(*)
 Tom's Truck Center, Inc
 Linde Inc.
 Integrated Cryogenic Solutions LLC
 Proterra Settlement
 J.B. Hunt Transport, Inc.
 Engineered Machined Products, Inc
 Area 4141 Sponsor LLC
 Allison Transmission, Inc.
 Knorr Brake Holding Corporation(*)
 ZF North America, Inc.
 Aztek Technologies S.A. de C.V.(*)
 Commercial Vehicle Group, Inc
 Methode Electronics Malta Ltd
 BRUSA HyPower AG
 Iveco S.p.A
 Bel Power Solutions Inc
 Amphenol Technical Products
 Howmet Aerospace Inc.
 Metalsa S.A.P.I de C.V.
 Advanced Wheel Sales, LLC

Insurance

Admiral Insurance Company
 Allied World Specialty Insurance Company
 American Casualty Company of Reading,
 Pennsylvania
 American International Group, Inc. (AIG)
 Amwins Insurance Brokerage, LLC
 Coalition, Inc.
 Colony Insurance Company
 The Continental Insurance Company
 CNA Financial Corporation

Crum & Forster Specialty Insurance Company
 Diversified Insurance Group
 Endurance Assurance Corporation
 First Insurance Funding
 Great American Insurance Company
 Hiscox Insurance Company
 Hudson Insurance Group
 IMA, Inc.
 Ironshore Specialty Insurance Company
 Lloyds
 National Liability & Fire Insurance Company
 National Union Fire Insurance Company
 RT Specialty
 Sompo International Holdings Ltd.
 Vantage Risk Assurance Company
 Woodruff Sawyer & Co.
 XL Specialty Insurance Company

Landlords

Albany Road-Quattro LLC
 Area 4141 Investor, LLC
 Area 4141 Sponsor LLC
 Cresa Lease Administration
 Dirt Dogs Holdings LLC
 Fairview II Property Owner L.P.
 Fontana Redwood Properties LLC
 HEM Holdings, LLC
 MainSpring Cotton Center LLC
 MC Area 4141 Owner, LLC
 Mission Plaza Properties, Inc.
 Otay Truck Parking, L.P.
 Performance Court QOZB LLC
 Power Holdings LLC
 Rail Prop LLC
 Saul Ewing Arnstein & Lehr LLP
 SFS Heritage Park LLC
 Store Master Funding XXXII LLC
 TFI Properties
 Tom's Truck Center North County, LLC
 Transportation Research Center Inc.
 Wesco Distribution, Inc.

Litigation Parties

Securities and Exchange Commission

VFS, LLC
 Allstate Fastener
 Lion Electric Company
 Lightning E-Motors Inc.
 John Tenneson
 Ed Lomont
 Barbara Rhodes
 Chad Huhn
 Hyeyoung Byun
 Daniel Borteanu
 Cynthia M. Langford
 Prahant Salguocar
 Nahid Hajarian

Ordinary Course Professionals

Paul, Weiss, Rifkind, Wharton & Garrison LLP
 Grant Thornton LLP
 Snell & Wilmer LLP

Bankruptcy Professionals

Epiq Corporate Restructuring, LLC
 Houlihan Lokey Capital, Inc.
 M3 Advisory Partners, LP
 Pillsbury Winthrop Shaw Pittman LLP
 Potter Anderson & Corroon LLP

Taxing & Regulatory Authorities

Alabama Department of Revenue
 Arizona Department of Revenue
 California Department of Tax and Fee Administration
 California Franchise Tax Board
 Connecticut Department of Revenue Services
 Colorado Department of Revenue
 Delaware Department of Revenue
 Florida Department of Revenue
 Georgia Department of Revenue
 Illinois Department of Revenue
 Indiana Department of Revenue
 Internal Revenue Service
 Kansas Department of Revenue
 Maricopa County Treasurer
 Maryland Office of the Comptroller
 Massachusetts Department of Revenue
 Michigan Department of Treasury

Minnesota Department of Revenue
 New York State Department of Taxation and
 Finance
 Pennsylvania Department of Revenue
 Pinal County Treasurer
 San Bernardino County Tax Collector
 South Carolina Department of Revenue
 Tennessee Department of Revenue
 Texas Comptroller of Public Accounts
 Utah State Tax Commission
 Virginia Department of Taxation

Utility Providers

ABM Industries Incorporated
 Amerigas – 523
 Arizona Public Service Company
 Berrett Pest Control AZ Inc.
 Casa Grande Pumping Service, Inc.
 City of Phoenix
 Cox Business
 Dawson Enterprises, Inc.
 Gila Local Exchange Carrier
 Picacho Cove Water Company, Inc.
 Republic Services, Inc.
 Salt River Project
 Southwest Gas Corporation
 Waste Management of Arizona, Inc.

Bankruptcy Judges & Clerks

Barksdale, Nickita
 Batts, Cacia
 Bello, Rachel
 Brady, Claire
 Capp, Laurie
 Gadson, Danielle
 Haney, Laura
 Hrycak, Amanda
 Hurt, Xavier
 Johnson, Lora
 Chief Judge John T. Dorsey
 Judge Brendan L. Shannon
 Judge Craig T. Goldblatt
 Judge J. Kate Stickles
 Judge Karen B. Owens
 Judge Mary F. Walrath
 Judge Laurie Selber Silverstein

Judge Thomas M. Horan
 Lopez, Marquietta
 Lugano, Al
 O’Boyle, Una
 Subda, Paula
 Walker, Jill
 Washington, Nikki
 Yeager, Demitra

United States Trustee’s Office

Attix, Laruen
 Bates, Malcolm M.
 Bu, Fang
 Casey, Linda
 Cudia, Joseph
 Dice, Holly
 Dortch, Shakima L.
 Fox, Jr., Timothy J.
 Giordano, Diane
 Girello, Michael
 Green, Christine
 Hackman, Benjamin
 Jones, Nyanquoi
 Konde, Hawa
 Leamy, Jane
 Lipshie, Jonathan
 McCollum, Hannah M.
 McMahon, Joseph
 Nyaku, Jonathan
 O’Malley, James R.
 Richenderfer, Linda
 Schepacarter, Richard
 Seliber, Megan
 Serrano, Edith A.
 Sierra-Fox, Rosa
 Thomas, Elizabeth
 Vara, Andrew R.
 Wynn, Dion

Schedule 2

Name of Entity Searched	Name of Entity and/or Affiliate of Entity that is a Morrison & Foerster Client	Status
AMERICAN INTERNATIONAL GROUP INC	AIG GENERAL INSURANCE COMPANY LTD AIG KOREA INC AMERICAN INTERNATIONAL GROUP INC AIG ASIA PACIFIC INSURANCE PTE LTD AIG INSURANCE HONG KONG LTD	Inactive Representation Inactive Representation Active Representation Inactive Representation Inactive Representation
ANSYS INC	ANSYS INC	Active Representation
BANK OF AMERICA CORP	BANK OF AMERICA NA BANK OF AMERICA MERRILL LYNCH BANK OF AMERICA PRIVATE BANK BOFA SECURITIES INC	Active Representation Inactive Representation Inactive Representation Active Representation
CITIBANK NA	CITIBANK NA	Active Representation
CITIGROUP INC	CITIGROUP GLOBAL MARKETS REALTY CORP CITIGROUP FINANCIAL PRODUCTS INC CITIGROUP INC	Inactive Representation Inactive Representation Active Representation
CNA FINANCIAL CORP	CNA FINANCIAL CORP	Inactive Representation
COALITION INC	COALITION INC	Active Representation
GOLDMAN SACHS GROUP INC	GOLDMAN SACHS ASSET MANAGEMENT LP GOLDMAN SACHS AUSTRALIA PTY LTD GOLDMAN SACHS MERCHANT BANKING DIVISION GOLDMAN SACHS BANK GOLDMAN SACHS JAPAN COMPANY LTD GOLDMAN SACHS & CO	Active Representation Inactive Representation Active Representation Active Representation Active Representation Active Representation
GREAT AMERICAN INSURANCE CO	GREAT AMERICAN E & S INSURANCE CO	Active Representation

LLOYDS	LLOYDS TSB BANK PLC LLOYDS BANK PLC	Active Representation Active Representation
MILLENNIUM MANAGEMENT	MILLENNIUM MANAGEMENT	Active Representation
MORGAN STANLEY	MORGAN STANLEY MORGAN STANLEY MORTGAGE CAPITAL INC MORGAN STANLEY & COMPANY LLC MORGAN STANLEY CHINA PRIVATE EQUITY INVESTMENT MANAGEMENT COMPANY LTD MORGAN STANLEY BANK AG MORGAN STANLEY SENIOR FUNDING INC MITSUBISHI UFJ MORGAN STANLEY SECURITIES COMPANY LTD	Active Representation Active Representation Active Representation Active Representation Inactive Representation Inactive Representation Active Representation
SOUTHWEST GAS CORP	SOUTHWEST GAS CORP SOUTHWEST GAS HOLDINGS INC	Active Representation Active Representation

EXHIBIT 7

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARY BETH MONTERA,

Plaintiff,

v.

PREMIER NUTRITION CORPORATION,

Defendant.

Case No. 16-cv-06980-RS

**ORDER AWARDING ATTORNEY'S
FEES INCURRED ON APPEAL**

I. INTRODUCTION

Plaintiff Mary Beth Montera seeks an award of attorney's fees and expenses incurred while litigating the appeal in this class action. The Ninth Circuit affirmed Defendant Premier Nutrition's liability to Plaintiff class for deceptive advertisement of its product Joint Juice, in violation of New York law. The panel then granted Montera's unopposed request to transfer the fee motion to this court. Plaintiff argues Class Counsel are entitled to their lodestar amount of fees, increased by a multiplier of 1.5. Defendant contends Class Counsel's billing practices led to inflation of the lodestar and recommends a reduction of the lodestar by 25 percent. Accordingly, Defendant opposes any multiplier of the lodestar. Based on the results achieved, skills utilized, and contingent nature of the appellate matter, Plaintiff's counsel is entitled to attorney's fees of \$928,455 or a 1.5 multiplier on class counsel's lodestar, as well as expenses incurred.

II. BACKGROUND

Defendant Premier Nutrition Corporation unsuccessfully appealed the final judgment in favor of Montera. The Ninth Circuit affirmed seventeen of the nineteen aspects of the judgment

1 contested on appeal but vacated the award of prejudgment interest and remanded Premier's due
2 process challenge to the award of statutory damages. Premier petitioned for and was denied *en*
3 *banc* rehearing of the denial of its motion to certify questions to New York's highest court. After
4 the disposition of Premier's petition for *en banc* hearing, Plaintiff Mary Beth Montera timely
5 moved for attorney's fees and costs incurred litigating the appeal.

6 Pursuant to Ninth Circuit Rule 39-1.6 and New York General Business Law (GBL) §§ 349
7 and 350, Montera seeks attorney's fees of \$928,455, which represents a 1.5 multiplier on
8 counsels' lodestar of \$618,970 and reimbursement of expenses at \$3,053.39.

9 III. LEGAL STANDARD

10 Under New York General Business Law Sections 349 and 350, the statutory bases of this
11 class action, the court "may award reasonable attorney's fees to a prevailing plaintiff." N.Y. Gen.
12 Bus. Law §§ 349(h), 350-e(3). The decision to award fees is "left to the discretion of the trial court
13 in all circumstances." *Koch v. Greenberg*, 14 F. Supp. 3d 247, 280 (S.D.N.Y. 2014) (quoting
14 *Riordan v. Nationwide Mut. Fire Ins. Co.*, 977 F.2d 47, 54 (2d Cir. 1992)). These types of fee-
15 shifting statutes require fees to be calculated using the lodestar method, which involves
16 multiplying "the number of hours reasonably expended by a reasonable hourly rate." *In re*
17 *Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 570 (9th Cir. 2019); *see In re Bluetooth Headset*
18 *Prods. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011). "Generally, a party that is entitled to an
19 award of attorneys' fees in the district court is also entitled to an award of attorneys' fees on
20 appeal." *Legal Voice v. Stormans Inc.*, 757 F.3d 1015, 1016 (9th Cir. 2014).

21 "Upon determining the lodestar amount, the court may, in its discretion and under specific
22 circumstances, increase the lodestar amount by applying a multiplier based on certain more
23 subjective factors, such as the difficulty of the case, the risk of success and the quality of
24 representation." *Ousmane v. City of New York*, 880 N.Y.S.2d 874 (N.Y. Sup. Ct. 2009) (relying on
25 *Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43, 47 (2d Cir. 2000)). Other factors which
26 may support a multiplier include whether the litigation was novel, and whether the case was
27 brought in furtherance of public policy. *Id.*

IV. DISCUSSION

This matter has been hard fought for over a decade. Premier raised nineteen issues and sub-issues on appeal, filed a motion to certify questions to New York’s highest court, and petitioned for en banc review. Montera successfully defended the judgment in favor of the class and Premier does not dispute Montera’s entitlement to some attorney’s fees and costs.

Premier contends Plaintiff’s lodestar amount should be reduced by 25 percent. Premier lodges three objections, none of which are persuasive. First, Premier claims Class Counsel billed in quarter-hour increments, thus inflating the recorded time. Quarter-hour billing, while not standard, is only problematic when used to inflate minor tasks, such as communicating via email. Premier did not point to any problematic billing entries or inflated tasks. Next, Premier objects to Class Counsel’s distribution of work, arguing the assignment of nearly all the work to partners rather than associates inflated the billing rate. Montera explains this distribution is a result of the complexity of the proceedings and the firm’s small size. Plaintiff has thus adequately justified why partners, including the partner responsible for oral argument in front of the Ninth Circuit, had to complete tasks such as reviewing the trial transcripts. Finally, Defendant takes issue with Class Counsel’s “block billing” and vague descriptions. Again, Premier did not identify any specific problematic entries. Most entries are not “block billed” and block billing and vagueness are only problematic when such practices support the inference that the time spent was unreasonable. The eighteen entries identified are reasonable time expenditures. While some descriptions of time spent were vague, captions like “work on opening brief” are sufficient for a court to review the work completed during that time. In sum, a reduction is not required.

Class Counsel argues the lodestar does not adequately account for the exceptional results obtained, the skill required, and the contingent nature of the fees. Defendant opposes, arguing a multiplier is not the standard practice in awarding attorney’s fees under §§ 349 and 350. Additionally, Defendant contends the relevant factors are already considered in the unadorned lodestar. Therefore, as Premier tells it, applying a multiplier would “double count” factors and make Class Counsel’s proposed fee unreasonable.

Plaintiff cites to multiple New York precedents applying multipliers in class action fee awards. While none of these cases are directly analogous to an award of reasonable fees under §§ 349 and 350,¹ this is not the typical suit brought under these statutes.

Plaintiff persuasively argues a multiplier would not “double count” these factors, but rather reward the results obtained on appeal, class counsel’s skill, and the risk the firm undertook in continuing this years-long litigation. *See Perdue v. Kenny A.*, 559 U.S. 542, 546 (2010) (affirming rule that lodestar “may be increased due to superior performance and results”). Parties have hotly contested every aspect of this litigation and the appeal was no different. Montera obtained affirmance of almost every order and ruling challenged by Premier, losing outright only on prejudgment interest. Montera points out Plaintiff’s attorney Leslie Hurst’s skill is not necessarily reflected in the lodestar. Ms. Hurst’s rate, at \$810, is in the low end of the estimated range of Defendant’s firm, thus contradicting the argument her skill and the contingent risk is already accounted for in her fees. Overall, the complexity of the appeal, near perfect results for Plaintiff, and the continued risk of this long-running matter weigh in favor of applying the multiplier.

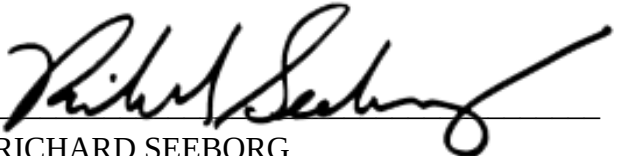
V. CONCLUSION

Class counsel is granted attorney’s fees on appeal in the amount of \$928,455 and non-taxed expenses in the amount of \$3,053.39.

IT IS SO ORDERED.

¹ Class Counsel relies upon other cases where parties have *settled* claims under these statutes. *See Edwards v. Mid-Hudson Valley Fed. Credit Union*, 2023 U.S. Dist. LEXIS 158085, at *35–36 (N.D.N.Y. Sept. 7, 2023) (in settlement involving GBL § 349, approving multiplier of 2.3 finding “[t]his multiplier is within the range of accepted multipliers for this Circuit”); *Nichols v. Noom, Inc.*, 2022 U.S. Dist. LEXIS 123146, at *32–33 (S.D.N.Y. July 12, 2022) (in settlement involving GBL § 349, multiplier of 2.88 “is fully consistent with that found to be reasonable in other cases in this Circuit”); *Sykes v. Mel Harris & Assocs., LLC*, 2016 U.S. Dist. LEXIS 74566, at *48 (S.D.N.Y. May 24, 2016) (in settlement involving GBL § 349, multiplier of 3.3, “is consistent with other cases in the Second Circuit”). These cases imply §§ 349 and 350 do not necessarily bar a multiplier in recovering fees, but do not establish Class Counsel deserve a multiplier in this instance.

Dated: February 3, 2025


RICHARD SEEBORG
Chief United States District Judge

United States District Court
Northern District of California

CERTIFICATE OF SERVICE

I hereby certify that on September 9, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: September 9, 2026

By: s/ Timothy G. Blood

TIMOTHY G. BLOOD