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Counsel for Plaintiffs

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

BRIAN REICHERT, DEREK DEVINY  
individually, and as representatives of a  
Class of Participants and Beneficiaries of  
the Juniper Networks, Inc. 401(k) Plan,

Plaintiffs,

v.

JUNIPER NETWORKS, INC.,  
BOARD OF DIRECTORS  
OF JUNIPER NETWORKS, INC., and  
INVESTMENT COMMITTEE OF  
JUNIPER NETWORKS, INC.,  
Defendants.

Case No: 3:21-cv-06213-JD

**PLAINTIFFS' MOTION FOR  
ATTORNEYS' FEES AND COSTS,  
SETTLEMENT ADMINISTRATIVE  
EXPENSES, AND CASE  
CONTRIBUTIONS AWARDS**

Date: January 18, 2024  
Time: 10 a.m.  
Courtroom: 11,  
Honorable James Donato

COMPLAINT FILED: AUG. 21, 2021

**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

PLEASE TAKE NOTICE that on January 18, 2024, at 10:00 a.m., in Courtroom 11 of the United States District Court of the Northern District of California, 19<sup>th</sup> Floor, 450 Golden Gate Avenue, San Francisco, CA, 94102, Plaintiffs Brian Reichert and Derek Deviny (“Plaintiffs”) will and hereby do move this Court for an Order awarding: (1) attorneys’ fees to Class Counsel in the amount of \$900,000 (30% of the \$3,000,000 million dollar Gross Settlement Amount); (2) reimbursement of \$36,280.72 in litigation costs; (3) \$39,388 in settlement administration expenses; (4) \$15,000 for independent fiduciary fees; and (5) case contribution awards in the amount of \$5,000 to each of the named Plaintiffs.

This motion is made pursuant to Federal Rule of Civil Procedure 23(h) and the Parties’ Class Action Settlement Agreement (*Dkt. 66-3*) and is based on the accompanying Memorandum of Law and authorities cited therein, the Declarations of Paul Secunda, Joseph Creitz, Joseph Barton, and Lisa Kantor, the previously filed declarations of the named Plaintiffs (*Dkt. Nos. 66-7, 66-8*), the Settlement Agreement, and all files, records, and proceedings in this matter.

Counsel for Plaintiffs has conferred with counsel for Defendants regarding this motion and have been advised that Defendants do not oppose the motion. As of the filing of this motion, there also have been no objections to the proposed attorneys’ fees and costs, administrative expenses, or case contribution award.

1 Dated this 17th day of November, 2023

WALCHESKE & LUZI, LLC

2 s/ Paul M. Secunda

3 Paul M. Secunda, *Admitted pro hac vice*

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ATTORNEYS FOR PLAINTIFFS and  
PROPOSED SETTLEMENT CLASS

**CERTIFICATE OF SERVICE**

I hereby certify that on November 17, 2023, I caused a copy of the foregoing to be electronically filed with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: November 17, 2023

/s/ Paul M. Secunda  
Paul M. Secunda

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BOARD OF DIRECTORS  
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INVESTMENT COMMITTEE OF  
JUNIPER NETWORKS, INC.,

Defendants

Case No: 3:21-cv-06213-JD

Honorable James Donato

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
ATTORNEYS' FEES AND COSTS,  
SETTLEMENT ADMINISTRATIVE  
EXPENSES, AND CASE  
CONTRIBUTIONS AWARDS**

Date: January 18, 2024

Time: 10 a.m.

Courtroom: 11

Complaint Filed: Aug. 21, 2021

1 Upon reviewing Class Counsel's Motion for Attorneys' Fees and Costs,  
2 Settlement Administrative Expenses, and Case Contribution Awards, and the papers  
3 submitted in connection with this Motion, and good cause appearing therefore,  
4

5 **It is hereby ORDERED as follows:**

- 6 1. Attorneys' fees to Class Counsel in the amount of \$900,000 (30% of the  
7 \$3,000,000 million dollar Gross Settlement Amount);  
8 2. Reimbursement of \$36,280.72 in litigation costs;  
9 3. \$39,388 in settlement administration expenses;  
10 4. \$15,000 for independent fiduciary fees; and  
11 5. Case contribution awards in the amount of \$5,000 to each of the named  
12 Plaintiffs.

13  
14 IT IS SO ORDERED.

15 Dated: January \_\_\_\_, 2024

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James Donato, United States District Judge  
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UNITED STATES DISTRICT COURT  
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individually, and as representatives of a  
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Plaintiffs,

v.

JUNIPER NETWORKS, INC., ET AL.

Defendants.

Case No: 3:21-cv-06213-JD

**PLAINTIFFS' MEMORANDUM OF  
LAW IN SUPPORT OF MOTION FOR  
ATTORNEYS' FEES AND COSTS,  
SETTLEMENT ADMINISTRATIVE  
EXPENSES, AND CASE  
CONTRIBUTIONS AWARDS**

Date: January 18, 2024

Time: 10 a.m.

Courtroom: 11, The Honorable Judge  
James Donato

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## INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 23(h), the Parties' Settlement Agreement,<sup>1</sup> and the Northern District of California's Procedural Guidance for Class Action Settlements, Class Counsel hereby moves the Court for an order awarding Plaintiffs' counsel up to \$900,000.00 in attorney's fees (or 30% of the common fund), reimbursement of \$36,280.72 for litigation expenses incurred, \$39,388 in settlement administration expenses; \$15,000 for independent fiduciary fees; and \$5000 each in case contribution awards for the two class representatives.

## BACKGROUND

### I. THE PLEADINGS

After undertaking a substantial investigation into the merits of the lawsuit staring in June 2021, Plaintiffs Brian Reichert and Derek Deviny filed this action on August 11, 2021. *Dkt. 1*. In their Amended Complaint (*Dkt. 38*), Plaintiffs allege that during the putative Class Period (August 11, 2015 through the date of judgment), Defendants, as fiduciaries of the Plan, breached the duties they owed to the Plan, to Plaintiffs, and to the other Participants of the Plan by, among other things: (1) authorizing the Plan to pay unreasonably high fees for retirement plan services ("RPS") (also known as recordkeeping and administrative services ("RKA")); (2) failing to objectively, reasonably, and adequately review the Plan's investment portfolio with due care to ensure that each investment option was prudent, in terms of cost ("passive vs. active investment claim"); (3) maintaining certain funds in the Plan despite the availability of identical or similar investment options with lower

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<sup>1</sup> A copy of the Class Action Settlement Agreement ("Settlement" or "Settlement Agreement") is attached as **Exhibit A** to Declaration of Paul M. Secunda ("Secunda Decl."). *See Dkts 66-3, 66-4*.

costs and/or better performance histories (“share class claim”); (4) authorizing the Plan to pay unreasonably high fees for managed account services (“managed account claim”), and (5) failing to disclose to Participants necessary Plan information for them to make informed Plan investment decisions.<sup>2</sup>

## II. ANSWER, DISCOVERY, NEGOTIATIONS, AND SETTLEMENT

After Defendants answered the Amended Complaint, *Dkt. 52*, the parties commenced discovery and served on one another Initial Disclosures and a First Set of Interrogatories and Document Requests in July 2022. With the substantial assistance of the class representatives, Plaintiffs drafted responses to Defendants’ discovery and compiled responsive documents during August 2022. At the same time, the parties engaged in extensive arms-length negotiations to resolve the case, which included numerous telephone and email exchanges, hundreds of pages of Plan documents exchanged, including ERISA § 408(b)(2) documents and Fidelity contracts with Juniper. Those documents indicated that Juniper had recently lowered its retirement plan service (RPS) fees (from \$58 to \$41 per participant per year) before or around the same time this lawsuit had been filed, and that a further request for proposal (RFP) for retirement plan services by the Plan was unnecessary. Plaintiffs believe that the filing of the litigation catalyzed the reduction in RPS fees, saving Plan participants hundreds of thousands of dollars in future RPS fees. *Secunda Decl.* ¶ 17. The parties then delayed their discovery responses until September 16, 2022, while they hammered out a settlement agreement.

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<sup>2</sup> Plaintiffs did not pursue their failure to disclose claim during Settlement Negotiations, as by itself this claim did not have a separate and independent monetary value associated with it.



On September 15, 2022, the parties filed a joint notice of settlement, *Dkt. 57*, and the Court ordered Plaintiffs to file a motion for preliminary approval of the class action settlement by November 11, 2022. *Dkt. 58; Secunda Decl., Dkt. 66-3, ¶ 10*. After a hearing, the Court denied without prejudice the initial motion for preliminary approval of the class settlement on January 9, 2023. *Dkt. 65*. Pursuant to the Court's direction, Plaintiffs file a revised motion for preliminary approval of the class action settlement on January 30, 2023, addressing in more detail the issues identified by the Court in its Order. *Dkt. 66*. After a hearing on the preliminary approval motion on September 14, 2023, *Dkt. 70*, the Court entered an order granting preliminary approval of the class settlement on September 15, 2023. *Dkt. 71*.

### III. OVERVIEW OF SETTLEMENT TERMS

#### A. The Settlement Class

The Court preliminarily certified for settlement purposes the following Settlement Class:

All participants and beneficiaries of the Juniper Networks, Inc. 401(k) Plan beginning August 11, 2015, and running through the date of preliminary approval of the settlement.

*Dkt. 71, ¶ 4*. Pursuant to the District's Procedural Guidance for Class Action Settlements, there are no material differences between this Settlement Class and the Class proposed in the Amended Complaint. *Dkt. 38, ¶ 249*. There are approximately 11,000 Settlement Class Members, made up of approximately 7632 current participants with balances, and 3305 former participants during the Class Period. *Secunda Decl., Dkt. 66-3, ¶ 3*.

## B. Monetary Relief

Under the Settlement, Juniper Networks will contribute \$3.0 million to a common settlement fund. *Settlement*, *Dkt. 66-4*, ¶ 12.<sup>3</sup> After accounting for any Attorneys' Fees and Costs, Administrative Expenses, Independent Fiduciary's fees, and class representative service awards approved by the Court, the Net Settlement Amount will be distributed to eligible Class Members. *Id.* ¶¶ 14, 21, 22.

Pursuant to the District's Procedural Guidance for Class Action Settlements, Plaintiffs attached a Plan of Allocation for the Settlement Fund as Exhibit B to the Secunda Declaration in support of Preliminary Approval of the Settlement. *Dkt. 66-5*. Under the Plan of Allocation, Class Counsel shall retain the Settlement Administrator, Analytics Consulting LLC ("Analytics"), to calculate the amounts payable to Settlement Class Members. *Dkt. 66-4*, ¶ 30. For those Settlement Class Members who have an account in the Plan as of the date of entry of the Final Approval Order (the "Account Members"), the distribution will be made into his or her account in the Plan. *Id.* ¶ 31. For those Settlement Class Members who no longer have an account in the Plan at the time of the distribution of the share amounts owed to Class Members (the "Non-Account Members"), the distribution will be made from the Settlement Fund by the Settlement Administrator.<sup>4</sup> *Id.* ¶ 32

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<sup>3</sup> The monetary relief in this case also includes the substantial benefit achieved through the filing of this litigation. Secunda Decl., ¶ 17. The lawsuit acted as a catalyst for lowering the RPS fees, as those fees dropped dramatically from \$58 per participant per year to \$41 per participant per year from June 30, 2021 to December 31, 2021, based on the Plan documents reviewed. *Id.* Class members achieved an additional substantial saving in RPS fees associated with their Juniper Plan account with a total value of \$17 per year per participant for approximately 11,000 Plan participants for 2.5 years or \$467,500. That value will continue to increase for the Class, on a compounded basis, for the foreseeable future.

<sup>4</sup> Pursuant to the District's Procedural Guidance for Class Action Settlements, under no circumstances will any settlement monies revert back to Defendants. Any

### C. Release of Claims

In exchange for the foregoing relief, upon Complete Settlement Approval, Plaintiffs, the Settlement Class Members, and the Plan (by and through the Independent Fiduciary) shall release Defendants and affiliated persons and entities (the “Released Parties” as defined in the Settlement) from all claims:

of any nature whatsoever concerning the Plan or any and all claims concerning the Plan (including claims for any and all losses, damages, unjust enrichment, attorneys’ fees, disgorgement of fees, litigation costs, injunction, declaration, contribution, indemnification or any other type or nature of legal or equitable relief), including, without limitation, all claims asserted in the Complaint for losses suffered by the Plan, or by Plan participants or beneficiaries, whether accrued or not, whether already acquired or acquired in the future, whether known or unknown, in law or equity, brought by way of demand, complaint, cross-claim, counterclaim, third-party claim or otherwise, arising out of any or all of the acts, omissions, facts, matters, transactions or occurrences that are, were or could have been alleged, asserted, or set forth in the Complaint, so long as they are related to any of the allegations or claims asserted in the Complaint, or would be barred by principles of *res judicata* had the claims asserted in the Complaint been fully litigated and resulted in a final judgment or order, including but not limited to claims that Defendants and/or any fiduciaries of the Plan breached ERISA fiduciary duties during the Class Period or engaged in any prohibited transactions in connection with: (a) the selection, retention and/or monitoring of the investment options available in the Plan, or any of the investments referenced in the Complaint; (b) the appointment and/or monitoring of the Plan’s fiduciaries and service providers; (c) the recordkeeping fees, administrative fees, and expenses incurred by the Plan; (d) the prudence and loyalty of the Plan’s fiduciaries; and/or (e) any claims that Defendants, or any other fiduciary or service provider to the Plan, engaged in any transaction(s) prohibited by ERISA §§406-408, 29 U.S.C. 1106-1108, in connection with the operative facts set forth in the Complaint (“Released Claims”).

*Id.* ¶ 7. The Released Claims do not include claims to enforce the Settlement

checks that are uncashed will be paid into the Plan for the purpose of defraying administrative expenses. *Dkt. 66-4*, ¶ 33. There is no *cy pres* award contemplated by this Settlement.

Agreement. *Id.* ¶¶ 10-11. Pursuant to the District’s Procedural Guidance for Class Action Settlements, there is no difference between the claims to be released and the claims in the Amended Complaint

**D. Attorneys’ Fees and Costs, Settlement Administrative Expenses, and Case Contribution Awards**

The Preliminary Approval Order requires that Class Counsel and Local Counsel file a request for attorneys’ fees and costs, settlement administrative expenses, and case contribution awards, sixty (60) days before the Fairness Hearing, or by November 18, 2023. *Dkt. 71, ¶ 6*. Under the Settlement, the requested fees may not exceed one-third of the Gross Settlement Amount. *Dkt. 66-4, ¶ 22*. In addition, the Settlement provides for recovery of Administrative Expenses related to the Settlement not to exceed \$50,000 (independent of independent fiduciary fees), both to be paid from the common fund, and for service awards up to \$7,500 per Class Representative, at the Court’s discretion. *Id. ¶ 26*.

Class Counsel now moves for \$900,000 in attorney fees, reimbursement of \$36,280.72 in litigation costs, \$39,388 in settlement administration expenses, \$15,000 for independent fiduciary fees, and \$5000 service awards for each class representative, all out of the common fund.

## **ARGUMENT**

### **I. STANDARD OF REVIEW**

When counsel obtain a settlement for a class, courts “may award reasonable attorneys’ fees and nontaxable costs that are authorized by law or by the parties’ agreement.” Fed. R. Civ. P. 23(h). The United States Supreme Court has

consistently recognized that “a litigant or a lawyer who recovers a common fund [for the benefit of a class] is entitled to a reasonable attorney’s fee from the fund as a whole.” *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). Likewise, “reasonable expenses of litigation” may be recovered from a common fund, *Mills v. Elec. Auto-Lite Co.*, 396 U.S. 375, 391–92 (1970), as well as administrative expenses of settlement. *See Karpik v. Huntington Bancshares Inc.*, 2021 WL 757123, \*9 (S.D. Ohio Feb. 18, 2021.) Finally, case contribution awards may be granted in ERISA cases to compensate class representatives for the risks they assumed in enforcing the statute on behalf of the class. *See Dilworth v. Case Farms Processing, Inc.*, 2010 WL 776933, \*7 (N.D. Ohio Mar. 8, 2010.) In summary, the requested distributions are customary in a class action suit such as this and should be approved for the reasons set forth below.

## **II. Class Counsel are Entitled to a Fee Award of 30% of the Common Fund.**

“Attorneys’ fees provisions included in proposed class action settlement agreements are, like every other aspect of such agreements, subject to the determination of whether the settlement is ‘fundamentally fair, adequate, and reasonable.’” *Staton v. Boeing Co.*, 327 F.3d 938, 963 (9th Cir. 2003) (quoting Fed. R. Civ. P. 23(e)), Rule 23(h) “requires that any class member be allowed an opportunity to object to the fee ‘motion’ itself.” *In re Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 988, 993-994 (9th Cir. 2010). The Court’s Preliminary Approval Order set the date for submission of the fee motion before the deadline for objections, consistent with that requirement. *Dkt. 71, ¶¶ 6-7.*

“In the Ninth Circuit, the benchmark for a fee award in common fund cases is 25% of the recovery obtained.” *See Urakhchin v. Allianz Asset Mgmt. of Am., L.P.*, No. 8:15-cv-01614 JLS-JCG, 2018 WL 8334858, \*5 (C.D. Cal. July 30, 2018) (citing *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011)).

Courts must “justify any increase or decrease from this amount based on circumstances in the record.” *Monterrubio v. Best Buy Stores, L.P.*, 291 F.R.D. 443, 455 (E.D. Cal. 2013) (citing *Six (6) Mexican Workers v. Ariz. Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990)). However, in practice, “in most common fund cases, the award exceeds that benchmark.” *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1047 (N.D. Cal. 2008); *In re Activision Sec. Litig.*, 723 F. Supp. 1373, 1377-78 (N.D. Cal. 1989) (surveying cases and stating “[t]his court’s review of recent reported cases discloses that nearly all common fund awards range around 30%”); *Vedachalam v. Tata Consultancy Servs., Ltd.*, No. 06 CV 963, 2013 WL 3941319, \*2 (N.D. Cal. July 18, 2013) (collecting cases awarding 30% or more and describing a 30% fee as “well within the usual range of percentages awarded”); *Craft v. Cty. of San Bernardino*, 624 F. Supp. 2d 1113, 1125 (C.D. Cal. 2008) (noting that “25% is substantially below the average class fund fee nationally”). In this case, Class Counsel has requested a fee award of 30% of the common fund, in line with the norm for common fund fee awards in this Circuit for these type of complex ERISA class actions.

The Ninth Circuit has identified a number of factors that the Court may consider in assessing whether an award is reasonable, including: (1) the results achieved, (2) the risk of litigation, (3) the skill required and quality of work, and (4) the contingent nature of the fee and the financial burden carried by the plaintiffs. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048–50 (9th Cir. 2002). These factors all support the reasonableness of Class Counsel’s requested fee award and the appropriateness of a modest upward departure from the Ninth Circuit’s 25% benchmark.

1       **A.     The Results Achieved Weigh in Favor of Class Counsel’s Requested**  
2       **Fees.**

3       Class Counsel achieved a settlement providing gross monetary relief of \$3.0  
4 million to the Class. Class Counsel previously explained this represents  
5 approximately 44% of the total estimated losses that the Class Members could  
6 recover if the liability were successfully litigated through trial on all counts, the trier  
7 of fact agreed with Plaintiffs on the proper measure of recovery, and the resulting  
8 judgment could be collected. *Dkt. 66-3, ¶¶ 4-6*. Each class member will receive a pro-  
9 rata amount based on the Plan of Allocation submitted to the Court with the  
10 Preliminary Approval Motion. *Dkt. 66-3, ¶ 7; Dkt. 66-5*.

11       Additionally, the lawsuit acted as a catalyst for lowering the retirement plan  
12 service (RPS) fees in this case, as those fees dropped dramatically from \$58 per  
13 participant per year to \$41 per participant per year from June 30, 2021 to December 31,  
14 2021, based on the Plan documents I reviewed and after the lawsuit was filed in August  
15 2021. *Secunda Decl., ¶ 17*. Without the filing of this litigation, Class members would not  
16 have achieved a substantial saving in RPS fees associated with their Juniper Plan  
17 accounts. *Id.* The estimate of the total value of that savings as of the date of this Motion  
18 at \$17 per year per participant for approximately 11,000 Plan participants for 2.5 years  
19 equals an additional \$467,500 in benefit to the Class. *Id.* That value will continue to  
20 increase for the Class on a compounded basis for the foreseeable future and eventually  
21 lead to millions of dollars of additional retirement fee savings for Class members. *Id.*

22       On final approval of the settlement of the ERISA fiduciary breach class action,  
23 where the “settlement fund represent[ed] approximately 29% of Plaintiffs’ claimed  
24 damages at trial,” another Court in this Circuit concluded that the settlement was  
25 “an exceptional result” that “justifie[d] an attorney fee award of one-third of the  
26 settlement fund.” *Marshall v. Northrop Grumman Corp.*, 16-CV-6794 AB (JCX),  
2020 WL 5668935, \*2-3 (C.D. Cal. Sept. 18, 2020). This result compares favorably



1 also with other court-approved settlements in ERISA class actions. *See e.g. Stevens*  
2 *v. SEI Invs. Co.*, No. CV 18-4205, 2020 WL 996418, \*6 (E.D. Pa. Feb. 28, 2020)  
3 (awarding one-third of common fund in attorneys' fees where recovery reflected 31%  
4 of maximum recovery); *Sims v. BB&T Corp.*, No. 1:15-CV-732, 2019 WL 1993519, \*2  
5 (M.D.N.C. May 6, 2019) (awarding one-third of common fund in attorneys' fees  
6 where recovery reflected 19% of maximum recovery); *see also In re Rite Aid Corp.*  
7 *Sec. Litig.*, 146 F. Supp. 2d 706, 715 (E.D. Pa. 2001) (noting that since 1995, class  
8 action settlements have typically "recovered between 5.5% and 6.2% of the class  
9 members' estimated losses").

10 The recovery here is also greater – both in absolute terms and as a  
11 proportional share of the maximum potential recovery – than recoveries in other  
12 cases where attorneys' fees of 30% more of the common fund were awarded. *See*  
13 *Dawson v. Hitco Carbon Composites, Inc.*, No. CV16-07337-PSGF (FM), 2019 WL  
14 7842550, \*6 (C.D. Cal. Nov. 25, 2019) (\$1.1 million settlement or 22% of potential  
15 maximum recovery; 35% fee award); *Jiangchen v. Rentech, Inc.*, No. 17-1490-GW,  
16 2019 WL 5173771, \*7 (C.D. Cal. Oct. 10, 2019) (\$2.05 million settlement or 10% of  
17 maximum damages; 33.3% fee award); *Bravo v. Gale Triangle, Inc.*, No. CV16-03347  
18 BRO (GJS), 2017 WL 708766, \*14 (C.D. Cal. Feb. 16, 2017) (\$375,000 settlement or  
19 14% of maximum damages; 30% fee award); *Deaver v. Compass Bank*, No. 13-cv-222-  
20 JSC, 2015 WL 8526982, \*7 (N.D. Cal. December 11, 2015) (\$500,000 settlement or  
21 14.2% of "potential liability"; 33% fee award).

22 This factor thus weighs in favor of Class Counsel's requested award of 30% of  
23 the common fund.  
24  
25  
26



1           **B.     The Risks of Litigation Weigh in Favor of Class Counsel’s Requested**  
2           **Fees.**

3           Plaintiffs have previously outlined the risks involved in litigating this case.  
4           *Dkt. 66-2, at 14-15.* If litigation had continued, Defendants would almost certainly  
5           have brought motions for summary judgment on most or all of the claims. In one  
6           recent ERISA breach of fiduciary duty case where only one claim survived after  
7           summary judgment motions, the parties reached a settlement on the sole remaining  
8           claim for just \$225,000 (for a class of 28,000 class members). *See Cunningham v.*  
9           *Cornell Univ.*, 16-CV-6525-PKC, 2020 WL 8212936, \*2 (S.D.N.Y. Dec. 22, 2020),  
10          aff’d, 2023 WL 7504142 (2d Cir. Nov. 14, 2023) (approving \$225,000 as fair,  
11          reasonable and adequate given the circumstances and eventually losing the rest of  
12          case on appeal). Moreover, as this Circuit has recognized “in any case, there is a  
13          substantial risk of losing at trial.” *Munday v. Navy Fed. Credit Union*, No.  
14          SACV151629, 2016 WL 7655807, \*8 (C.D. Cal. Sept. 15, 2016). Several defense  
15          verdicts entered by courts after trial in in a complex ERISA fiduciary breach class  
16          actions illustrate those risks. *E.g. Romo v. Principal Life Ins. Co.*, Opinion and Order  
17          on Merits Following Trial (D. Iowa April 8, 2021) (ECF No. 219-2) (entering a  
18          defense verdict in an ERISA fiduciary breach class action following a six-day trial);  
19          *Wildman v. Am. Cent. Servs., LLC*, 362 F. Supp. 3d 685 (W.D. Mo. 2019) (defense  
20          verdict in ERISA fiduciary breach class action following 11 day trial); *Sacerdote v.*  
21          *N.Y. Univ.*, 328 F. Supp. 3d 273, 281 (S.D.N.Y. 2018) (entering defense verdict in  
22          ERISA class action following eight day trial). While both Class Counsel and Local  
23          Counsel have successfully tried ERISA cases and do not shy away from trial, they  
24          fully appreciate the risks involved.

25          Even if Plaintiffs had prevailed at trial, Defendants would likely have  
26          appealed any judgment in Plaintiffs’ favor. There have been multiple high-profile  
27          class actions where plaintiffs prevailed at trial and subsequently had such verdicts

reversed on appeal. For example, following a non-jury trial, the Ninth Circuit affirmed in part and reversed in part the judgment rendered in favor of the certified class, vacated the \$203 million restitution award, and remanded the case for further proceedings. *Gutierrez v Wells Fargo Bank, N.A.*, 704 F.3d 712 (9th Cir. 2012); *Robbins v. Koger Props., Inc.*, 116 F.3d 1441, 1449 (11th Cir. 1997) (reversing \$81 million jury verdict and dismissing case with prejudice in securities action); *Anixter v. Home-Stake Prod. Co.*, 77 F.3d 1215 (10th Cir. 1996) (overturning plaintiffs' verdict obtained after two decades of litigation).

Certain other risks are now smaller than before the litigation began as Plaintiffs have now survived a motion to dismiss. Not only did Plaintiffs face significant uncertainty at this critical stage of this case, but the vigorousness by which Defendants counsel litigated their Rule 12 motion illustrate that they would have vigorously continued to defend the case including at summary judgment, trial and appeal. The risk of litigation thus weighs in favor of the reasonableness of Class Counsel's requested fee award.

**C. The Skill Required and Quality of Work Weigh in Favor of Class Counsel's Requested Fees.**

ERISA class actions are "complex" and require counsel with "specialized skills." *Karpik*, 2021 WL 757123, \*9. "Very few plaintiffs' firms possess the skill set or requisite knowledge base to litigate ... class-wide, statutorily-based claims for pension benefits." *Savani v. URS Prof. Sols. LLC*, 121 F. Supp. 3d 564, 573 (D.S.C. 2015). In addition to legal expertise, counsel in ERISA cases must possess "expertise regarding industry practices." *Kruger v. Novant Health*, No. 1:14CV208, 2016 WL 6769066, \*3 (M.D.N.C. Sept. 29, 2016). Another court in this Circuit has specifically held that "the skill and labor required to adequately address complex issues of ERISA law weigh in favor of approving [a] 30% fee." *Downey Surgical Clinic, Inc. v.*

*Ingenix, Inc.*, No. CV09-5457 PSG (JCX), 2015 WL 12645755, \*13 (C.D. Cal. Nov. 10, 2015). Other recent cases from this Circuit illustrate that the complexity of ERISA class actions often result in a 30% common fund fee award (or more). *Marshall*, 2020 WL 5668935 at \*9 (awarding attorneys' fees of 1/3 of settlement fund of \$12.3 million in ERISA action); *Tom v. Com Dev USA, LLC*, 16-CV-1363 PSG (GJSx), 2017 WL 10378629, \*6 (C.D. Cal. Dec. 4, 2017) (awarding attorneys' fees of 30% in ERISA action). As established by multiple Declaration here, Class Counsel are among the small number of firms with the skills required to litigate cases like this one. Secunda Decl. ¶¶ 2-15; Creitz Decl. ¶¶ 2-11; Barton Decl. ¶ 18; Kantor Decl. ¶ 18.

"The quality of Class Counsel's work is further evidenced by the favorable settlement achieved," on behalf of the Class. *Urakhchin*, 2018 WL 8334858 at \*6. The specialized skill brought to bear by both Class Counsel and Local Counsel on this complex case thus also weigh in favor of a modest upward departure from the Ninth Circuit benchmark and support the reasonableness of Class Counsel's requested fee award.

**D. The Contingent Nature of the Fee and Financial Burden Carried Weigh in Favor of Class Counsel's Requested Fees.**

"Courts have long recognized that the attorneys' contingent risk is an important factor in determining the fee award and may justify awarding a premium over an attorney's normal hourly rates." *Urakhchin*, 2018 WL 8334858 at \*6 (quoting *Monterrubio*, 291 F.R.D. at 457). Class Counsel took this case on a contingent basis. Secunda Decl. ¶ 19; Creitz Decl. ¶ 13. To date, Class Counsel have invested almost 177 hours prosecuting this case and will likely expend at least 55 hours through the completion of this case. *Id.*; Secunda Decl., Ex. B. Class Counsel have received no compensation for any efforts in this case since they were engaged by Plaintiffs. Secunda Decl. ¶ 19; Creitz Decl. ¶ 13. Class Counsel undertook this

1 representation despite the substantial risk that none of their expenses on behalf of  
2 the class—including not just attorney time, but more than \$36,000 in litigation  
3 costs—would be recouped. *Id.*

4 Class Counsel assumed the financial risks associated with this essential  
5 aspect of the case. Based on Class Counsel’s prior trial experience of ERISA cases,  
6 Class Counsel anticipated paying as much as five times the amounts already  
7 expended for experts had the case proceeded through expert reports and depositions,  
8 and as much as ten times had it proceeded through trial. Secunda Decl. ¶ 29. The  
9 significant contingent risks and financial burden assumed by Class Counsel in  
10 litigating this case thus also weighs in favor of the reasonableness of the requested  
11 fees.

12 **III. The Lodestar Cross-Check Confirms the Reasonableness of Class**  
13 **Counsel’s Requested Fee Award.**

14 Counsel’s lodestar may also “provide a useful perspective on the  
15 reasonableness of a given percentage award.” *Vizcaino*, 290 F.3d at 1050. A cross-  
16 check of the lodestar “can be performed with a less exhaustive cataloguing and  
17 review of counsel’s hours.” *Barbosa v. Cargill Meat Solutions Corp.*, 297 F.R.D. 431,  
18 451 (E.D. Cal. 2013).

19 The lodestar method consists of two steps. *Kelly v. Wengler*, 822 F.3d 1085,  
20 1099 (9th Cir. 2016). *First*, a court multiplies a reasonable number of hours  
21 expended on the litigation by a reasonable hourly rate to arrive at a lodestar figure.  
22 *Stanger v. China Elec. Motor, Inc.*, 812 F.3d 734, 738 (9th Cir. 2016); *Kelly*, 822 F.3d  
23 at 1099. *Second*, the court determines whether to adjust the lodestar figure upward  
24 or downward using a multiplier based on factors not subsumed in the lodestar  
25 calculation. *Id.*; *Van Gerwen v. Guar. Mut. Life Co.*, 214 F.3d 1041, 1045 (9th Cir.  
26 2000). Among those factors, “the degree of success obtained is the most critical factor

in determining the reasonableness of a fee award.” *Bravo v. City of Santa Maria*, 810 F.3d 659, 666 (9th Cir. 2016); *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d at 942 (the most crucial factor is “the benefit obtained for the class.”).

**A. Class Counsel’s Hourly Rates are Reasonable Given the Experience, Skill, and Expertise Required to Litigate a Complex ERISA Case.**

The established standard for determining a reasonable hourly rate is the rate “prevailing in the community for similar services of lawyers of reasonably comparable skill, experience, and reputation.” *Blum v. Stenson*, 465 U.S. 886, 895 n.11 (1984); *Camacho v. Bridgeport Fin. Inc.*, 523 F.3d 973, 979 (9th Cir. 2008). “Affidavits of the plaintiffs’ attorney and other attorneys regarding prevailing fees in the community, and rate determinations in other cases, particularly those setting a rate for the plaintiffs’ attorney, are satisfactory evidence of the prevailing market rate.” *United Steelworkers of Am. v. Phelps Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990); *Chaudhry v. City of L.A.*, 751 F.3d 1096, 1110 (9th Cir. 2014). “Complex ERISA cases, such as this, ‘involve a national standard, and attorneys practicing ERISA law in the Ninth Circuit tend to practice in different districts.’” *Marshall*, 2020 WL 5668935, \*6 (quoting *Mogck v. Unum Life Ins. Co. of Am.*, 289 F. Supp. 2d 1181, 1191 (S.D. Cal. 2003)). The “relevant hourly rate for Class Counsel’s work” is thus “the ‘nationwide market rate.’” *Id.*

Here, the hourly rates charged by Plaintiffs’ counsel are based on each professional’s position, experience, and expertise. Walcheske Luzi’s rate for Attorney Secunda’s work is \$800 per hour. Secunda Decl. ¶ 21. This rate represents the customary billing rate for the firm’s professionals and the level of skill required in a complex class action case of this type. *Id.* Local Counsel Joseph Creitz, Creitz & Serebin LLP, is also a law professor and a nationally respected ERISA litigation specialist who has tried numerous ERISA cases, including breaches of fiduciary

1 cases, has thirty-one years of litigation experience, over twenty-eight years of ERISA  
2 experience, and has an hourly rate of \$925, which is his customary billing rate for all  
3 matters. Creitz Decl. ¶¶ 2, 10-13. This is that rate that Creitz & Serebin LLP  
4 currently charges to, and is paid by, its hourly clients. *Id.* Federal courts in  
5 California have consistently approved fee awards for Mr. Creitz at his firm’s billing  
6 rates in effect at the time of the motions. Creitz Decl. ¶ 12.

7       These rates are also in line with rates approved by comparably skilled and  
8 specialized lawyers in similar ERISA litigation. Three years ago, in 2018 in an  
9 ERISA breach of fiduciary duty class action, this Court found that billing rates of up  
10 to \$825 per hour for attorneys with more than ten years of experience were  
11 reasonable “in light of counsel’s experience and the complexity of ERISA law.”  
12 *Urakhchin*, 2018 WL 8334858, \*6. In another ERISA class action in this district just  
13 last year, a court approved rates of up to \$900 per hour for attorneys with 14-25  
14 years of experience and up to \$650 per hour for attorneys with 5-14 years of  
15 experience in its lodestar calculation. *Marshall*, 2020 WL 5668935 at \*7; *see also*  
16 *Philips v. Munchery Inc.*, No. 19-CV-00469-JSC, 2021 WL 326924, \*10 (N.D. Cal.  
17 Feb. 1, 2021) (approving rates of up to \$950 per hour for class counsel with 15-30  
18 years’ experience); *Foster v. Adams & Assocs., Inc.*, No. 18-cv-02723-JSC, 2022 WL  
19 425559, \*9 (N.D. Cal. Feb. 11, 2022) (approving a rate of \$975 per hour for attorney  
20 Daniel Feinberg, who then had thirty-four total years of experience). These cases  
21 demonstrate that Class Counsel’s rates here are in line with other attorneys of  
22 similar experience and skill handling complex ERISA litigation in this district and  
23 elsewhere.

24       “The rates charged by the defendant’s attorneys provide a useful guide to  
25 rates customarily charged in this type of case” particularly when “defendant has  
26 hired expensive, out of town counsel, the plaintiffs seem justified in saying that the

1 nature of the case required the skills of out of town specialists.” *Chrapliwy v.*  
2 *Uniroyal, Inc.*, 670 F.2d 760, 768 n.18 (7th Cir. 1982); *Spell v. McDaniel*, 616 F.  
3 Supp. 1069, 1092 (E.D.N.C. 1985) (rejecting attempt by “defendants ... to invoke a  
4 double standard for this fee litigation—one set of rules governing payment of defense  
5 counsel and quite another for plaintiff’s counsel.”). Both sides in this litigation  
6 recognized this case was complex and sought specialized counsel from outside the  
7 jurisdiction.

8 Finally, Class Counsel’s rates are supported by declarations from multiple  
9 attorneys familiar with the prevailing rates, both in the nationwide market for class  
10 action ERISA litigation services. Both Joseph Barton of Barton Downes and Joseph  
11 Creitz of Creitz & Serebin are attorneys who regularly handle ERISA breach of  
12 fiduciary litigation for employees as well as other complex ERISA class action  
13 litigation in California. Creitz Decl. ¶ 15-16; Barton Decl. ¶¶ 14-15. Mr. Barton and  
14 Mr. Creitz attest to and illustrate the comparability of their rates to Mr. Secunda’s  
15 rates. Creitz Decl., ¶¶ 15-16; Barton Decl. ¶¶ 17-18. Lisa S. Kantor of Kantor &  
16 Kantor LLP also handle complex ERISA litigation in California. Kantor Decl. ¶¶ 2-7,  
17 9-16. Ms. Kantor and Mr. Barton attests that Mr. Creitz’s rates are consistent with  
18 the prevailing rates in this geographic market for these types of complex cases.  
19 Barton Decl., ¶¶ 17-18; Kantor Decl. ¶¶ 17-18.

20 **B. The Hours Expended by Class Counsel are Reasonable.**

21 A reasonable number of hours expended by a party’s counsel “is calculated by  
22 considering whether, in light of the circumstances, the time could reasonably have  
23 been billed to a private client.” *Moreno v. City of Sacramento*, 534 F.3d 1106, 1111  
24 (9th Cir. 2008). Counsel are expected to “make a good faith effort to exclude. . . hours  
25 that are excessive, redundant, or otherwise unnecessary.” *Hensley v. Eckerhart*, 461  
26 U.S. 424, 434 (1983). For a district court to “reduce the number of hours worked,” for



1 purposes of the lodestar calculation “it must appear that the time claimed is  
2 obviously and convincingly excessive under the circumstances.” *Charlebois v. Angels*  
3 *Baseball LP*, 993 F. Supp. 2d 1109, 1123 (C.D. Cal. 2012). In assessing the  
4 reasonableness of the hours expended, courts have taken into account the fact that  
5 the amount of time billed by a plaintiff’s counsel “is in large part a result of [a  
6 defendant’s] aggressive defense strategy.” *Wren v. RGIS Inventory Specialists*, No.  
7 06 CV 5778, 2011 WL 1230826, \*26 (N.D. Cal. Apr. 1, 2011).

8 Class Counsel performed significant work to litigate this case vigorously and  
9 efficiently. For purposes of preparing the Complaint and Amended Complaint, Class  
10 Counsel conducted extensive factual and legal investigations of the process by which  
11 the Juniper 401(k) Plan paid for RPS, share classes, managed account services, and  
12 various plan investments. Secunda Decl. ¶ 18. During the course of this complex  
13 case, Class Counsel filed a brief in opposition to Defendants’ motions to dismiss, as  
14 well as a number of Statement of Recent Decisions. Dkts. 42, 44, 45. After defeating  
15 Defendants’ Rule 12 motion, Dkt. 47, Class Counsel drafted and was in the process  
16 of drafting and responding to extensive discovery when a settlement was reached.

17 Consistent with this Court’s and this District’s class action procedures,<sup>5</sup> Class  
18 Counsel has submitted with this motion detailed itemizations of the billable tasks  
19 performed by attorneys in this case. Secunda Decl. Ex. A; Creitz Decl. Ex. A. In light  
20 of efforts by Plaintiffs’ counsel to litigate this case efficiently, as well as the  
21

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22 <sup>5</sup> The Procedural Guidance for Class Action Settlements in the Northern District of  
23 California states: “All requests for approval of attorneys’ fees must include detailed  
24 lodestar information, even if the requested amount is based on a percentage of the  
25 settlement fund. Declarations of class counsel as to the number of hours spent on  
26 various categories of activities related to the action by each biller, together with  
hourly billing rate information may be sufficient, provided that the declarations are  
adequately detailed.”



significant work performed over the past two and half years, the complexity of the legal issues presented, and Defendants’ aggressive defense, the 177 hours expended thus far, as well as the additional 55 hours expected to be completed through the end of this case by Class Counsel, are reasonable.

**C. Class Counsel’s Requested Fees Reflect Only a Modest Multiplier Over Lodestar.**

A court may adjust a lodestar figure upward or downward by considering “the benefit obtained for the class.” *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d at 942; *Bravo*, 810 F.3d at 666 (“the degree of success obtained is the most critical factor”). In part, “[t]he purpose of granting plaintiffs’ attorneys a multiplier in a class action settlement is to reflect the risk that they assume in bringing a lawsuit.” *Etter v. Thetford Corp.*, No. SACV1300081JLSRNB, 2017 WL 1433312, \*4 (C.D. Cal. Apr. 14, 2017). The majority of fee awards are 3-7 times higher than lodestar. *Vizcaino*, 290 F.3d at 1051 & n.6 (affirming multiplier of 3.65 and reporting multipliers of up to 19.6); *Steiner v. Am. Broad. Co.*, 248 Fed. App’x. 780, 783 (9th Cir. 2007) (multiplier of 6.85 “falls well within the range of multipliers that courts have allowed.”); *Stevens v. SEI Investments Co.*, 2020 WL 996418, \*13 (E.D. Pa. Feb. 28, 2020) (approving one-third fee to Nichols Kaster that yielded 6.16 multiplier); *In re Rite Aid Sec. Litig.*, 362 F. Supp. 2d 587, 590 (E.D. Pa. 2005) (approving a 6.96 multiplier); *Viafara v. MCIZ Corp.*, 2014 WL 1777438, \*14 (S.D.N.Y. May 1, 2014) (“Courts award lodestar multipliers of up to eight times the lodestar, and in some cases, even higher multipliers.”). Class Counsel’s current multiplier of 6.33, and the expected multiplier of 4.82, *see* Secunda Decl., Ex. B, therefore fall well within the range approved by courts in this Circuit and other Circuits. The multiplier here is appropriate in light of the complexity of the case, the excellent result achieved for the Class, and

1 compared to other awards in this Circuit. The lodestar cross-check thus confirms  
 2 that Class Counsel's requested fees are reasonable and supports their approval.

3 **IV. Class Counsel are Entitled to Reimbursement of Litigation and Settlement**  
 4 **Administration Expenses**

5 "Attorneys may recover their reasonable expenses that would typically be  
 6 billed to paying clients in non-contingency matters." *Urakhchin*, 2018 WL 8334858,  
 7 \*7. Reasonable out-of-pocket litigation expenses are those that "would normally be  
 8 charged to a fee paying client." *Trs. of the Const. Indus. and Laborers Health and*  
*Welfare Tr. v. Redland Ins. Co.*, 460 F.3d 1253, 1257 (9th Cir. 2006).

9 Class Counsel requests reimbursement of a total of \$36,280.72 in expenses,  
 10 which includes the following charges, all of which are recoverable in this Circuit:  
 11 court fees, electronic research costs, electronic discovery expenses, process server  
 12 fees, expert fees, postage and courier fees, printing costs, conference call costs and  
 13 travel/lodging. Secunda Decl. ¶ 27; Creitz Decl. ¶ 13. Each of these categories of  
 14 expenses are recoverable. *Harris v. Marhoefer*, 24 F.3d 16, 19-20 (9th Cir. 1994)  
 15 (holding that "expenses related to discovery" are recoverable expenses); *Davis v. City*  
 16 *& County of S.F.*, 976 F.2d 1536, 1556 (9th Cir. 1992) (affirming that "out-of-pocket"  
 17 expenses such as "travel, courier and copying costs" are reimbursable), *vacated in*  
 18 *other part by* 984 F.2d 345, 345 (9th Cir. 1993); *In re: Cathode Ray Tube (CRT)*  
 19 *Antitrust Litig.*, No. 07 CV 5944, 2016 WL 4126533, \*11 (N.D. Cal. Aug. 3, 2016)  
 20 (approving recovery of costs including conference call expenses); *Trs. of Const. Indus.*  
 21 *& Laborers Health & Welfare Tr.*, 460 F.3d at 1259 (holding that "reasonable  
 22 charges for computerized research may be recovered"); *Marshall*, 2020 WL 5668935  
 23 at \*9 (approving payment of consulting and expert witness fees in ERISA class  
 24 action settlement).

25 These costs are substantially less than those reimbursed to plaintiffs' lawyers  
 26 in similar ERISA fiduciary breach settlements. *Waldbuesser v. Northrop Grumman*

1 *Corp.*, No. CV 06-6213-AB (JCX), 2017 WL 9614818, \*1 (C.D. Cal. Oct. 24, 2017)  
 2 (awarding \$1.2 million in litigation expenses); *Kanawi v. Bechtel Corp.*, No. C 06-  
 3 05566 CRB, 2011 WL 782244, \*1 (N.D. Cal. Mar. 1, 2011) (awarding \$1.6 million in  
 4 litigation expenses); *Urakhchin*, 2018 WL 8334858, \*7 (awarding \$600,000 in  
 5 litigation expenses). These expenses are necessary to the successful prosecution of  
 6 the case, and Plaintiff's counsel advanced them without any guarantee they would be  
 7 recovered. Secunda Decl. ¶ 19.

8 The fees to be paid to Analytics as the Settlement Administrator to carry out  
 9 the responsibilities set forth in the Settlement have already been set by this Court in  
 10 its Preliminary Approval Order not to exceed in fees and costs \$50,000, *Dkt. 71, ¶3*.  
 11 Class Counsel seeks \$39,388 for settlement administrator expenses. Class Counsel  
 12 also asks that the independent fiduciary be separately paid \$15,000 out the common  
 13 fund, the routine amount for this work, for carrying out its responsibilities under the  
 14 law to approve the Settlement on behalf of the Juniper Plan. *Settlement, Dkt. 66-3,*  
 15 *¶¶ 21, 35(c)*; see also Prohibited Transaction Exemption 2003-39, 68 Fed. Reg.  
 16 75632, as amended, 75 Fed. Reg. 33830.

17 Thus, all of these expenses are thus reasonable and appropriate for  
 18 reimbursement.

19 **V. The Class Representatives Should Be Awarded the Requested Case**  
 20 **Contribution Awards**

21 Incentive awards are discretionary and meant to compensate a class  
 22 representative “for work done on behalf of the class, to make up for financial or  
 23 reputational risk undertaken in bringing the action, and, sometimes, to recognize  
 24 their willingness to act as a private attorney general.” *See Rodriguez v. West*  
 25 *Publishing Corp.*, 563 F.3d 948, 958–59 (9th Cir. 2009). Awards typically range from  
 26 \$2,000 to \$10,000, and a \$5,000 award is considered presumptively reasonable. *See*

1 *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 266–67 (N.D. Cal. 2015).

2 Several factors guide the Court's determination of whether Plaintiff's requested  
3 award is reasonable:

4 (1) the risk to the class representative in commencing suit, both  
5 financial and otherwise; (2) *the notoriety and personal difficulties*  
6 *encountered by the class representative*; (3) the amount of time and  
7 effort spent by the representative; (4) the duration of the litigation; and  
8 (5) the personal benefit (or lack thereof) enjoyed by the class  
9 representative as a result of the litigation.

10 *See* (emphasis added); *see also Gamino v. KPC Healthcare Holdings, Inc.*, No. 5:20-  
11 CV-01126-SB-SHK, 2023 WL 3325190, \*7 (C.D. Cal. Mar. 11, 2023). Similarly, the  
12 Procedural Guidance for Class Action Settlements states: "All requests for service  
13 awards must be supported by evidence of the value provided by the proposed  
14 awardees, the risks they undertook in participating, the time they spent on the  
15 litigation, and any other justifications for the awards." *See Procedural Guidance for*  
16 *Class Action Settlements*, District Court for the Northern District of California, at  
17 [https://www.cand.uscourts.gov/forms/procedural-guidance-for-class-action-](https://www.cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/)  
18 [settlements/](https://www.cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/) (last modified Aug. 4, 2022).

19 The Settlement here provides for a combined case contribution award for the  
20 two class representatives of up to \$15,000, at the Court's discretion. Settlement,  
21 Dkt. 66-3, ¶ 26. Plaintiffs are only seeking \$10,000 total or \$5000 each, as that  
22 amount has been considered presumptively reasonable in the past by Court's in this  
23 District. Here, both Class Representatives expended substantial time, incurred  
24 significant risk as far as their employment at Juniper and with their current  
25 employers, and achieved a considerable benefit for the class. *See Reichert Decl.*,  
26 *Dkt. 66-7, ¶¶ 2–3; Deviny Decl., Dkt. 66-8, ¶¶ 2–3*. In these same circumstances, the  
27 Court found a \$5000 case contribution award reasonable for each of two class  
28 representatives. *See Foster v. Adams & Assocs., Inc.*, No. 18-CV-02723-JSC, 2022

1 WL 425559, \*12 (N.D. Cal. Feb. 11, 2022); *see also Johnson v. Fujitsu Tech. & Bus.*  
2 *of Am., Inc.*, 2018 WL 2183253, \*8 (N.D. Cal. May 11, 2018) (\$7500 service awards);  
3 *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th Cir. 2000) (approving  
4 \$5,000 to two plaintiff representatives of 5,400 potential class members in \$1.75  
5 million settlement).

6 It is true that this specific Court has “consistently expressed skepticism  
7 about settlements in which named plaintiffs do appreciably better than rank-and-  
8 file class members [because] these settlements pose a risk of collusion and conflict  
9 within the plaintiffs' side of the case.” *See Sullivan v. Dolgen California, LLC*, No.  
10 3:15-CV-01617-JD, 2017 WL 3232540, \*2 (N.D. Cal. July 31, 2017) (citing *Myles v.*  
11 *AlliedBarton Sec. Servs., LLC*, No. 12-cv-05761-JD, 2014 WL 6065602, \*6 (N.D. Cal.  
12 Nov. 12, 2014)). However, such is in not the case in this ERISA class action  
13 settlement where all class members will be equitably treated under the proposed  
14 Plan of Allocation. *See* Dkt. 66-2, at 15. The proposed case contribution award here  
15 is based solely on the risk to their employment and careers which was involved in  
16 becoming named plaintiffs and in recognition of their considerable assistance  
17 during the development, prosecution, and settlement of this case, which led to a  
18 sizable recovery for the Class. In short, this settlement does not pose any serious  
19 risk of a collusive settlement or conflict within the plaintiffs' side of the case, as no  
20 one other class members undertook the same risks as the class representatives by  
21 appending their names to the case and in providing the substantial assistance to  
22 Class Counsel in securing the favorable settlement in this case. *See Vasquez v.*  
23 *USM Inc*, No. 3:13-CV-05449-JD, 2016 WL 612906, \*4 (N.D. Cal. Feb. 16, 2016).

24 Finally, *Siddle v. Duracell Co.*, No. 4:19-CV-00568-JD, 2021 WL 6332775, \*4  
25 (N.D. Cal. Apr. 19, 2021), a non-ERISA case, approving \$2200 for each of two class  
26 representatives in \$2.2 million dollar settlement does not counsel otherwise.

Because *Siddle* was not an employment case, plaintiffs there did not place their employment and careers on the line like the class representatives here. In particular, “the notoriety and personal difficulties encountered by the class representative” in employment cases like this one counsel in favor of higher case contribution awards. *See Stuart*, 2010 WL 3155645, \*7. Combined with the fact of a larger settlement in this case, these circumstances permit a higher case contribution award than the ones in *Siddle*.

In short, Class Counsel respectfully requests that the Court award \$5000 each to the Class Representatives for agreeing to risk their professional reputations and secure a sizable recovery for the other members of the Class through their substantial assistance with the litigation of the case.

### CONCLUSION

For the foregoing reasons, the Court should grant Class Counsel’s Motion for Attorneys’ Fees and Costs, Settlement Administrative Expenses, and Case Contribution Awards.

Respectfully submitted.

Dated this 17th day of November, 2023

**WALCHESKE & LUZI, LLC**

*s/ Paul M. Secunda*

Paul M. Secunda, *Admitted pro hac vice*  
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**ATTORNEYS FOR PLAINTIFFS and  
PROPOSED SETTLEMENT CLASS**

**CERTIFICATE OF SERVICE**

I hereby certify that on November 17, 2023, I caused a copy of the foregoing to be electronically filed with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: November 17, 2023

/s/ Paul M. Secunda

Paul M. Secunda

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Counsel for Plaintiffs

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

BRIAN REICHERT, DEREK DEVINY  
 individually, and as representatives of a  
 Class of Participants and Beneficiaries of  
 the Juniper Networks, Inc. 401(k) Plan,

Plaintiffs,

v.

JUNIPER NETWORKS, INC.,  
 BOARD OF DIRECTORS  
 OF JUNIPER NETWORKS, INC., and  
 INVESTMENT COMMITTEE OF  
 JUNIPER NETWORKS, INC.,

Defendants

Case No: 3:21-cv-06213-JD

Honorable James Donato

**DECLARATION OF PAUL M.  
 SECUNDA IN SUPPORT OF  
 PLAINTIFFS' MOTION FOR  
 ATTORNEY FEES AND COSTS,  
 SETTLEMENT ADMINISTRATIVE  
 EXPENSES, AND CASE  
 CONTRIBUTION AWARDS WITH  
 EXHIBITS A & B**

DATE: JANUARY 18, 2024

TIME: 10 A.M.

COURTROOM: 11

COMPLAINT FILED: AUG. 11, 2021



**DECLARATION OF PAUL M. SECUNDA IN SUPPORT OF PLAINTIFFS’  
MOTION FOR ATTORNEYS’ FEES AND COSTS, SETTLEMENT  
ADMINISTRATIVE EXPENSES, AND CASE CONTRIBUTION AWARDS**

I, Paul M. Secunda, declare and state as follows:

1. I am a partner at Walcheske & Luzi, LLC (“Walcheske Luzi”), and am one of the attorneys of record for Plaintiffs in the above captioned action. In its Preliminary Approval Order (*Dkt. 71*), the Court appointed Walcheske Luzi LLC to serve as Class Counsel on behalf of the Settlement Class. I respectfully submit this declaration in support of the accompanying Motion for Attorneys’ Fees and Costs, Settlement Administrative Expenses, and Case Contribution Awards.

**Professional Overview**

2. I am a currently a Partner at the law of firm of Walcheske & Luzi, LLC in Brookfield, Wisconsin, where I concentrate my practice on labor and employment law, with an emphasis on all aspects of employee benefits (ERISA) litigation. As part of this employment, I litigate cases involving employer-sponsored retirement benefit plans and welfare benefit plans under ERISA. I am licensed to practice law in the State of Wisconsin, and also have been admitted to practice in several federal district courts and appellate courts across the country. A list of jurisdictions in which I have been admitted is set forth below:

Supreme Court of the United States
3rd Circuit Court of Appeals
7th Circuit Court of Appeals
U.S.D.C. for Western District of Michigan
U.S.D.C. for the Eastern District of Wisconsin
U.S.D.C. for the Western District of Wisconsin

U.S.D.C. for the Northern District of Illinois
Wisconsin Supreme Court

I am in good standing in each of these jurisdictions in which I have been admitted to practice

3. I have been actively engaged in the practice of law since 1998 and have substantial class action experience and other complex litigation experience. I was a full professor of law over an eighteen-year academic career at two separate law schools, focusing on workplace and employee benefits law under ERISA. As a law professor, I have published sixteen law review articles, two book chapters, and three books on employee benefit plan-related topics. Overall, I have published over seventy law review articles and shorter pieces on workplace law, benefits law, and related fields.

4. Since joining Walcheske Luzi in May 2020, my practice has focused primarily on ERISA class action cases. As the head of our firm's ERISA Team, I have led ERISA class action litigation against several major companies and organizations, including Costco, Pactiv Evergreen, Clean Harbors, Packing Corporation of America, Pfizer Inc., Kimberly-Clark, Quad/Graphics, General Dynamics, Kerry Foods, U.S. Bank, RR Donnelley & Sons, and WEC Energy Group.

5. In addition to the present case, the firm's lawyers (including myself) have brought litigation in over forty (40) other cases involving retirement plans, including:

- Kruzell v. Clean Harbors Environmental Services, Inc., 1:22-cv-10524-GAO (D. Mass.)

- Miller v. Packing Corp. of America, Case No. 1:22-cv-00271-HYJ-RSK (W.D. Mich.)
- Munt v. WEC Energy Group, Inc., Case No. 2:22-cv-00555-JPS (E.D. Wis.)
- Gruber v. Grifols Shared Service North America, Case No. 2:22-cv-02621-DSF-AS (C.D. Cal.)
- Case v. Generac, Inc., Case No. 2:21-cv-01100-PP (E.D. Wis.)
- Seidner et al. v. Kimberly Clark Corp, No. 3:21-cv-00867-L (N.D. Tex.)
- Bangalore v. Froedtert Health, Inc., No. 2:20-cv-893-PP (E.D. Wis.)
- Shaw v. Quad/Graphics, Inc., No. 2:20-cv-01645-PP (E.D. Wis.)
- Tolomeo v. RR Donnelley Inc., No. 1:20-cv-07158 (N.D. Ill.)
- Woznicki v. Aurora Health Care, Inc., No. 2:20-cv-1246-PP (E.D. Wis.)
- Nohara v. Prevea Clinic, Inc., No. 2:20-cv-1079-WCG (E.D. Wis.)
- Glick v. ThedaCare, Inc., 1:20-cv-1236-WCG (E.D. Wis.)
- Hughes v. Mercy Health Corp., No. 3:20-cv-50286 (N.D. Ill.)
- Hanson et al. v. General Dynamics, No. 0:21-cv-00988-PAM-ECW (D. Minn.)

6. Walcheske & Luzi is viewed as a leader in ERISA 401(k) cases. I have been interviewed by the Financial Times, BenefitsPro, Law360, Bloomberg, Investment News, Pensions & Investments, and several trade publications in connection with my ERISA work.

7. I also have been a lecturer, moderator, and panelist at dozens of conferences, symposia, and conferences throughout the country and the world, presenting on ERISA and employee benefit plan topics sponsored by a myriad of

1 organizations, including: the Association of American Law Schools, American Bar  
2 Association, the Southeastern Association of Law Schools, Law and Society  
3 Association, New York University Annual Conference on Labor, and the Center for  
4 the Interdisciplinary Study of Work and Social Capital at the Washington  
5 University School of Law.

7 8. I have also served as testifying expert in the following ERISA and  
8 employee benefits law cases around the country: *Byzantine Catholic Eparchy of*  
9 *Phoenix v. Burri Law P.A. et al.*, Case No. 2:20-cv-00779-ROS (D. Ariz.), *Pierson et*  
10 *al. v. Millennium Trust Co.*, Case No. 1340017140 (JAMS) (Ill. 2019), *Physical*  
11 *Therapy, U.S.A. Inc., et al. v. United Healthcare of Arizona, Inc., et al.*, Case No.  
12 CV-08-457-PHX-ROS (D. Az.), *Moyle v. Liberty Mutual Retirement Benefit Plan*,  
13 3:10-CV-02179 (S.D. Cal.); *Gillis v. Burns & Levinson*, File No. 337.08466  
14 (Middlesex Superior Ct. Mass.); and *Sayles v. Driskell* (settled) (state court, Kansas  
15 City, Mo.).

17 9. I served as Court Amicus in the following U.S. Supreme Court and  
18 Seventh Circuit cases: U.S. Supreme Court *Brief for Law Professors as Amici*  
19 *Curiae in Support of the Petitioners in Tibble v. Edison International*, No. 13-550;  
20 U.S. Supreme Court *Brief of Law Professors in Support of the Respondents in Fifth*  
21 *Third Bancorp v. Dudenhoeffer*, No. 12-751; U.S. Supreme Court *Brief of Law*  
22 *Professors in Support of Respondents, Conkright v. Frommert*, No. 08-810; and  
23 Seventh Circuit *Brief of Law Professors in Support of Rehearing En Banc, Hecker*  
24 *v. Deere*, Nos. 07-3605 & 08-1224.

1           10. Prior to my position with Walcheske & Luzi, I was a full Professor of  
2 Law, with tenure at the Marquette University Law School in Milwaukee,  
3 Wisconsin. I joined the Marquette University Law School faculty in 2008, after  
4 having been an Assistant Professor of Law at the University of Mississippi School  
5 of Law from 2002 through 2008. I have been a visiting professor of law at several  
6 other universities, including Melbourne University Law School (Australia), Justus  
7 Liebig Universitat School of Law (Germany), Hong Kong Polytech University  
8 (China), the University of Wisconsin-Madison School of Law, Université de Paris at  
9 Nanterre Law Faculty (France), Western Ontario School of Law (Canada), and the  
10 Osgoode Hall School of Law at York University (Canada).

13           11. I received my law degree, magna cum laude, from the Georgetown  
14 University Law Center in 1997, and my B.A., cum laude, from Harvard College in  
15 1993. Following law school, I was a federal law clerk for Judge Murray M. Schwartz  
16 of the United State District Court for the District of Delaware from 1997-1998. I  
17 then practiced law as an associate labor and employment law attorney, focusing on  
18 ERISA and workplace litigation, with the Philadelphia law firms of Montgomery,  
19 McCracken, Walker & Rhoads, and Morgan, Lewis & Bockius from 1998 to 2002. I  
20 am a member of the Bars of Pennsylvania (1998), New Jersey (1998), and Wisconsin  
21 (2009), and the United States Supreme Court (2009).

24           12. I am an elected Fellow of the American College of Employee Benefit  
25 Counsel (ACEBC); a Senior Fulbright Scholar (in employee benefits law); an elected  
26 Fellow of the American Bar Foundation (ABF); and an elected member of the  
27

1 American Law Institute (ALI), serving as a member of the Consultative Group on  
2 the Restatement of Employment Law.

3  
4 13. In December 2012, I was appointed by then United States Secretary  
5 of Labor, Hilda L. Solis, to the 2013 ERISA Advisory Council. The ERISA Advisory  
6 Council is established pursuant to ERISA § 512. The duties of the council are to  
7 advise the Secretary and submit recommendations regarding the Secretary's  
8 functions under ERISA. The council consists of 15 members appointed by the  
9 Secretary of Labor. I was appointed Chairman of the Council in 2015 by then-  
10 Secretary of Labor Thomas Perez. Over my three years on the Council, I helped  
11 draft nine expert reports on all aspects of employee benefit law, including a number  
12 of issues concerning excessive fees associated with employer-sponsored retirement  
13 plans  
14

#### 15 **Law Firm Overview**

16  
17 14. Walcheske & Luzi has been engaged in the practice of law for over 13  
18 years and is devoted to representing the interests of employees. The firm has offices  
19 in Brookfield and Appleton, Wisconsin, and Chicago, Illinois, and currently employs  
20 four attorneys.  
21

22 15. Walcheske & Luzi has extensive class action and collective action  
23 experience. The firm has been appointed lead counsel or co-counsel in hundreds of  
24 class and collective actions and has recovered over \$30 million for its clients.  
25

#### 26 **Worked Performed by Class Counsel**

27 16. As a result of our firm's experience litigating ERISA cases and other  
28

1 class action cases, we were able to handle this action and achieve a significant result  
2 for the Settlement Class effectively and efficiently.

3       17. I believe that the lawsuit acted as a catalyst for lowering the retirement  
4 plan service (RPS) fees in this case, as those fees dropped dramatically from \$58 per  
5 participant per year to \$41 per participant per year from June 30, 2021 to  
6 December 31, 2021, based on the Plan documents I reviewed. I believe without the  
7 filing of this litigation, Class members would not have achieved a substantial  
8 saving in RPS fees associated with their Juniper Plan accounts. I estimate the total  
9 value of that savings as of the date of this Declaration at \$17 per year per  
10 participant for approximately 11,000 Plan participants for 2.5 years equals  
11 \$467,500. That value will continue to increase for the Class on a compounded  
12 basis for the foreseeable future.

13  
14  
15       18. Notwithstanding the efficiencies that we were able to gain based on our  
16 experience, Walcheske & Luzi has devoted a significant amount of time to this  
17 case. Among other things, we: (1) drafted the class action Complaint and Amended  
18 Complaint and conducted extensive factual and legal investigations of the process by  
19 which the Juniper 401(k) Plan paid for RPS, share classes, managed account  
20 services, and various plan investments; (2) met and conferred with Defendants'  
21 counsel; (3) reviewed hundreds of pages of Plan documents; (4) fully briefed the  
22 opposition to a motion to dismiss filed by Defendants, including supplemental briefs; (5)  
23 drafted and served a first set of discovery on Defendants; (6) consulted with the Class  
24 Representatives throughout the course of the case, including with regard to the  
25  
26  
27  
28

1 drafting of Initial Disclosures and responses to Defendants' First Set of Discovery  
2 Requests; (7) engaged in substantial arms-lengths settlement negotiations with  
3 opposing counsel including the exchange and review of additional documents being  
4 between the parties; (8) participated in drafting the Settlement Agreement and  
5 exhibits thereto; (9) prepared Plaintiff's Preliminary Approval Motion papers; (10)  
6 solicited and reviewed bids from Settlement Administrators; (11) reviewed the final  
7 draft of the Settlement Notices, and ensured that they were timely mailed; (12)  
8 attended the preliminary approval of settlement agreement hearings; (13) will work  
9 with the Settlement Administrator to create a settlement website and telephone  
10 support line for Class Members; (14) communicated with Class Members; (15) will  
11 meet with the independent fiduciaries; and (16) prepared the present motion. *Id.*  
12 This work is further detailed in the Declaration of Paul Secunda in Support of  
13 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement (*Dkt. 66-3*).  
14

15  
16 19. Class Counsel took this case on a contingent basis. To date, Class  
17 Counsel have invested 161 hours prosecuting this case. Class Counsel have received  
18 no compensation for any efforts in this case since they were engaged by Plaintiffs.  
19 Class Counsel undertook this representation despite the substantial risk that of their  
20 expenses on behalf of the class— including not just attorney time, but over \$36,000  
21 in litigation costs—might never be recouped.  
22  
23

24 20. The work summarized above required the substantial efforts of  
25 Walcheske Luzi. Attached hereto as Exhibit A is a true and correct copy of  
26 Walcheske Luzi's timekeeper summaries in this action. As reflected by this  
27  
28



1 summary, Walcheske Luzi attorneys have expended over 161 hours pursuing this  
2 matter.

3 21. Walcheske Luzi's reported billing rates for ERISA actions such as this  
4 are \$800 per hour for attorneys, like myself, with 25 or more years of experience.  
5 This rate represent the customary billing rates for the firm's professionals and the  
6 level of skill required in a complex class action case of this type.  
7

8 22. In setting these rates, our firm is cognizant of the rates approved in  
9 other ERISA class action cases (as set forth in our accompanying Memorandum of  
10 Law), as well as the rates charged by the defense bar in this field.  
11

12 23. The lode-star cross-check calculation is attached to this Declaration as  
13 **Exhibit B**. Class Counsel's current multiplier of 6.33, and the expected multiplier of  
14 4.82 fall well within the range approved by Court's in this Circuit and other Circuits. The  
15 multiplier here is appropriate in light of the complexity of the case, the excellent  
16 result achieved for the Class, and compared to other awards in this Circuit. The  
17 lodestar cross-check confirms that Class Counsel's requested fees are reasonable and  
18 supports their approval  
19

20 24. In my professional opinion, and based on my personal knowledge of the  
21 work that was performed and the requirements of this case and similar cases, the time  
22 expended on this action by Class Counsel was reasonable and necessary.  
23

24 25. After the date of this Declaration, Class Counsel expect to perform  
25 additional work on behalf of the Settlement Class, including: (1) drafting Plaintiffs'  
26 motion for final approval of the Settlement; (2) preparing for and attending the final  
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approval hearing in San Francisco, California; (3) if final approval is granted, supervising the Settlement Administrator to ensure proper and efficient distribution of payments to the former Class Members; (4) responding to any additional questions from Class Members; and (5) taking any other actions necessary to support the Settlement until the conclusion of the Settlement Period.

### **Litigation Costs**

26. In connection with the action, Class Counsel advanced all costs of litigation. Because our law firm handled this action on a contingent basis, we have not yet received reimbursement for any of these expenses.

27. As of the date of this Declaration, Walcheske Luzi and Creitz Serebin (local counsel) have incurred \$36,280.72 in litigation-related costs in connection with this matter. These expenses are broken down below.

Category	Cost
Expert Consultant Charges	\$32,590.00
Travel	\$2,597.92
Local Counsel Postage Expenses	\$14.92
Court, Filing and Misc. Fees	\$1077.16
<b>TOTAL</b>	<b>\$36,280.72</b>

28. In the event that the Court would like further detail or documentation concerning our litigation costs, we would be pleased to provide it.

29. I would anticipated paying as much as five times the amounts already expended for experts had the case proceeded through expert reports and depositions,

1 and as much as ten times had it proceeded through trial.

2       30. In my professional opinion and based on my experience prosecuting  
3 this action and overseeing similar litigation, these expenses were reasonable and  
4 necessarily incurred in connection with the action.  
5

6                   **Settlement Administration Expenses**

7                   **Settlement Administrator**

8       31. The Court appointed Analytics Consulting LLC (“Analytics”) as the  
9 Settlement Administrator in this matter. *See 71*, § 3. Analytics has extensive  
10 experience administering class action settlements, including numerous ERISA  
11 settlements. Based on the bid submitted by Analytics, it will cost approximately  
12 \$39,388 to administer the settlement in this action for the Current and Former  
13 Participants. The Settlement Administrator expenses for Current and Former  
14 Participants will be paid directly out of the Common Settlement Amount, up to  
15 \$50,000. *Id.* This covers all work required of the Settlement Administrator under  
16 the Settlement Agreement for Participants, including (1) reviewing the class  
17 member information provided by Defendants; (2) preparing and mailing the  
18 Settlement Notices; (3) searching for valid addresses for any Settlement Class  
19 Members whose Notices were returned as undeliverable; (4) establishing a telephone  
20 support line for Class Members; (5) creating and maintaining the Settlement  
21 Website; and (6) managing the project and communicating with the parties  
22 regarding the status of settlement administration. In addition, upon final approval  
23 of the Settlement, Analytics will facilitate delivery of settlement payments to both  
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1 Current and Former Participant Class Members as provided by the Settlement  
2 Agreement.

3  
4 **Independent Fiduciary**

5 32. Additional administrative expenses of \$15,000 will be incurred relating  
6 to the review of the proposed release on behalf of the Plans by the independent  
7 fiduciary, Fiduciary Counselors LLC, appointed pursuant to Prohibited Transaction  
8 Exemption 2003-39. Under the Settlement Agreement, the fee will be paid as a  
9 settlement administrative expense from the Common Fund. *Settlement Agreement*,  
10 *Dkt. 66-4, § 16*.

11  
12 **Assistance of the Class Representatives**

13 33. It has been my honor to represent Mr. Reichert and Mr. Deviny in this  
14 matter.

15  
16 34. Throughout the course of this action, Mr. Reichert and Mr. Deviny have  
17 been mindful of their responsibilities as class representatives and have actively  
18 participated in the action. Among other things, they (1) reviewed the allegations in  
19 the Complaint and Amended Complaint bearing their names; (2) provided  
20 information to our firm in connection with the lawsuit; (3) spent a substantial amount  
21 of reviewing and answering Defendants' First Set of Discovery Requests; (4)  
22 communicated with our firm regarding the litigation and Settlement; and (5)  
23 reviewed the Settlement Agreement in its entirety.

24  
25 35. Based on the time and assistance that Mr. Reichert and Mr. Deviny  
26 have provided as class representatives, their initiative in pursuing this action, and the  
27

1 risks that they assumed to their future, current, and former employment in  
2 becoming the public face of this matter, I believe that the requested case contribution  
3 awards are reasonable and appropriate. As noted in our motion papers, the amount  
4 that Mr. Reichert and Mr. Deviny are seeking (\$5,000 each) is consistent with other  
5 ERISA cases in this Circuit and District.  
6

7 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the  
8 foregoing is true and correct.  
9

10 Dated: November 17, 2023

*s/Paul M. Secunda*  
Paul M. Secunda

Date	Attorney	Customer: Job	Service	Description	Duration	Fee
2023-11-10	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Emails and call with J. Mitchell and J. Creitz re: settlement notice and attorney fees motion; email with J. Barton re: fee petition; email with L. Chopin re: independent fiduciary; research 9th Circuit case law on attorney fees	1.6	\$1,280.00
2023-10-25	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Emails with L. Chopin and Analytics re: Fidelity information for notice distribution	0.5	\$400.00
2023-10-11	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Multiple emails with J. Mitchell and L. Chopin re: settlement account issues; review W-9 and wiring instructions	0.6	\$480.00
2023-10-09	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with L. Chopin and Analytic re: W-9 and account information for settlement account	0.4	\$320.00
2023-09-19	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with L. Chopin re: data fields for plan recordkeeper report	0.2	\$160.00
2023-09-18	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review class action settlement issues	0.2	\$160.00
2023-09-15	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review preliminary approval order; email Analytics re: preliminary approval order	0.5	\$400.00
2023-09-14	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Prepare for and attend preliminary approval hearing	2.5	\$2,000.00
2023-09-13	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Travel from Milwaukee to San Francisco for hearing on preliminary approval of settlement; review D's proposed settlement dates	5.2	\$4,160.00
2023-09-12	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Prepare for prelim approval hearing; TEAMS meeting with H. Shapiro re: preliminary approval; email with J. Creitz re: preliminary approval hearing	1.4	\$1,120.00
2023-09-05	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with H. Shapiro re: preliminary approval hearing	0.2	\$160.00
2023-09-01	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with D. Deviny re: status of settlement	0.2	\$160.00
2023-08-31	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Emails with local counsel re: preliminary approval hearing	0.4	\$320.00
2023-08-14	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with local counsel re: class issues	0.2	\$160.00
2023-07-10	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Revise travel arrangement for settlement hearing	0.2	\$160.00
2023-07-06	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with B. Reichert re: status of case	0.2	\$160.00
2023-05-16	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Prepare air travel and hotel stay for hearing on motion for prelim approval	0.3	\$240.00
2023-05-11	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review order setting hearing on preliminary approval; email with local counsel on prelim approval hearing	0.4	\$320.00
2023-05-09	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Emails and call with opposing counsel re: request for hearing; draft, revise, and file request for hearing on preliminary approval motion; emails with local counsel re: request for hearing	2.1	\$1,680.00
2023-05-08	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email and call with H. Shapiro re: Juniper prelim. app. motion; email with local counsel re: joint motion for hearing	0.6	\$480.00
2023-04-17	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with local counsel and opposing counsel re: update on renewed motion for settlement	0.4	\$320.00
2023-02-13	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review D's statement of non-opposition	0.2	\$160.00
2023-01-31	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with local counsel re: chamber copy	0.2	\$160.00
2023-01-30	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Revise and file revised motion for preliminary approval of class settlement; email with local counsel re: chamber copy and proposed order	1.9	\$1,520.00
2023-01-29	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review preliminary approval materials	0.2	\$160.00
2023-01-28	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft revised motion for preliminary approval of class action settlement	2.5	\$2,000.00
2023-01-25	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review opposing counsel's comments on the Condensed memo of law for preliminary approval motion; email with opposing counsel re: memo of law for preliminary approval motion	0.8	\$640.00
2023-01-23	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with opposing counsel and local counsel re: motion for preliminary approval of class action settlement; revise and redraft condensed version of memo of law in support of preliminary approval motion	2.9	\$2,320.00
2023-01-22	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with opposing counsel regarding revised motion for preliminary approval of class action settlement	0.2	\$160.00
2023-01-21	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Revise motion for preliminary approval of class action settlement; email with opposing counsel re: CAFA notice and review of revised preliminary approval motion	7.5	\$6,000.00
2023-01-20	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with R. Simmons re: bidding process and declaration; email other settlement administrators re: bid results	0.6	\$480.00
2023-01-19	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review bids from potential settlement administrators; email bidders re: same; review Declaration of R. Simmons; email R. Simmons re: selection as settlement administrator; research class certification law under FRCP 23(b)(1)	1	\$800.00
2023-01-18	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with settlement administrator re: declaration and plan of allocation; review and revise plan off allocation; review Simmons Declaration on Notice Program and related documents; update lodestar summary; email with local counsel re: lodestar; draft revised motion for preliminary approval and related documents	2.8	\$2,240.00
2023-01-17	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with settlement administrator re: declaration and plan of allocation; review and revise plan off allocation; review Simmons Declaration on Notice Program and related documents	0	\$0.00

2023-01-17	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with settlement administrator re: declaration for revise preliminary approval motion; draft revised preliminary approval motion and related materials; email with opposing counsel re: preliminary approval motion	1.4	\$1,120.00
2023-01-16	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft revised motion for preliminary approval of class action settlement and related materials	2.2	\$1,760.00
2023-01-11	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Multiple emails with multiple potential settlement administrators re: bids for settlement administration for case	1.1	\$880.00
2023-01-10	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with opposing counsel re: settlement administrator issues; email and call with settlement administrator re: settlement issues	0.6	\$480.00
2023-01-09	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with local counsel and opposing re: settlement hearing; prepare for settlement hearing; participate in settlement hearing; debrief on settlement hearing with local counsel; email with settlement administrator re: plan of allocation; review Court order denying preliminary approval of class settlement without prejudice	4	\$3,200.00
2023-01-05	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email opposing counsel re: preliminary approval hearing	0.4	\$320.00
2023-01-03	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review McCready Withdrawal	0.2	\$160.00
2022-12-08	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with class member re: Juniper settlement	0.2	\$160.00
2022-12-02	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Court's order on preliminary hearing; email with court and local counsel on updated zoom hearing date	0.4	\$320.00
2022-12-01	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with local counsel re: joint motion filing; review joint motion filing	0.4	\$320.00
2022-11-30	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Emails with opposing counsel and local counsel regarding joint motion for remote hearing; draft joint motion for remote hearing and declaration in support of motion	2	\$1,600.00
2022-11-29	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with H. Shapiro and local counsel re: hearing on preliminary approval; research Judge's standing order	0.7	\$560.00
2022-11-28	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review court order on preliminary approval order; make trip plans	0.5	\$400.00
2022-11-22	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review defendants notice of non-opposition to preliminary approval motion <sup>(b)(5)</sup>	0.2	\$160.00
2022-11-21	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Emails with opposing counsel re: CAFA notice and call to clerk re: unopposed motion	0.4	\$320.00
2022-11-11	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Revise and file motion for preliminary approval of settlement agreement; email with client and local counsel re: settlement motion papers	2.5	\$2,000.00
2022-11-09	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with settlement administrator re: notices	0.2	\$160.00
2022-11-07	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with opposing counsel re: settlement agreement revisions; revise settlement agreement; draft settlement motion papers	3.5	\$2,800.00
2022-11-04	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with opposing counsel re: settlement agreement; draft motion papers	3.8	\$3,040.00
2022-11-03	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review settlement proposal; email settlement administrator re: class notice	0.3	\$240.00
2022-11-02	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Emails with opposing counsel re: settlement agreement and motion papers	0.3	\$240.00
2022-10-27	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with local counsel re: service of process issue; call with opposing counsel regarding preliminary case issues <sup>(b)(5)</sup>	0.5	\$400.00
2022-10-27	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email opposing counsel re: settlement agreement; review and revise edited settlement agreement	0.5	\$400.00
2022-10-11	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft settlement agreement	1.6	\$1,280.00
2022-10-10	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with opposing counsel regarding settlement agreement	0.2	\$160.00
2022-10-07	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review court order on filing settlement	0.2	\$160.00
2022-09-30	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with settlement admin re: costs of settlement administration	0.2	\$160.00
2022-09-28	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with opposing and settlement administrator re: settlement administration issues	0.3	\$240.00
2022-09-20	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with opposing counsel re: settlement issues	0.2	\$160.00
2022-09-17	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with opposing counsel re: settlement administration	0.2	\$160.00
2022-09-16	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with local counsel regarding press coverage of settlement	0.2	\$160.00
2022-09-15	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with local counsel re: notice of settlement	0.3	\$240.00
2022-09-14	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with local counsel and opposing counsel re: filing of settlement notice	0.3	\$240.00
2022-09-13	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with opposing counsel re: settlement details	0.2	\$160.00
2022-09-12	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with opposing counsel re: settlement notice to file with court	0.2	\$160.00
2022-09-09	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with opposing counsel regarding finalizing of settlement <sup>(b)(5)</sup>	0.4	\$320.00
2022-09-07	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with opposing counsel re: settlement	0.2	\$160.00
2022-09-06	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with H. Shapiro re: settlement; call with clients and local counsel re: settlement	0.7	\$560.00
2022-09-02	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review materials for settlement talks <sup>(b)(5)</sup>	0.2	\$160.00
2022-09-01	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Settlement talks with H. Shapiro and L. Chopin	0.5	\$400.00
2022-08-29	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with consultant re: updated settlement demand numbers; revise settlement demand documents; send revise settlement demand documents to opposing counsel	1	\$800.00
2022-08-28	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Juniper share and RKA response document for purposes of settlement; email with H. Shapiro re: settlement talks	0.4	\$320.00
2022-08-26	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review produced 408b2's and service agreements from defendants; email with consultants re: recordkeeping and share class allegations	0.5	\$400.00



2022-08-25	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Prepare and participate in call with H. Shapiro re: settlement; call and email local counsel and consultants re: calculations for settlement talks	1.7	\$1,360.00
2022-08-22	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Emails and call with opposing counsel and local counsel re: settlement; review case materials for settlement agreement purposes	1.2	\$960.00
2022-08-18	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email emails with K. Hendra re: discovery production to Defendants	0.4	\$320.00
2022-08-17	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email emails with K. Hendra re: discovery production to Defendants	0	\$0.00
2022-08-17	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review case for settlement purposes	0.6	\$480.00
2022-08-10	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review discovery and deposition issues	0.2	\$160.00
2022-08-09	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review discovery and deposition issues	0	\$0.00
2022-08-03	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review document requests and interrogatories to Plaintiffs	1	\$800.00
2022-07-21	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft plaintiffs' first set of interrogatories and document requests; email local counsel re: discovery requests; email opposing counsel re: form of discovery requests	2.1	\$1,680.00
2022-07-13	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Prepare discovery requests for Defendants	0.2	\$160.00
2022-07-08	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Emails with H. Shapiro re: case status and mediation/discovery discussions	0.3	\$240.00
2022-06-29	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review stipulated Order on ESI and protective orders	0.2	\$160.00
2022-06-27	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with L. Chopin re: disclosure issues	0.2	\$160.00
2022-06-22	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review orders on Stipulations	0.2	\$160.00
2022-06-21	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review stipulations on ESI and protective order and confer with local counsel	0.4	\$320.00
2022-06-18	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review defendants' initial disclosures and stipulations; email with L. Chopin re: issues surrounding initial disclosures and stipulations on ESI and protective order	1	\$800.00
2022-06-17	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review defendants' initial disclosures and stipulations	0.3	\$240.00
2022-06-16	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Revise and send initial disclosures to opposing counsel	0.2	\$160.00
2022-06-15	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft Plaintiffs' initial disclosures; call with H. Shapiro re: mediation; email with J. Creitz re: initial disclosures	2.4	\$1,920.00
2022-05-25	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review answer filed by Defendants	0.3	\$240.00
2022-05-24	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with H. Shapiro regarding possibility of settlement and future discovery	0.2	\$160.00
2022-05-18	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review scheduling order and standing orders	0.4	\$320.00
2022-05-09	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with L. Chopin re: mediation and case management conference; email with J. Creitz re: lodging chamber copy and mediation issues; review discovery issues	1.5	\$1,200.00
2022-05-06	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review damage calculations from outside consultant for mediation purposes; email with B. Shannon and J. Creitz re: damage calculations; email with opposing counsel re: mediation opening demand	1	\$800.00
2022-05-05	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft and revise joint case management statement; email with local and opposing counsel re: joint case management statement	1.6	\$1,280.00
2022-05-04	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Prepare for and participate in Rule 26(f) scheduling conference with opposing counsel; email with local counsel re: conference; draft joint case management statement	3	\$2,400.00
2022-05-02	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with L. Chopin re: case management plan	0.2	\$160.00
2022-04-29	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Travel back to Milwaukee from San Francisco from MTD hearing	5	\$4,000.00
2022-04-28	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with H. Shapiro re: motion to dismiss, mediation, and case management schedule	0.3	\$240.00
2022-04-27	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review motion to dismiss papers and amended complaint in preparation of oral argument; travel to San Francisco for oral argument; review courts orders denying motion to dismiss and setting up case management conference	7	\$5,600.00
2022-04-27	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with H. Shapiro re: motion to dismiss, mediation, and case management schedule	0	\$0.00
2022-04-20	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with J. Creitz re: Trader Joe's notice of supplemental authority; review notice of authority and Serebin NOA	0.3	\$240.00
2022-04-11	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with J. Creitz re: Salesforce case; read Salesforce case; review notice of authority	0.5	\$400.00
2022-04-10	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Prepare for motion to dismiss hearing	0.5	\$400.00
2022-03-30	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with J. Creitz re: motion to dismiss hearing	0.2	\$160.00
2022-03-09	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Defendants' reply brief in support of MTD	0.3	\$240.00
2022-02-16	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft Plaintiffs' opposition to Defendants' motion to dismiss; email with J. Creitz re: filing of opposition brief	8.5	\$6,800.00
2022-02-15	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft plaintiffs' opposition to D's motion to dismiss	4.9	\$3,920.00
2022-02-14	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft Plaintiffs' opposition to Defendants' motion to dismiss; email with J. Creitz re: filing of motion to dismiss.	5.1	\$4,080.00
2022-01-26	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Defendants' motion to dismiss amended complaint	1.1	\$880.00
2022-01-13	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Defendants' case filings	0.2	\$160.00
2022-01-12	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Defendants' case filings	0.2	\$160.00
2021-12-06	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Court's order on stay, management conference, and amended complaint; revise Amended Complaint and file	1.4	\$1,120.00
2021-12-03	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with B. Shannon re: amended complaint	0.2	\$160.00
2021-12-02	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with B. Shannon re: amended complaint	0	\$0.00



2021-12-02	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with H. Shapiro re: stipulation on amended complaint; draft stipulation on amended complaint and file with court; set up meet and confer for 26(f) with S. Cerrone; email with M. Geist re: updates to be made to Juniper Amended Complaint	1.5	\$1,200.00
2021-12-01	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email and call with S. Cerrone re: amended complaint and case management conference; call with H. Shapiro re: stipulation on amended complaint; draft opposition to motion to dismiss; draft amended complaint; review stipulation on amended complaint	3.5	\$2,800.00
2021-11-30	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft Plaintiff's opposition to motion to dismiss and prepare amended complaint; email M. Geist and B. Shannon re: analysis of motion to dismiss and exhibits; email D. Deviny, B. Reichert re: amended complaint; email S. Cerrone and call J. Creitz re: stipulation to amend complaint	3.3	\$2,640.00
2021-11-29	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with J. Creitz re: case management conference; draft Plaintiff's opposition to motion to dismiss	1	\$800.00
2021-11-24	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Defendants' MTD; review Court's standing order; email with J. Creitz re: Court's standing order	1.1	\$880.00
2021-11-12	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Defendants' Reply Brief in support of Motion to Stay	0.2	\$160.00
2021-11-10	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with H. Shapiro re: settlement possibilities	0.2	\$160.00
2021-11-05	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call and email with J. Creitz re: opposition to stay motion, filing of that motion, and incorporation by reference; draft opposition to stay motion; review D's motion to dismiss materials	3.8	\$3,040.00
2021-11-04	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call and email with J. Creitz re: opposition to stay motion, filing of that motion, and incorporation by reference; draft opposition to stay motion; review D's motion to dismiss materials	0	\$0.00
2021-10-28	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with D. Deviny re: adding him as plaintiff to class action	0.2	\$160.00
2021-10-26	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with J. Creitz re: motion to stay opposition strategy	0.1	\$80.00
2021-10-25	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with D. Deviny re: 401k fee agreement and class action responsibilities; review Defendants' ADR certification	0.3	\$240.00
2021-10-24	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Motion to Stay and exhibits: email J. Creitz re: local rules on motion replies and amended complaint	0.4	\$320.00
2021-10-22	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Defendants motion to stay case in light of Hughes decision	0.6	\$480.00
2021-10-21	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with L. Chopin re: ADR conferring requirements	0.2	\$160.00
2021-10-15	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with B. Reichert re: ADR procedures; email and call with D. Deviny re: adding as plaintiff to class action	0.4	\$320.00
2021-10-14	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with J. Creitz re: motion to stay and ADR matters; email to H. Shapiro re: motion to stay; review ADR Handbook; draft email to B. Reichert re: review of ADR options and potential of adding additional plaintiff	1	\$800.00
2021-10-13	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review D. Deviny 401k plan documents and email D. Deviny re: fee disclosures	0.2	\$160.00
2021-10-12	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with D. Deviny re: potential additional plaintiff for class action; call with H. Shapiro re: motion to stay; call with J. Creitz re: motion to stay; review D. Deviny plan documents	0.6	\$480.00
2021-10-11	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with S. Cerrone re: stay of action in light of Hughes	0.2	\$160.00
2021-09-22	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Case Management Conference Order and associated Standing Orders; email J. Creitz re: local rule issues	0.5	\$400.00
2021-09-20	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Nvidia motion to dismiss decision and email with J. Creitz re: decision	0.3	\$240.00
2021-09-16	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review magistrate declination from and email with J. Creitz re: judge selection; review assignment of Judge Donato and email J. Creitz re: same	0.3	\$240.00
2021-09-14	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Court filings in Juniper case	0.2	\$160.00
2021-09-14	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review appeals processing letter from Lincoln Financial and email B. Reichert about same.	0.3	\$240.00
2021-09-10	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Multiple emails with J. Creitz re: impact of answering extension on other case deadlines and case strategy going forward	0.5	\$400.00
2021-09-03	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email and call with D. Sullivan re: stipulation to extend time	0.2	\$160.00
2021-09-01	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with S. Cerrone and email with J. Creitz re: stipulation to extend answering deadlines; review stipulation to extend deadlines	0.3	\$240.00
2021-08-31	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with L. Chopin re: retention as defense counsel and stipulation to extend answering deadlines	0.3	\$240.00
2021-08-30	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with J. Creitz re: letters to Secretaries of Labor and Treasury and disclosure statement	0.2	\$160.00
2021-08-20	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review Pro Hac Vice orders and email with J. Creitz re: preliminary case issues	0.2	\$160.00
2021-08-19	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review service of process documents	0.1	\$80.00
2021-08-17	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with J. Creitz re: process issues	0.2	\$160.00
2021-08-13	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with J. Creitz re: service of process and other issues	0.2	\$160.00

2021-08-12	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Review and file ERISA complaint and associated documents; email with J. Creitz re: mediator consent	0.6	\$480.00
2021-08-11	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with J. Creitz re: filing of ERISA complaint and associated documents; review documents before filing	0.5	\$400.00
2021-08-09	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with J. Creitz re: revisions to Complaint	0.2	\$160.00
2021-08-06	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Revise ERISA complaint and email with J. Creitz re: filing of complaint	0.7	\$560.00
2021-08-05	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft ERISA class action complaint	2.5	\$2,000.00
2021-08-04	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Draft ERISA complaint	1	\$800.00
2021-07-06	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call and email with B. Reichert re: ERISA claim; email with B. Shannon and M. Geist re: complaint template for ERISA claim	0.4	\$320.00
2021-07-01	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with J. Creitz re: local counsel arrangement	0.2	\$160.00
2021-06-30	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with B. Shannon and M. Geist re: analysis of Juniper complaint	0.7	\$560.00
2021-06-28	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with B. Shannon and M. Geist re: six year analysis; review six-year analysis of claims	0.5	\$400.00
2021-06-23	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Email with B. Shannon and M. Geist re: six-year analysis for 401k Plan claim	0.2	\$160.00
2021-06-22	Paul M. Secunda	Reichert, Brian 1965.02 (ERISA)	PMS Legal Services \$800	Call with M. Geist and B. Shannon re: analysis of 401k Plan claims; review 1-yr analysis and email about claims from B. Shannon	0.8	\$640.00
					160.8	\$128,640.00

**EXHIBIT B***Reichert et al. v. Juniper Networks, Inc., et al.*

Case No. 3:21-cv-06213-JD

(June 22, 2021 – November 10, 2023)

Lodestar by Walcheske &amp; Luzi, LLC Time Keeper:

**Partners:**

<b>Name</b>	<b>Years of Experience</b>	<b>Billing Rate Per Hour</b>	<b>Hours</b>	<b>Charges</b>
Paul Secunda	25	\$800	160.8	\$128,640.00

Walcheske &amp; Luzi, LLC Total Hours (Attorneys): 160.8

Creitz Serebin (Local Counsel – Joe Creitz @ \$925/hr x. 14.1 hrs) \$13,592.50

Creitz Serebin (Admin. Hours – Joe Creitz @ 275/hr x. 2 hrs.) \$550.00

Creitz Serebin Total Hours (Local Counsel (14.1) and Admin (2.0)) 16.1

**GRAND TOTAL HOURS (ALL ATTORNEYS AND PARALEGALS): 176.9**

Walcheske &amp; Luzi, LLC Lodestar Total (Attorneys): \$128,640.00

Creitz &amp; Serebin LLP Lodestar Total (Attorneys and Paralegal). \$13,592.50

**GRAND TOTAL LODESTAR (ALL COUNSEL CURRENT): \$142,232.50****Current Multiplier: 6.33****EXPECTED ADDITIONAL WORK TO BE COMPLETED:** 50 hours (Attorney Secunda)  
5 hours (Attorney Creitz)

\$800/hr. x. 50 hours = \$40,000.00

\$925/hr x. 5 hours = \$4,625.00

**GRAND TOTAL LODESTAR (ALL COUNSEL CURRENT & EXPECTED): \$186,857.50****Expected Multiplier: 4.82**

*See, e.g., Steiner v. Am. Broad. Co.*, 248 Fed. App'x. 780, 783 (9th Cir. 2007) (multiplier of 6.85 “falls well within the range of multipliers that courts have allowed”); *Stevens v. SEI Investments Co.*, 2020 WL 996418, at \*13 (E.D. Pa. Feb. 28, 2020) (approving one-third fee to Nichols Kaster, PLLP that yielded 6.16 multiplier); *In re Rite Aid Sec. Litig.*, 362 F. Supp. 2d 587, 590 (E.D. Pa. 2005) (approving a 6.96 multiplier); *Viafara v. MCIZ Corp.*, 2014 WL 1777438, at \*14 (S.D.N.Y. May 1, 2014) (“Courts award lodestar multipliers of up to eight times the lodestar, and in some cases, even higher multipliers.”)

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Class Counsel

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

BRIAN REICHERT, DEREK DEVINY  
individually, and as representatives of a Class  
of Participants and Beneficiaries of the  
Juniper Networks, Inc. 401(k) Plan,

Plaintiffs,

v.

JUNIPER NETWORKS, INC., BOARD OF  
DIRECTORS OF JUNIPER NETWORKS,  
INC., INVESTMENT COMMITTEE OF  
JUNIPER NETWORKS, INC.,

Defendants.

Case No. 3:21-cv-06213-JD

DECLARATION OF JOSEPH A. CREITZ  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR AWARD OF ATTORNEYS' FEES,  
INCENTIVE AWARDS AND COSTS  
AND ITS EXHIBIT A

DATE: Jan. 18, 2024

TIME: 10:00 AM

JUDGE: Hon. James Donato

Complaint Filed: August 11, 2021

DECLARATION OF JOSEPH CREITZ IN SUPPORT OF  
PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND COSTS

I, Joseph A. Creitz, do hereby declare as follows:

1. I am an attorney licensed and admitted to practice before all state and federal courts in California, the Seventh Circuit United States Court of Appeals, and the United States Supreme Court. I am currently the managing partner of Creitz & Serebin LLP, and Professor of Practice at the University of California College of the Law, San Francisco (nee Hastings). I have personal knowledge of the matters stated herein, and I can and will testify competently thereto if called upon to do so.

EXPERIENCE AND QUALIFICATIONS OF JOSEPH A. CREITZ

2. I graduated from the University of California College of the Law, San Francisco ("UC Law SF") in 1992, and waited until 1993 to take the California Bar Exam. From 1992 to 1995, I worked for a small litigation boutique handling pre-trial litigation and appeals in both state and federal courts. From 1995 through 1999 I worked at Van Bourg, Weinberg, Roger & Rosenfeld, rising to the position of senior-most associate, representing labor unions and Taft-Hartley benefit plans predominantly in federal fiduciary litigation involving the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). From my work during that period, published ERISA decisions in which I was counsel included the following: *McMorgan & Co. v. First California Mortg. Co.*, 916 F. Supp. 966 (N.D. Cal. 1995) (defeating a mortgage servicer's Rule 12(b)(6) motion regarding its ERISA fiduciary status); *McMorgan & Co. v. First California Mortg. Co.*, 931 F. Supp. 699 (N.D. Cal. 1996) (defeating a defendant's motion to compel privileged documents); *California Ironworkers Field Pension Trust, et al. v. Loomis, Sayles & Co.*, 1999 WL 1457226 (C.D. Cal. 1999) (as trial co-counsel for Plaintiff health and welfare fund, obtained judgment of fiduciary liability under ERISA against investment manager that invested health and welfare trust fund assets in risky inverse floater mortgage derivatives); *Cline v. TIMEC*, 200 F.3d 1223 (9th Cir. 2000) (as appellate counsel for Plaintiff/Respondent, defeated defendant's appeal for attorneys' fees in complex ERISA suit); *Laborers v. Delbon*, 199 F.3d 1109 (9th Cir. 2000) (as appellate counsel for Plaintiff/Respondent, defeated defendant's appeal for attorneys' fees in complex ERISA suit);

DECLARATION OF JOSEPH A. CREITZ IN SUPPORT OF PLAINTIFFS' MOTION FOR AWARD OF  
ATTORNEYS' FEES, INCENTIVE AWARDS AND COSTS

*Reichert v. Juniper*, Case No. 3:21-cv-06213-JD

1 *California Ironworkers Field Pension Trust, et al. v. Loomis, Sayles & Co.*, 259 F.3d 1036 (9th Cir. 2001) (as  
2 appellate co-counsel for Plaintiff/Cross-Appellant/Cross-Respondent, defeated Defendant's appeal  
3 of trial court finding of fiduciary liability under ERISA and established the "anti-netting rule" in the  
4 Ninth Circuit).

5 3. From 1999 to 2003, I served as general counsel to the web design firm 415, Inc., in  
6 which capacity I was also a named ERISA fiduciary of the company's 401(k) plan. And in 2003, I  
7 completed an LL.M. in Taxation cum laude from Golden Gate University, with a focus on the tax  
8 aspects of ERISA.

9 4. From 2003 to 2005, I worked as a Trial Attorney for the United States Department  
10 of Labor, in the San Francisco Regional Office of the Solicitor of Labor, predominantly litigating  
11 ERISA disputes on behalf of the United States Secretary of Labor. There, in addition to training  
12 other DOL attorneys and investigators on ERISA and litigation-related issues, I initiated and  
13 resolve numerous ERISA claims against plan sponsors and plan fiduciaries, and successfully took  
14 one ERISA matter to trial in Central District of California: *Chao v. Dearman, et al.*, unpublished (C.D.  
15 Cal 2004) (Chief Judge Stephen Wilson, presiding), aff'd 187 Fed. App'x 685 (9th Cir. 2006) (as trial  
16 counsel for the Secretary of Labor, prevailed in United States District Court against ESOP  
17 fiduciaries on complex fiduciary claims involving mis-valuation of a business and its contingent tax  
18 liabilities).

19 5. From 2005 through January 2013, I maintained a solo law practice, focusing on  
20 ERISA matters, representing primarily participants and beneficiaries in benefits disputes and breach  
21 of fiduciary duty litigation. In that time, I handled hundreds of ERISA benefit denial claims  
22 involving pensions, death benefits, health and welfare benefits generally, health insurance, and both  
23 short-term and long-term disability benefits; as well as numerous claims for breaches of fiduciary  
24 duties under ERISA. Among them, in 2005 and 2006, I handled a particularly complex dispute  
25 between a participant and the fiduciary of a small ERISA-regulated retirement plan the assets of  
26 which had been fully invested in collectible postage stamps. My efforts in that matter resulted in full  
27 recovery for my client without the necessity of litigation.  
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DECLARATION OF JOSEPH A. CREITZ IN SUPPORT OF PLAINTIFFS' MOTION FOR AWARD OF  
ATTORNEYS' FEES, INCENTIVE AWARDS AND COSTS

*Reichert v. Juniper*, Case No. 3:21-cv-06213-JD

6. In 2013 I formed the partnership Creitz & Serebin LLP with respected ERISA litigator Lisa Serebin, and we have been litigating ERISA benefits and breach of fiduciary duty lawsuits, both individual matters and class actions, continuously since then. Before partnering with me, Lisa Serebin had been a partner and/or of-counsel at multiple firms with elite ERISA practices, including Trucker Huss, Morgan Lewis, and Seyfarth Shaw. She has been an ERISA litigator since graduating with her J.D. from the University of Wisconsin in 1989 – thus she has approximately six more years of ERISA litigation experience than I do. Nonetheless, we both charge the same hourly rate, discussed below, of \$925/hour.

7. Fifteen years ago, in 2008, I obtained an award of attorney’s fees from District Judge Pregerson in the Central District of California at the rate of \$475/hour. *Cyr v. Reliance Standard Life Ins. Co.*, No. CV-06-01585-DDP-RCX, 2008 WL 7095148 (C.D. Cal. January 16, 2008), *aff’d* 642 F.3d 1202 (9th Cir. 2011) (en banc), and 448 Fed. App’x 749 (9th Cir. 2011). The published Ninth Circuit en banc decision in *Cyr* was a landmark case in Ninth Circuit ERISA jurisprudence. There, the Ninth Circuit, hearing the matter en banc in the first instance (an extraordinarily rare procedural step that we had petitioned the court to take) unanimously and explicitly reversed twenty-six years of its own decisions and established new law on the question of who can be a proper party defendant in an ERISA suit for benefits. 642 F.3d at 1207. I was the principal advocate and brief writer on that issue, and for our work on the case, my co-counsel Joseph Garofolo and I were honored in 2012 with the California Lawyer Magazine’s California Lawyer Attorneys of the Year (“CLAY”) Award.

8. I have been listed in the Super Lawyers publication in the category of “Employee Benefits” every year since 2013, I served on the Super Lawyers Blue Ribbon Panel for 2016, 2018, 2020, and 2023. In 2019 I was recognized as one of the Top 100 Northern California Super Lawyers. From 2017 to the present I have been listed in the Best Lawyers in America. In 2020 and 2024, that publication also named Lawyer of the Year in the category of ERISA Litigation. Additionally, Creitz & Serebin is one of only three Bay Area law firms – and the only plaintiffs’ firm – rated as Tier One by Best Lawyers for ERISA litigation. The other two firms are Trucker Huss and Seyfarth Shaw.

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DECLARATION OF JOSEPH A. CREITZ IN SUPPORT OF PLAINTIFFS’ MOTION FOR AWARD OF ATTORNEYS’ FEES, INCENTIVE AWARDS AND COSTS

*Reichert v. Juniper*, Case No. 3:21-cv-06213-JD



9. Additionally, I have also been a contributing editor and author to two chapters in the treatise *Employee Benefits Law*, published by BNA in conjunction with the ABA; and I continue to serve as a co-chair of the Civil Procedure chapter of the Employee Benefits subcommittee of the Labor and Employment section of the ABA.

10. In 1994 I began teaching at my alma mater UC Law SF, and from 1997 to the 2023, I held the title of Adjunct Professor. I have taught ERISA and employee benefits issues in my classes since 2007, and I received the 2012-2013 Esteemed Professor Award, and the 2016 and 2018 Best Teacher Awards. In 2023 the school gave me the title of Professor of Practice and hired me as the Director of its Legal Research & Writing and Moot Court programs.

11. I am generally familiar with the rates charged by employee benefits attorneys around the country. I try to review all published, and most unpublished, fee awards in ERISA cases. Multiple courts have credited my declarations regarding the reasonable hourly rates of other ERISA plaintiffs' attorneys. For example, Daniel Feinberg was awarded \$975 per hour and Joseph Barton was awarded \$900 per hour from the Northern District of California. *See Foster v. Adams & Assocs., Inc.*, No. 18-cv-02723-JSC, 2022 WL 425559, at \*9 (N.D. Cal. Feb. 11, 2022).

CURRENT RATES OF JOSEPH CREITZ, LISA SEREBIN, AND  
FEES INCURRED HEREIN

12. In previous years, multiple courts have approved my prior hourly rate of \$800/hour. On August 29, 2019, District Judge Edward Chen entered judgment in favor of my client in an individual ERISA health benefits case, and awarded my fees at the rate of \$800/hour. *See* Final Judgment, Dkt. Entry 47, *Devers v. Carpenters Fund for California*, No. 3:18-cv-04215-EMC (N.D. Cal. Aug. 29, 2019). Although the judgment there does not discuss my hourly rate, which the defendant did not contest, the fees requested and awarded were based on my rate of \$800/hour. Subsequently, in 2020, Judge Chen issued a fee award following the successful litigation of another individual ERISA health benefits case. That award also does not discuss my hourly rate, and the defendants once again did not contest it, but the rate requested in the fee petition in that case was also \$800 per hour. *See Bain v. Oxford*, No. 15-cv-03305-EMC, 2020 WL 1332080 (N.D. Cal. March 23, 2020). On May 21, 2021, District Judge Josephine Staton approved my fee request as part of her final approval

DECLARATION OF JOSEPH A. CREITZ IN SUPPORT OF PLAINTIFFS' MOTION FOR AWARD OF  
ATTORNEYS' FEES, INCENTIVE AWARDS AND COSTS

*Reichert v. Juniper*, Case No. 3:21-cv-06213-JD



1 order in settled ERISA class action litigation. *Hurtado v. Rainbow*, No. 8:17-cv-01605-JLS-DFM,  
2 2021 WL 2327858 (C.D. Cal. May 21, 2021). As part of that order, Judge Staton approved my  
3 requested rate of \$800/hour. *Id.* at \*6. Judge Staton noted that she had previously approved rates as  
4 high as \$825/hour for attorneys with ten-or-more years of experience, and she approved my co-  
5 counsel Joseph Barton's requested rate in the Hurtado matter at \$950/hour. *Id.* My co-counsel  
6 there, Joseph Barton, has approximately nine fewer years of experience as an ERISA litigator than I  
7 do.

8 13. The current billing rate in effect for both Lisa Serebin and myself is \$925/hour, and  
9 the firm currently has numerous clients who have retained us on an hourly basis at that rate. When  
10 performing work that is strictly clerical in nature (such as e-filing or preparing and delivering  
11 chambers copies), we bill our time at a lower clerical rate of \$275. Our practice is to record our time  
12 contemporaneously when the work is performed, and not to bill at all for de minimis work (i.e.,  
13 work on any given case that requires fewer than 4 minutes of time to complete in a particular day).

14 14. Attached hereto as **Exhibit A** is a true and correct report generated by my firm's  
15 time and billing software, Clio, showing the firm's time and expenses in the instant case. My partner  
16 Lisa Serebin and I have recorded 16.1 total hours of work. Of that work, 2 hours consisted of  
17 clerical work which I billed at the rate of \$275/hour. The remaining 14.1 hours of legal work was  
18 billed at our current rate for legal services of \$925/hour. Thus, the fees for our time incurred, based  
19 on the lodestar method, and exclusive of the instant motion, are \$13,592.50. Additionally, I have  
20 incurred an additional 3.5 hours of time preparing the instant declaration, corresponding with  
21 Joseph Barton and Lisa Kantor regarding their supporting declaration, and reviewing and revising  
22 the accompanying Motion, adding \$3,237.50 to our bill; and I expect to spend an additional  
23 1.5 hours preparing for and appearing at the fairness hearing which will add another \$1,387.50 in  
24 billable time. **Thus, the total of all fees and costs for Creitz & Serebin in this action is**  
25 **\$18,215.50.** We also incurred compensable **expenses in the amount of \$14.62** to mail service  
26 copies of the Complaint in this matter to the Secretaries of Labor and Treasury, which is reflected  
27 on the Exhibit A.  
28

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DECLARATION OF JOSEPH A. CREITZ IN SUPPORT OF PLAINTIFFS' MOTION FOR AWARD OF  
ATTORNEYS' FEES, INCENTIVE AWARDS AND COSTS

*Reichert v. Juniper*, Case No. 3:21-cv-06213-JD

## SKILL, EXPERIENCE, REPUTATION, AND HOURLY RATES OF PAUL SECUNDA

15. I am personally familiar with the work, skills, and experience of my co-counsel, Lead Class Counsel Paul Secunda. I have known him for approximately seven years. He is a well-regarded former academic who taught ERISA classes at Marquette University Law School, who has established himself as one of a small handful of respected ERISA attorneys successfully litigating class actions in a very complex area of the law. Mr. Secunda is also a member of the American College of Employee Benefits Counsel, a professional association of the most respected ERISA attorneys in the country. Acting as his local counsel, Mr. Secunda and I have litigated multiple ERISA class actions together, and I am familiar with the high quality of his work.

16. I am personally aware of the rates charged by (and awarded to) ERISA plaintiffs' attorneys around the country, and especially in the Northern District of California.. I can say without reservation that Paul Secunda's requested billable hourly rate of \$800 is less than the rates charged by and paid to ERISA plaintiffs' attorneys of comparable education, skill, and experience. This hourly rate is consistent with or less than the rates charged by attorneys of comparable reputation, skill, and experience who practice in federal court in California; and these hourly rates are objectively reasonable.

I declare under penalty of perjury that the foregoing is true and correct. Executed this first day of November 17, 2023 at San Francisco, California.

/s/ Joseph A. Creitz  
JOSEPH A. CREITZ

# EXHIBIT A

TO THE  
DECLARATION OF JOSEPH CREITZ

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*Reichert v. Juniper*, Case No. 3:21-cv-06213-JD

activities 2023-11-10 10-41-16

Type	Date	Hours	Description	Rate (\$)	Billable (\$)	User
TimeEntry	08/11/2021	2.5	Review and edit Complaint (2.5); prepare cover sheet and summonses (0.3); efile same (NC)	925.0	2312.5	Joseph Creitz
TimeEntry	08/12/2021	0.2	Review magistrate assignment and email PS re same (0.1); prepare consent to magistrate (0.1);	925.0	185.0	Joseph Creitz
TimeEntry	08/11/2021	0.2	Email PS with case/filing status, expected next procedural steps, and tasks (0.2)	925.0	185.0	Joseph Creitz
TimeEntry	08/17/2021	0.5	Assemble service package and deliver to process server (0.4); review confirmation from process server and email PS re same (0.1) [billed at clerical rate]	275.0	137.5	
TimeEntry	08/27/2021	0.5	Prepare cover letters for service upon DOL and Treasury (0.5)	925.0	462.5	Joseph Creitz
ExpenseEntry	09/01/2021	—	Certified USPS Postage for service of Complaint on Treasury and Labor	14.62	14.62	Joseph Creitz
TimeEntry	04/20/2022	0.6	Prepare and e-file statement of recent decision re Kong v. Trader Joes (0.4); email USS re hearing/notice of appearance (0.1); email Paul Secunda re: same (0.1)	925.0	555.0	Joseph Creitz
TimeEntry	04/25/2022	1.2	Review FAQ, Motion to Dismiss, Opposition to Motion to Dismiss, Reply in Support of Motion to Dismiss in preparation for hearing on motion.	925.0	1110.0	Lisa Serebin
TimeEntry	04/20/2022	0.3	Prepare and file Notice of Appearance	925.0	277.5	Lisa Serebin
TimeEntry	08/06/2022	0.3	PC with PS re: terms of tentative settlement and plans for the approval motion (0.3)	925.0	277.5	Joseph Creitz
TimeEntry	11/11/2022	1.9	Review and revise Memorandum, motion, proposed orders, declaration, and related filings for preliminary approval (1.5); Emails to/from co-counsel re: same (0.4)	925.0	1757.5	Joseph Creitz
TimeEntry	11/11/2022	0.1	PC with PS re scheduling (0.1)	925.0	92.5	Joseph Creitz
TimeEntry	11/11/2022	0.5	Review filed preliminary approval docs (0.5)	925.0	462.5	Joseph Creitz
TimeEntry	11/28/2022	0.1	Review scheduling order and respond to email from PS re: same (0.1)	925.0	92.5	Joseph Creitz
TimeEntry	11/30/2022	0.7	Review and revise motion for remote appearance and declaration in support (0.3); prepare proposed order (0.2); emails to/from PS re same (0.2)	925.0	647.5	Joseph Creitz
TimeEntry	12/01/2022	1.5	e-file remote appearance motion; email proposed order to Judge Donato; prepare and deliver chambers copies (1.5 - clerical rate)	275.0	412.5	Joseph Creitz
TimeEntry	01/09/2023	0.7	confer with PS re: hearing (0.2); appear at hearing before Judge Donato (0.5)	925.0	647.5	Joseph Creitz
TimeEntry	09/14/2023	4.3	Meet with Paul Secunda to prepare for prelin app, hearing (2.8); travel to/from court (0.7); appear at prelin approval hearing (.7); confer with PS re next steps following prelin approval (0.3)	925.0	3977.5	Joseph Creitz

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

BRIAN REICHERT, DEREK DEVINY  
individually, and as representatives of a Class of  
Participants and Beneficiaries of the Juniper  
Networks, Inc. 401(k) Plan,

Plaintiffs,

v.

JUNIPER NETWORKS, INC.,  
BOARD OF DIRECTORS  
OF JUNIPER NETWORKS, INC., and  
INVESTMENT COMMITTEE OF  
JUNIPER NETWORKS, INC.

Defendants.

Case No: 3:21-cv-06213-JD

DECLARATION OF R. JOSEPH BARTON

1 I, R. Joseph Barton, declare under penalty of perjury of the laws of the United States as  
2 follows:

3 1. I am a partner at the law firm of Barton & Downes LLP, located in Washington,  
4 D.C. I am an active member of the Bars of the State of California and the District of Columbia, as  
5 well as numerous federal courts including the Northern District of California. I have litigated  
6 several ERISA cases in this District and Co-Lead Class Counsel in one certified class action  
7 (*Huntsman v. Southwest Airlines*, No 4:19-cv-00083-PJH (N.D. Cal.)) and am litigating another  
8 putative class action under USERRA (*Sweeney v. The City and County of San Francisco*, No. 4:20-  
9 cv-01149-DMR (N.D. Cal.)) in this District. I submit this declaration in support of Plaintiff's  
10 Motion for Attorney's Fees, Interest, and Costs in the above-captioned case. I have personal  
11 knowledge of the facts set forth in this declaration and could and would testify competently to  
12 them.

13 **R. Joseph Barton's Experience and Qualifications**

14 2. I have more than 22 years of experience litigating a wide variety of class action and  
15 non-class action complex cases. I have an AV rating from Martindale-Hubbell in the areas of  
16 Employee Benefits, Class Actions, and Antitrust and Trade Regulation. Every year since 2013, I  
17 have been selected as a Washington DC Super Lawyer. I am fellow of the American College of  
18 Employee Benefits Counsel, for which membership requires 20 years of experience in employee  
19 benefit practice and also demonstrated leadership, character, ability and professional  
20 responsibility, and significant contributions to the advancement of the employee benefits field. I  
21 am also listed in the Marquis' Who's Who in America. I have been the partner in charge of and  
22 appointed Lead or Co-Lead Class Counsel in a number of employee benefits class actions,  
23 including cases involving claims for benefits and fiduciary breaches, as well as veterans (typically,  
24 USERRA) actions. I have litigated employee benefit cases since 2001 and since at least 2008, my  
25 practice has consisted predominantly in handling employee benefits litigation, usually on behalf  
26 of employees although I also handle non-class litigation representing fiduciaries of ERISA-  
27 covered plans, and veterans and servicemembers in USERRA litigation. For at least the last 10

1 years, I have had at least one pending case in this District.

2 3. I have been involved in litigating a wide variety of ERISA claims on behalf of  
3 classes of participants and beneficiaries since 2001. In those cases, I have argued motions to  
4 dismiss, class certification motions, summary judgment and a variety of discovery motions and  
5 have taken and defended numerous fact and expert depositions. I have been lead trial counsel in  
6 four ERISA actions and two ERISA class actions.

7 4. My most recent ERISA trial for which I was lead trial counsel was a two-week  
8 bench trial in an ERISA case in July 2014, before Judge Swain in the Southern District of New  
9 York in *Severstal Wheeling Inc. Retirement Committee v. WPN Corporation*, No. 10-cv-954  
10 (S.D.N.Y.). That case involved allegations of the mismanagement of the assets of two retirement  
11 plans by an outside investment manager and resulted in a judgment for the fiduciary plaintiffs of  
12 over \$15 million. That judgment was upheld on appeal by the Second Circuit in *Severstal Wheeling*  
13 *Inc. Retirement Committee v. WPN Corporation*, 659 Fed. Appx. 24 (2d Cir. 2016).

14 5. On a number of occasions, I have been invited to speak and have spoken on a  
15 variety of issues related to civil procedure, class actions and employee benefits at various ABA  
16 conferences. I have spoken on ERISA issues at numerous conferences and webinars, including  
17 those sponsored by the American Bar Association, the Defined Contribution Institutional  
18 Investment Association (DCIIA), the American Conference Institute, the American Association of  
19 Justice, the Knowledge Group, Strafford and Bloomberg BNA I have also been invited to speak  
20 and have spoken on litigation generally or class actions specifically at classes at the following law  
21 schools: George Washington University School of Law, William & Mary School of Law, and the  
22 Texas-Wesleyan School of Law.

23 6. Since 2012, I have been the Plaintiffs' Co-Chair of the Civil Procedure  
24 Subcommittee for the ABA Section of Labor and Employment Law Employee Benefits  
25 Committee. In this position, I am a contributing author and an editor for Chapter 12, Civil Practice  
26 & Procedure of the ABA Treatise Employee Benefits Law (4th ed.), which is published by BNA.  
27 Since 2015, I have served as a member of the Programming Committee for the ABA Employee

1 Benefits Committee, which is responsible for all of the planning for the Committee's Midwinter  
2 conference.

3 7. In 2019 and 2020, I was one of eight members of Law360's Benefits Editorial  
4 Advisory Board, which provides feedback on Law360's coverage and insight from "experts in the  
5 field" on how best to shape future coverage.

6 8. I was the Chair of the Employment Rights Section of the American Association of  
7 Justice (AAJ) for 2013-2014, which focuses on all aspects of employment and labor law and  
8 continue to serve on that Section's Executive Board. I was Co-Chair of the AAJ Class Action  
9 Litigation Group between July 2014 and July 2016. I am and have been for more than 5 years, a  
10 member of the Publications Committee for the AAJ, which is oversees the selection and review of  
11 articles for AAJ's award-winning magazine, *Trial*.

12 9. I am the author of several published articles, including: *Untangle the Arbitration*  
13 *Knot in ERISA Cases*, *Trial Magazine* (August 2022); *Defending Servicemembers from Forced*  
14 *Arbitration*, *Trial Magazine* (June 2018); *Navigating the Unfriendly Skies of ERISA*  
15 *Reimbursement*, *Trial Magazine* (October 2014); *Determining the Meaning of "Direct Evidence"*  
16 *in Discrimination Cases Within the Eleventh Circuit: Why Judge Tjoflat was (W)right*, 77-OCT  
17 Fla. B.J. 42 (2003); *Drowning in a Sea of Contract: Application of the Economic Loss Rule to*  
18 *Fraud and Negligent Misrepresentation Claims*, 41 Wm. & Mary L. Rev. 1789 (2000); and  
19 *Utilizing Statistics and Bellwether Plaintiff Trials: What do the Constitution and the Federal Rules*  
20 *of Civil Procedure Permit?* 8 Wm. & Mary Bill Rts. J. 199 (1999). Each of the articles published  
21 before 2012 have been cited by courts and commentators.

22 10. In 2013, I was retained to and did provide an expert opinion on the scope of ERISA  
23 in a European case, *Deminor International & all v/ Ageas/ BNP Paribas Fortis / Merrill Lynch*  
24 *International*, Court of Commerce of Brussels, Chamber 14°, Docket numbers: R.G. n°  
25 A/10/00744, R.G. n° A/12/05781, R.G. n° A/12/09039 & R.G. n° A/12/09035.



## **The Experience and Rate of Counsel in this Litigation**

11. I am personally familiar with Paul Secunda's work as we were co-counsel in *Cason v. National Football League Players Association*, No. 1:20-cv-01875-TNM (D.D.C.). I have known Mr. Secunda for at least 3 years. Based on my experience working with him, I consider Mr. Secunda to be a highly skilled and experienced ERISA litigator with significant knowledge of ERISA. I am aware that Mr. Secunda has obtained excellent results for his clients in prior ERISA litigation.

12. I am personally familiar with Joseph Creitz's work as we are co-counsel in *Anderson v. Intel Corporation Investment Policy Committee*, No. 3:19-cv-04618-VC (N.D. Cal.) and were Co-Lead Class Counsel in *Hurtado v. Rainbow Disposal Co., Inc.*, No. 8:17-cv-01605-JLS-DFM, (C.D. Cal.) and *Ahrens v. UCB Holdings, Inc.*, No. 1:15-cv-00348-TWT (N.D. Ga.). Mr. Creitz and I are also the two Plaintiffs' Co-Chairs of the Civil Procedure Subcommittee for the ABA Section of Labor and Employment Law Employee Benefits Committee. In this position, he and I are contributing authors and editors for Chapter 12, Civil Practice & Procedure of the ABA Treatise Employee Benefits Law (4th ed.), which is published by BNA. I have known Mr. Creitz and been familiar with his work for more than 10 years.

13. My current hourly rate is \$975. The 2023 hourly rates at Barton & Downes LLP are \$620 for my law firm partner (who has been out of law school for over eight years) and \$280 for our paralegal (who is a college graduate with over seven years of complex litigation experience). My firm's rates are determined through an analysis of the rates that our opposing counsel charge and also rates awarded to my firm and our competitor firms that handle similar litigation. I have also had my hourly rates paid by wealthy individuals as well as institutions.

14. The Central District of California approved my 2021 hourly rate of \$900 (and the hourly rates of associates and paralegals in my firm) in the lodestar crosscheck for an ERISA class action involving an ESOP. *Hurtado v. Rainbow Disposal Co.*, No. 817CV01605JLSDFM, 2021 WL 2327858, at \*6 (C.D. Cal. May 21, 2021). The Eastern District of Pennsylvania previously approved my 2020 hourly rate of \$875 in the lodestar crosscheck for an ERISA class action

1 settlement. *Cunningham v. Wawa, Inc.*, No. CV 18-3355, 2021 WL 1626482, at \*8 (E.D. Pa. Apr.  
 2 21, 2021). In 2020, on a contested fee motion in an ERISA case, the Central District of California  
 3 also found my 2020 rates and the rates of my associates and paralegal to be reasonable. *Marshall*  
 4 *v. Northrop Grumman Corp.*, 2:16-CV-06794-AB-JCX, 2020 WL 5668963, at \*4 (C.D. Cal. Sept.  
 5 18, 2020). And in an unpublished decision in 2020, the Eastern District of Washington awarded  
 6 statutory fees after finding my rates and the rates of my associates and paralegal to be reasonable.

7 15. In addition to the cases previously mentioned, I have also been Lead or Co-Lead  
 8 Class Counsel in the following cases in the Northern District of California: *Foster v. Adams and*  
 9 *Associates, Inc.*, No. 3:18-cv-02723-JSC (N.D. Cal.), *Bush v. Liberty Life Insurance Co.*, No. 4:14-  
 10 cv-01507-YGR (N.D. Cal.), *Barnes v. AT&T*, No. 3:08-cv-04058-EMC (N.D. Cal.); and *Simpson*  
 11 *v. Fireman's Fund Insurance Company*, No. 4:05-cv-00225-CW (N.D. Cal.).

12 16. I have read the Court's April 27, 2022 Opinion denying the motion to dismiss. As  
 13 I have previously handled cases involving ERISA fee and investment litigation – including one of  
 14 the earliest so-called 401k fee litigation – and I have spoken at conferences on this type of  
 15 litigation, I am familiar with the law in this sub-area. It is difficult for employee-plaintiffs to prevail  
 16 in such cases. Based on my review of ERISA caselaw during the course of my career, it is  
 17 uncommon for a such ERISA claims to be decided at trial. Of the recent cases of this type that  
 18 have been tried in the last couple of years, there have been more defense verdicts than plaintiff  
 19 victories in this area.

20 17. As an attorney who usually represents employees and participants, the ERISA fee  
 21 shifting provision serves an important purpose for participants, particularly in cases where the  
 22 amount of money at stake would otherwise prevent an attorney from being able to handle the case  
 23 on contingency and/or the employee cannot afford to pay the attorney's hourly rates. In my  
 24 experience, many individuals, particularly retirees, cannot afford to pay an experienced ERISA  
 25 attorney an hourly rate. ERISA's fee shifting provision furthers the statute's remedial purpose in  
 26 that it allows persons to hire an attorney, regardless of their income, and bring claims that could  
 27 otherwise be uneconomical to bring.

1           18. I understand that Plaintiffs are requesting attorneys' fees at current hourly rates  
2 ranging between \$800 and \$925. As I have litigated and currently do litigate ERISA cases around  
3 the country, including in a least one (and usually several) districts in each of the Circuits, I am  
4 familiar with the national market for ERISA attorneys as well as the local market in the greater  
5 San Francisco area. As ERISA is recognized as a highly complicated statute that requires  
6 substantial expertise, there are a limited number of attorneys who handle ERISA cases and even  
7 fewer who handle complex ERISA litigation on behalf of participants. As a result of the expertise  
8 required to litigate a complex ERISA case, there is a national market for such attorneys. Based on  
9 my knowledge and experience, including having litigated a number of cases in the Northern  
10 District of California, it is my opinion that the requested rates are reasonable and consistent (and  
11 probably lower than) the national market for ERISA attorneys as well as the market in the San  
12 Francisco area.

13           19. I am not being compensated for my time in providing this declaration. I do not have  
14 a financial stake in the outcome of the above-captioned litigation.

15           The foregoing is true and correct to the best of my knowledge and belief.

16           Executed this 14th day of November 2023 in Washington, D.C.

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19 R. Joseph Barton  
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Joseph Creitz, Cal. Bar No. 169552  
Lisa Serebin, Cal. Bar No. 146312  
CREITZ & SEREBIN LLP  
100 Pine Street, Suite 1250  
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James A. Walcheske\*  
Paul M. Secunda\*  
*\*admitted pro hac vice*  
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Class Counsel

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

BRIAN REICHERT, DEREK DEVINY  
individually, and as representatives of a Class  
of Participants and Beneficiaries of the  
Juniper Networks, Inc. 401(k) Plan,

Plaintiffs,

v.

JUNIPER NETWORKS, INC., BOARD OF  
DIRECTORS OF JUNIPER NETWORKS,  
INC., INVESTMENT COMMITTEE OF  
JUNIPER NETWORKS, INC.,

Defendants.

Case No. 3:21-cv-06213-JD

DECLARATION OF LISA S. KANTOR  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR AWARD OF ATTORNEYS' FEES,  
INCENTIVE AWARDS AND COSTS

DATE: Jan. 18, 2024  
TIME: 10:00 AM  
JUDGE: Hon. James Donato

Complaint Filed: August 11, 2021

**DECLARATION OF LISA S. KANTOR**

I, LISA S. KANTOR, declare as follows:

1. I am an attorney duly licensed to practice in all state and federal courts in the State of California. I make this declaration of my own personal knowledge, except for those matters stated on information and belief. I have not been offered any inducements in exchange for this declaration, which I make willingly and voluntarily as a professional courtesy. If called as a witness, I could and would testify competently to the facts set forth herein.

**Experience with ERISA and Class Action Litigation**

2. In 2004, my husband and I formed Kantor & Kantor, LLP, which specializes primarily in representing people who have been denied benefits involving the Employee Retirement Security Act of 1974 (“ERISA”).

3. In 2006, I was counsel of record in *Thompkins v. BC Life and Health Insurance, Co.*, 414 F. Supp. 2d 953 (C.D. Cal. 2006), the first California decision requiring insurance companies to apply the California Mental Health Parity Act (“California Parity Act”) to insureds who sought eating disorder treatment outside of California.

4. After the *Thompkins* case, I was retained by other clients who had been denied insurance coverage for the treatment of their eating disorders and other mental health disorders and, since 2009, my practice has been devoted primarily to representing those clients in individual and class actions.

5. In this regard, I was counsel of record in the two leading ERISA cases interpreting the California Parity Act and holding that the statute requires insurance companies to provide all medically necessary treatment for patients with anorexia nervosa or bulimia nervosa, *Harlick v. Blue Shield of California*, 686 F.3d 699 (9th Cir. 2012), *cert. denied*, 133 S. Ct. 1492 (2013) and *Rea v. Blue Shield of California*, 226 Cal. App. 4th 1209 (2014). In both cases, the appellate courts found that Blue Shield’s exclusion for residential treatment violated the Parity Act when applied to insureds suffering from eating

1 disorders.

2 6. Other related lawsuits that my firm has prosecuted include *Shelby Oppel v.*  
 3 *Blue Cross of California dba Anthem Blue Cross*, Los Angeles Superior Court Case No.  
 4 BC518736 (“*Oppel*”), and *Pamela Banken, as the conservator for Marie Banken, v.*  
 5 *Anthem Blue Cross Life and Health Insurance Company*, Los Angeles Superior Court Case  
 6 No. BC550193, filed on June 30, 2014, as a class action on behalf of Anthem insureds who  
 7 suffered from one or more of the remaining seven psychiatric disorders classified as  
 8 Severe Mental Illnesses under the California Parity Act. The trial court subsequently  
 9 related the *Oppel* and *Banken* lawsuits.

10 7. I also prosecuted the suit denominated *Sofia Ames, as the representative for*  
 11 *her son Giovanni Murray v. Anthem Blue Cross Life and health Insurance Company*, Los  
 12 Angeles Superior Court Case No. BC591623 (“*Ames*”), filed on August 18, 2015, as a  
 13 class action on behalf of Anthem insureds who had co-morbid psychiatric diagnoses, *i.e.*, a  
 14 substance abuse diagnosis and a Severe Mental Illness.

#### 15 CURRENT HOURLY RATE

16 8. My current hourly rate is \$900 per hour and has been my hourly rate since  
 17 January 1, 2020. I have been awarded attorneys’ fees based on this hourly rate in the *Ames*  
 18 and *Rea* state court class actions.

#### 19 ATTORNEY BACKGROUND AND EXPERIENCE

20 9. I graduated in 1980 summa cum laude and Phi Beta Kappa from Union  
 21 College in Schenectady, New York, with a Bachelor of Arts in Political Science and  
 22 Economics. I received my Juris Doctor degree in 1983 from the University of Virginia.

23 10. Upon graduation from law school, I joined Kadison, Pfaelzer, Woodard,  
 24 Quinn & Rossi as a litigation associate. In 1987, I was asked to join a group of partners  
 25 who left that firm to form Quinn, Kully and Morrow. I was elected to partner at that firm  
 26 and remained there until 1995, specializing in complex litigation and appellate work.

27 11. I left Quinn, Kully and Morrow in 1995 and was a Senior Judicial Attorney,  
 28 California Court of Appeal, in Justice Miriam Vogel’s chambers.

12. In 1997, I left to go into private practice and was a sole practitioner specializing in appellate litigation.

13. As noted above, in 2004, my husband and I formed Kantor & Kantor, LLP, which specializes in representing people who have been denied disability, health and life insurance benefits, primarily in ERISA cases. Since 2009, my practice has been devoted almost exclusively to representing clients who have eating disorders or other psychiatric disorders and who have been denied insurance coverage for their treatment.

14. In addition to *Oppel*, *Banken* and *Ames* lawsuits discussed above, I am counsel of record in the following class actions all of which involve claims relating to insurance coverage for the treatment of eating disorders or psychiatric disorders: *Kerr v. Kaiser Foundation Health Plan, Inc.*, Los Angeles Superior Court Case No. BC556863 (“*Kerr*”); *Moura v. Kaiser Foundation Health Plan, Inc.*, United States District Court, Northern District of California, Case No. 3:17-cv-02475-JSW; *Rea v. Blue Cross of California*, Los Angeles Superior Court Case No. BC468900 (“*Rea*”); and *Rhonda S. v. Kaiser Foundation Health Plan, et al.*, Los Angeles Superior Court Case No. 20STCV05001.

15. Most of my ERISA class action work centers on the enforcement of state and federal mental health parity laws, which I prosecute with the Trepinski Firm as co-counsel. We are recognized as leaders in the development of class-based mental health law. Ms. Trepinski and I were appointed as class counsel in the *Ames*, *Kerr* and *Rea* class actions.

16. In addition to litigating eating disorder cases, I have been a speaker at conferences put on by the International Association of Eating Disorder Professionals (IAEDP), the National Eating Disorder Association (NEDA), the National Association of Anorexia Nervosa and Associated Disorders (ANAD), and have spoken at Congressional briefings sponsored by the Eating Disorder Coalition (EDC). I was also on the IAEDP and EDC Board of Directors.



## FAMILIARITY WITH PLAINTIFFS' COUNSEL

17. I have known Joseph Creitz, local counsel to the class in the above-captioned matter, for at least 15 years. He is a well-known ERISA litigator who is highly respected by attorneys on both sides of the ERISA bar, and known for his passion for teaching ERISA issues to his law students at U.C. College of the Law, San Francisco ("UC Law SF"), many of whom have entered the field and are now practicing ERISA attorneys. Over the years Mr. Creitz and I have consulted one another about cases, and our firms have co-counseled at least two cases. At least two other cases that Mr. Creitz litigated, *Cyr v. Reliance Standard* (in which he secured a unanimous *en banc* decision from the Ninth Circuit) and *Spinedex v. UnitedHealth of Arizona* (an ERISA health benefits class action that also went up to the Ninth Circuit), helped significantly to clarify the law on several thorny issues that arise frequently in ERISA benefits litigation. I am familiar with Mr. Creitz's work and the work of his firm. I am aware that he graduated from UC Law SF in 1992, and has been practicing almost exclusively in the area of ERISA litigation since 1995 – that is, for the last 28 years.

## REASONABLENESS OF COUNSEL'S HOURLY RATES

18. I regularly review the fee awards issued by courts in ERISA matters around the country, and especially class actions and cases in California, and Mr. Creitz's hourly rate in the instant case, \$925/hour, is well within the range of reasonable rates charged by attorneys of comparable skill and experience in the Northern District of California for complex ERISA litigation, class action and otherwise. I am informed that Mr. Creitz bills his own time at \$275/hour for purely clerical and administrative work, and that is also well within the range of reasonable rates charged for paralegal and clerical employees of firms engaged in ERISA litigation and ERISA class action work.



1 I declare under penalty of perjury of the laws of the State of California and the  
2 United States that the statements above are true and correct.

3 Executed on November 14, 2023 at Northridge, California.

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LISA S. KANTOR

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13 KANTOR & KANTOR LLP  
14 19839 Nordhoff Street  
15 Northridge, California 91324  
16 (818) 886 2525  
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