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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANDREA BARTZ, ANDREA BARTZ, INC., CHARLES GRAEBER, KIRK WALLACE JOHNSON, and MJ + KJ, INC., individually and on behalf of others similarly situated, Plaintiffs, v. ANTHROPIC PBC, Defendant.	Case No.: 3:24-cv-05417-WHA **PLAINTIFFS' ERRATA REGARDING PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND PLAINTIFF SERVICE AWARDS (DKT. 505)**

Plaintiffs submit this notice to inform the Court of one typographical error in Plaintiffs' filing yesterday in Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Expenses, and Plaintiff Service Awards (Dkt. 505). On page three of the document, signatures for Class Counsel were omitted in the Notice of Motion. Plaintiffs submit herewith a corrected version of Plaintiffs' filing. *See* Exhibit A. No changes have been made to the filing except for correction of the typographical error noted above.

Dated: December 4, 2025

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ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest that all signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

Dated: December 4, 2025

/s/ Justin Nelson

EXHIBIT A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANDREA BARTZ, ANDREA BARTZ, INC., CHARLES GRAEBER, KIRK WALLACE JOHNSON, and MJ + KJ, INC., individually and on behalf of others similarly situated, Plaintiffs, v. ANTHROPIC PBC, Defendant.	Case No.: 3:24-cv-05417-WHA **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND PLAINTIFF SERVICE AWARDS** **DATE: April 23, 2026** **TIME: 12:00 pm** **PLACE: Courtroom 12**

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on April 23, 2026 at 12:00 p.m., or as soon thereafter as the matter may be heard, in Courtroom 12 of the United States District Court for the Northern District of California, located at 450 Golden Gate Ave., San Francisco, CA 94102, Class Counsel Lieff Cabraser Heimann & Bernstein, LLP and Susman Godfrey L.L.P. ("Class Counsel") will, and hereby do, move the Court pursuant to Federal Rule of Civil Procedure 23(h) for an order awarding:

      a.   Attorneys' fees to Plaintiffs' Counsel of 20% of the non-reversionary Settlement Fund, consisting of $1.5 billion plus interest paid by Anthropic or accrued in the Settlement Fund;

      b.   Unreimbursed litigation expenses totaling $1,969,421.75 that Class Counsel reasonably and necessarily incurred in furtherance of the prosecution of this Action, as well as the establishment of a reserve cost fund up to $17,030,000.00 for future expenses that will be reasonably and necessarily incurred in furtherance of the prosecution of this Action and in the administration of the Settlement; and

      c.   Service awards of $50,000 for each of the three Settlement Class Representatives, totaling $150,000.

This Motion is brought pursuant to the Court's Order Granting Preliminary Approval of Class Action Settlement (Dkt. 437), paragraphs 1.17, 1.24, 8.1 of the Settlement Agreement (Dkt. 363-3), and Federal Rule of Civil Procedure 23(h). The motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities set forth below, the accompanying Declarations (and all exhibits attached thereto) of Class Counsel Rachel Geman and Justin A. Nelson, Publishers' Coordination Counsel Jay Edelson and Matthew J. Oppenheim, Authors Coordination Counsel Nancy E. Wolff, Professor Samual Issacharoff, Professor Brian T. Fitzpatrick, Professor William B. Rubenstein, the pleadings and records on file in this Action, and such other arguments the Court may consider.

STATEMENT OF ISSUES TO BE DECIDED

Pursuant to Rule 23(h), this Motion raises the following issues:

1.   Whether the Court should award to Plaintiffs' Counsel reasonable attorneys' fees of 20% of the non-reversionary Settlement Fund, consisting of $1.5 billion plus interest paid by Anthropic or accrued in the Settlement Fund;

2.   Whether the Court should award unreimbursed litigation expenses totaling $1,969,421.75 that Class Counsel reasonably and necessarily incurred in furtherance of the prosecution of this Action, as well as establish of a reserve cost fund up to $17,030,000.00 for future expenses that will be reasonably and necessarily incurred in furtherance of the prosecution of this Action and in the administration of the Settlement; and

3.   Whether the Court should award Service Awards of $50,000 to each of the three Settlement Class Representatives for their time and effort in pursuing this Action on behalf of the Class.

Dated: December 3, 2025

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FOR ATTORNEYS' FEES
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"I don't see how you could get a better deal."[1]

That is how the Court described the Settlement in this case. Rightfully so. Class Counsel achieved for the Class the largest publicly reported copyright recovery in American history. Dkt. 437 at 6. That "home run" result was procured by "some of the best lawyers in America." Dkt. 431 at 17; Dkt. 484 at 54.

Class counsel now respectfully move for attorneys' fees of 20% of the common fund, markedly below the 25% "benchmark for a reasonable fee award" in the Ninth Circuit. *Ward v. United Airlines, Inc.*, 2024 WL 269149, at *5 (N.D. Cal. Jan. 24, 2024) (Alsup, J.). The requested award reflects the "impressive" monetary result obtained for the class despite the "real risks in this action," including the "[m]ultiple issues of first impression" counsel litigated. *Id.* at 6. It also reflects the "skill and grit" required to litigate this case, exemplified by the more than 18,000 hours counsel have devoted and the millions of dollars they have expended—and will continue to expend—with no assurance of compensation or reimbursement. *Roman v. Jan-Pro Franchising Int'l, Inc.*, 2024 WL 2412387, at *4 (N.D. Cal. May 23, 2024) (Alsup, J.). And it reflects, too, the significant non-monetary relief counsel obtained: the destruction of the pirated LibGen and PiLiMi datasets, and a "tailored," past-only release. Dkt. 437 at 5.

Class Counsel likewise submit that the additional relief they request is well warranted: compensation for costs and of expenses reasonably incurred (including $15 million for disseminating notice to the class and administering the settlement) as well as reasonable service awards for the Class Representatives. Each Class Representative dedicated significant time and effort to the case, with some likening it to "[their] job." Dkt. 386 ¶7. It is exactly this type of work that service awards are designed to honor.

BACKGROUND

A.   Pleading and Case Schedule

On August 19, 2024, Plaintiffs filed suit against Anthropic asserting copyright claims in the novel and untested area of AI. Dkt. 1. Plaintiffs' principal allegations were that Anthropic unlawfully downloaded copyrighted works from pirated datasets without authorization, and then commercially exploited them by training on them. *Id.* Anthropic answered Plaintiffs' complaint on October 21, 2024, asserting 13 affirmative defenses, including fair use. Dkt. 57. Prior copyright cases against technology companies had foundered on fair use; as Anthropic emphasized at every opportunity, that defense doomed owners of book copyrights who

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[1] Dkt. 503 at 139.

1   asserted infringement claims against Google. *Authors Guild v. Google, Inc.*, 804 F.3d 202, 206 (2d Cir. 2015).

2   The Court set March 6, 2025 as the deadline for Plaintiffs' motion for class certification and August

3   29, 2025 as the fact discovery cutoff and deadline for Plaintiffs' expert reports. Dkt. 50 at 16–18. Plaintiffs

4   served discovery the very same day this schedule was set. At the Court's request, Class Counsel then prepared

5   for and presented a detailed technology tutorial on January 30, 2025. Dkt. 80.

6   On February 20, 2025, Anthropic requested a case management conference to "adjust[] the case

7   schedule to provide for consideration of a motion for summary judgment before consideration of Plaintiffs'

8   motion for class certification." Dkt. 88 at 4. After a hearing on February 25, 2025, the Court granted

9   Anthropic's request for an expedited motion for summary judgment but denied the request to move class

10   certification until the end of discovery, instead ordering "simultaneous[]" motion practice. Dkt. 98 at 17–18.

11   **B.**   **Intensive Fact Discovery Efforts**

12   From the moment discovery opened until the case settled, Class Counsel litigated at full throttle. As

13   recounted in an earlier submission by Class Counsel, *see* Dkt. 363-2 at 6–8, those efforts included:

14   •   Reviewing more than 80,000 documents and two million pages of materials produced by Anthropic;

15   •   Serving 186 requests for production, 29 interrogatories, and 65 requests for admission;

16   •   Inspecting hundreds of gigabytes of training data, Slack exports, Notion wikis and Google Vault data;

17   •   Spending nearly one thousand hours inspecting source code, training data, and books data;

18   •   Litigating 17 discovery motions, relating to topics such as the timing and scope of document

19   productions, privilege challenges, and issues related to depositions and dataset inspections;

20   •   Engaging in extensive third-party discovery, including subpoenas to major publishers, OpenAI,

21   Google, Amazon, Shawn Presser (creator of a books dataset), and Anna's Archive (creator of PiLiMi);

22   •   Taking and defending 20 depositions, with deposition transcripts spanning more than 4,300 pages;

23   •   Preparing for six additional depositions set to occur in the final days of the fact-discovery period;

24   •   Responding to 263 requests for production, 75 interrogatories, and 395 requests for admission;

25   •   Revealing Anthropic's piracy via LibGen and PiLiMi, which Class Counsel then successfully

26   incorporated into their class certification brief in just six days' time; and

27   •   Assisting Plaintiffs with the production of more than 20,000 pages of documents, including

28   manuscript drafts, publishing contracts, registration certificates, and sales statements.

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C.   Class Counsel's Efforts and Expenses to Prepare Expert Reports

If not for the Settlement, Plaintiffs' opening expert reports would have been due on August 29, 2025. In the months leading up to that deadline, Class Counsel worked closely with experts on a broad range of topics, including economics; market harm and piracy; large language models; the books in the relevant datasets; Anthropic's use of Class works; torrenting, seeding, and leeching; and topics related to fair use. Dkt. 363-2 at 8. Those expert reports were *in addition* to the several expert reports that Plaintiffs submitted in opposition to Anthropic's motion for summary judgment and in support of Plaintiffs' motion for class certification. *See* Dkts. 125; 155; 156. The expert analysis required to develop the Works List alone demanded thousands of hours of attorney and expert labor to parse Anthropic's data, much of it spent in a secure environment while performing numerous levels of analysis and quality checks. *See* Nelson Decl. ¶10. By the time the case settled, each of Plaintiffs' experts had substantially completed their merits reports.

D.   Plaintiffs' Counsel's Hard-Fought Victories

In parallel with the fast-moving tasks described above, Class Counsel also litigated major motions "bristl[ing] with important issues," Dkt. 296 at 2, for which little or no precedent existed.

1.   Summary Judgment

Anthropic moved for summary judgment, arguing that its acquisition of copyrighted books for large language model training qualified as fair use. Dkt. 122. On April 3, 2025, the Court posed hypothetical written questions concerning fair use to both sides to be addressed in the Parties' briefing. Dkt. 135. Plaintiffs filed their opposition on April 24, 2025, and Anthropic replied on May 8, 2025. Dkts. 158, 181. The summary judgment record was extensive: 65 pages of briefs, 96 exhibits comprising hundreds of pages, multiple depositions, and five expert witnesses. Dkt. 363-2 at 9. The Court heard argument on the summary judgment motion on May 22, 2025, and the Parties submitted supplemental briefing on May 23, 2025. Dkts. 214–15.

On June 23, 2025, the Court issued its Order on Fair Use, granting Anthropic's motion for summary judgment in part and denying it in part. Dkt. 231. The Court denied summary judgment on Plaintiffs' copyright infringement claims related to the initial acquisition of works Anthropic obtained from pirated sources like Library Genesis and Pirate Library Mirror. *Id.* at 19, 31. The Court observed that Anthropic's acquisition of copyrighted books that "it could have purchased or otherwise accessed lawfully" was "inherently, irredeemably infringing even if the pirated copies are immediately used for the transformative

use and immediately discarded*." Id.* at 18–19. At the time, no court had recognized on an evidentiary record a copyright infringement claim against an AI company for acquiring pirated works. Class Counsel were the first—and, to our knowledge—remain the only attorneys to have secured such a result.

2.   Class Certification

Plaintiffs first received access to the LibGen and PiLiMi datasets that formed the core of this case on March 21, 2025—only six days before their opening class certification brief was due. Nelson Decl. ¶12. Nonetheless, Class Counsel and their experts worked tirelessly and timely filed the motion for class certification on March 27, 2025. Dkt. 363-2 at 9. Anthropic opposed on April 17, and Plaintiffs replied on May 1. Dkts. 125, 146, 172. The record on class certification included 65 pages of briefs, 96 exhibits amounting to hundreds of pages, and multiple declarations. Dkt. 363-2 at 9. The Court held a hearing on May 15, 2025, and pursuant to the Court's order at the hearing, the Parties submitted supplemental briefs the next day. Dkts. 199, 201, 202, 203. The Court certified a Rule 23(b)(3) "LibGen & PiLiMi Pirated Books Class," calling this matter a "classic" case for certification. Dkt. 244 at 15, 31. No counsel had previously obtained a favorable class-certification order in a copyright infringement case against an AI company *See id.* at 15.

3.   Anthropic's Emergency, Multi-Forum Briefing

Anthropic sought leave to appeal the Court's summary judgment and class certification rulings. On July 14, Anthropic moved for leave to appeal pursuant to 28 U.S.C. § 1292(b) or, in the alternative, for reconsideration pursuant to Civ. L.R. 7.9. Dkt. 241. In doing so, Anthropic argued that the Court's order on fair use addressed "novel and consequential legal questions about the proper fair-use standard in the context of copyright infringement challenges to groundbreaking generative artificial intelligence . . . technology." *Id.* at 1. Plaintiffs opposed Anthropic' s motion in a 24-page response filed on July 28, 2025. Dkt. 276. Anthropic replied on August 4, 2025. Dkt. 284. Its motion was due to be heard on August 28. Dkt. 241 at 1.

Anthropic also filed a Rule 23(f) petition with the Ninth Circuit, seeking interlocutory appeal of the Court's class certification ruling. No. 25-4843 (9th Cir.), Dkt. 1. Plaintiffs opposed that petition on August 14, *id.*, Dkt. 19, while at the same time finalizing expert reports, taking key depositions, and reviewing thousands of newly produced documents during the final weeks of fact discovery. Anthropic further sought, on July 24, a stay of this Court's proceedings, arguing that proceeding to trial would be inappropriate while its Rule 23(f) petition was pending. Dkt. 272. Plaintiffs opposed on July 28, and Anthropic replied on July

30. Dkts. 275, 278. The Court denied Anthropic's motion to stay on August 11, holding that although "this case bristles with important issues," they "should be adjudicated only after a trial so that, on appeal, our court of appeals will have the benefit of a full record and findings." Dkt. 296 at 2. Anthropic then filed an emergency motion in the Ninth Circuit for a stay pending resolution of its Rule 23(f) petition. CA9, Dkt. 18. Plaintiffs opposed Anthropic's motion to stay on August 25, CA9, Dkt. 25, again during an intensely busy stretch of reviewing thousands of recently produced documents, taking critical depositions, finalizing nearly a half-dozen expert reports for service by August's end, and negotiating and mediating a potential settlement. The Ninth Circuit proceedings were stayed as a result of this settlement. CA9, Dkt. 27.

E.   Class Counsel's Association with Additional Counsel

The Class has benefited from the complementary contributions of Publishers' Coordination Counsel ("PCC")[2] and Authors' Coordination Counsel ("ACC").[3] Working in close coordination with Class Counsel, the PCC increased publisher participation, expanded and validated the Works List, helped prepare witnesses and trial strategy, and was instrumental in negotiating the record-breaking settlement. In parallel, the ACC provided targeted copyright expertise and author-side outreach that improved the methodology for vetting works—including hard-to-verify pre-ISBN and renewal records—resulting in tens of thousands of additional verified works and enhanced notice and claims support to authors.

Publisher's Coordination Counsel. Edelson PC and Oppenheim + Zebrak, LLP ("O+Z") have represented the interest of publishers in the common goal of maximizing the per-work recovery for the Class. PCC Decl. ¶32. That work included: working with Class Counsel to assemble the Works List, enlisting and preparing publisher witnesses to be poised for an historic trial, and now helping to deliver this groundbreaking settlement for the benefit of the entire Class. *Id.* ¶¶36–40. The PCC have well fulfilled their mandate to "represent[] the interests of publishers in the common goal of maximizing per-work recovery for the Class" and "provid[e] the publishers' perspective and assist[ing] with trial preparation and strategy, class notice, and settlement discussions." Dkt. 298. The PCC also provided tremendous value in producing the final Works List, collaborating with Class Counsel to ensure inclusion of qualifying works, resulting in a

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[2] On August 11, 2025, Class Counsel notified the Court that they associated with additional counsel to assist in representing the Class during a key stretch of the litigation. Dkt. 298.

[3] Cowan, DeBaets, Abrahams & Sheppard LLP ("CDAS") has been on the case from the beginning.

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1   Works List approximately 20% larger than it would have been otherwise. PCC Decl. ¶39.

2   Following class certification, the PCC began near-daily coordination with the AAP, the Publishers

3   Association of the UK, the Association of University Presses, and numerous major publishers. *Id.* ¶35. Then,

4   with trial looming, the PCC identified and prepared executive witnesses to testify about the publishing

5   industry, the value of books, and the harms of piracy, and worked to produce documents and prepare for

6   depositions. *Id.* ¶36. The PCC also joined Class Counsel in developing trial strategy and contributing to

7   expert reports and witness planning. *Id.* ¶37.

8   When mediation became possible, PCC engaged collaboratively with Class Counsel to help secure

9   the record-breaking settlement now before the Court. *Id.* ¶40. In addition to helping craft key deal points, the

10   PCC was also critical in designing the highly claimant-friendly Plan of Allocation and Distribution, under

11   which any class member will receive a check for their share, with 18 months to claim or cash it. *Id.* ¶41. The

12   PCC also assisted in drafting both the term sheet and the Settlement Agreement, leveraging knowledge of

13   both the publishing industry and the administration of large-scale settlements. *Id.* ¶40.

14   The PCC continued to offer critical assistance even after preliminary approval. For example, the PCC

15   responded to a wave of publisher class member interest by holding town halls with publisher trade

16   organizations and their members, both at home and abroad. *Id.* ¶42. PCC also coordinated amongst numerous

17   publishers—including the largest—to undertake a massive effort in gathering contact information for the

18   Settlement Administrator to effect top-tier class notice. *Id.* ¶43. PCC continues to speak to publishers and

19   holds regular weekly meetings to ensure the Settlement and claims process are carried out effectively, and

20   that Class Members have the information they need and get their questions answered. *Id.* ¶44.

21   ***Authors' Coordination Counsel.*** These efforts supplemented assistance provided by CDAS who was

22   on the original complaint. Dkt. 1 at 20. CDAS advised Class Counsel on copyright law at all stages of the

23   case, including reviewing certain pleadings, assisting with defensive discovery responses, addressing

24   relevant copyright law issues, and gathering information and communication related to the Plan of Allocation

25   & Distribution. CDAS's work included assistance on the Class List; on the Plan of Distribution, Claim Form,

26   and Class Notice; and with stakeholders on the Class List, including soliciting input from these stakeholders.

27   In addition, CDAS served as ACC, in which capacity it advised and assisted Class Counsel with the

28   compilation of the Works List, including by improving the methods by which works were assessed for

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1   satisfaction of the class criteria. For example, CDAS assisted Class Counsel with developing a method to

2   ensure that works published immediately prior to the introduction of ISBNs and the full digitization of

3   copyright records—*i.e.*, from the 1964-1977 period—were included on the Works List. ACC Decl. ¶11.

4   CDAS also aided Class Counsel in determining which renewal registrations satisfied the class criteria.

5   Because much of this work involved manual review and because of the specialized nature of these reviews,

6   CDAS attorneys and staff members worked under Class Counsel's supervision. As a result of CDAS's

7   efforts, Class Counsel was able to verify tens of thousands of additional works for inclusion on the Works

8   List. *Id.* ¶13. Finally, with respect to notice, CDAS facilitated the connection of Class Counsel to author

9   groups and to the major literary agencies. *Id.* ¶14. CDAS has similarly aimed to ensure the highest possible

10   understanding of the Settlement, so that Class Members could make informed decisions about the Settlement,

11   and CDAS will continue to advise Class Members throughout the claims process, ensuring they are fully

12   appraised of their rights. *Id.* ¶15–18.

13   The law firms representing Plaintiffs have agreed to divide any fees awarded by the Court as follows:

14   LCHB and SG with 37.5% each, CDAS with 5%, O+Z with 12.5%, and Edelson PC with 7.5%.

15   **F.   Plaintiffs' Counsel's Effective Advocacy at Mediation**

16   Consistent with the Court's order, Dkt. 8, Class Counsel did not start discussing settlement with

17   Anthropic until after the Court expressly granted them permission to do so, Dkt. 210. Class Counsel first

18   discussed the possibility of mediation during a May 28, 2025, call with Anthropic's counsel. Dkt. 363-2 at

19   12. Class Counsel then worked with Anthropic's counsel to select a mediator and develop a process and

20   schedule for mediation, with the initial mediator supervising all settlement discussions. *Id*. Class Counsel

21   participated in several mediation sessions before later retaining Layn Phillips to mediate. *Id.* at 12–13.

22   After the Court's orders on class certification, summary judgment, and Anthropic's motion to stay,

23   Class Counsel prepared a mediation brief and submitted it on August 14. *Id.* at 13. Class Counsel then

24   coordinated with the mediator to prepare for an all-day mediation session. *Id*. That all-day session did not

25   yield a final agreement, so Class Counsel continued to press ahead with their various fact- and expert-

26   discovery tasks. *Id*. All the while, intense settlement discussions continued, including several mediation

27   sessions during the weekend of August 24–25. *Id*. Late on the night of August 25 (already August 26 in the

28   Eastern and Central time zones), the Parties executed a binding term sheet and notified this Court and the

1   Ninth Circuit the following morning. *Id*. at 12. Class Counsel spent hundreds of hours mediating this case,

2   all without any assurance of compensation. *See Geman* Decl. ¶ 59.

3   **G.   Obtaining Preliminary Approval of the Settlement**

4   After reaching an agreement on settlement terms with Anthropic, Class Counsel's job was (and

5   remains) far from done. Class Counsel submitted a motion for preliminary approval on September 5, 2025,

6   less than two weeks after executing a binding term sheet. Dkt. 363. In connection with that filing, Class

7   Counsel submitted six separate declarations and a dozen exhibits. *Id*. Class Counsel, along with PCC and

8   ACC, then attended an initial hearing on preliminary approval on September 8, 2025, at which the Court

9   required additional briefing. Dkt. 372. Following the hearing, the Court submitted 34 questions for Class

10   Counsel to answer in collaboration with Anthropic, regarding *inter alia* the claims, opt-out, and distribution

11   processes. Dkts. 375, 383. Class Counsel, with assistance from PCC and ACC, timely responded to those

12   questions, which required substantial research and resulted in a 53-page submission just one week after the

13   Court issued its final questions. Dkt. 418. Class Counsel also submitted a 33-page supplemental brief in

14   support of preliminary approval, Dkt. 401, with a detailed Plan of Allocation that flowed from contractual

15   arrangements, Dkt. 401-1, and backed by 16 declarations, Dkts. 385–400. The declarants included

16   representatives from numerous industry organizations—both author and publisher—offering support for the

17   settlement and affirming their intent to assist with distributing notice to Class Members. *E.g.*, Dkts. 388–96.

18   **H.   Continuing Efforts to Administer the Settlement**

19   Class Counsel, PCC, and ACC continue to devote substantial resources to ensure the Settlement is

20   administered in the best interests of the Class. Since preliminary approval, they have remained in active

21   coordination with the Settlement Administrator to monitor claim processing. To date, the Administrator has

22   received over 29,000 claims for 95,000 works, reflecting robust class participation at this early stage, with

23   many more claims no doubt likely to follow, including significant claims by large publishers.[4] In addition,

24   Class Counsel have answered hundreds of Class Member inquiries and conducted targeted research to

25   validate their contact information. *See* Geman Decl. Decl. ¶ 6. Class Counsel have also overseen the drafting

26   of guidance materials to promote accessibility and fairness across the Class. *See id.*

27   _____
[4] That claims rate—nearly 20%— already "vastly exceeds the rate of 4–9% that is typical for consumer class
28   actions." *In re Facebook Biometric Info. Priv. Litig.,* 522 F. Supp. 3d 617, 622 (N.D. Cal. 2021), *aff'd*, No.
21-15553, 2022 WL 822923 (9th Cir. Mar. 17, 2022)

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1   Class Counsel have also conducted several townhall webinars for publishers, authors, and agents to

2   inform Class Members about the Court-approved notice materials and website. *Id.* For claimants requiring

3   additional assistance, Class Counsel have assisted with Settlement Website navigation and escalation paths

4   for complex issues, including bulk filing for Class Members with multiple works on the Works List. *Id.* Last,

5   Class Counsel have proactively monitored online activity—including social media and web posts—to detect

6   efforts to mislead or confuse Class Members, and promptly raise such issues with the Court when necessary.

7   *E.g.,* Dkt. 442. Class Counsel is committed, as the Court instructed, to "bird dog this [Settlement] at every

8   stage and bring to [the Court's] attention problems when they arise so that we can get together and see how

9   to solve the problems." Dkt. 431 at 17.

ARGUMENT

11   Each factor courts consider under the percentage-of-the-fund method supports awarding the requested

12   20% fee to Class Counsel. The request is significantly below this Circuit's presumptively reasonable 25%

13   benchmark—and it is so despite Class Counsel securing the largest known copyright settlement in history,

14   which is among the most significant class action settlements. The 20% fee is also well below the market rate

15   for non-class contingency cases, to say nothing of this highly risky and significantly expensive case. The fee

16   also reflects the excellent non-monetary relief secured: a tailored, past-only release and the destruction of the

17   pirated datasets—which has garnered widespread praise from author and publisher communities alike.

18   The lodestar crosscheck similarly supports counsels' request. The requested fee of 20% would

19   constitute a lodestar multiplier of 9.32—based on the current and future time expenditures of Class Counsel—

20   which is within the range awarded in "many, many" cases. Fitzpatrick Decl. ¶36. Class Counsel also request

21   reimbursement of costs and expenses totaling $1,969,421.75 which were reasonably incurred in litigating

22   this action, and the award of $50,000 in Service Awards to compensate the Class Representatives for their

23   critical contributions to the common benefit and the Class.

A.   This Court Should Employ the Percent-of-Common-Fund Method

25   To calculate fees in common fund cases, "the majority of courts [apply] the percentage-of-recovery

26   method." *Ward*, 2024 WL 269149, at *5; *Roman*, 2024 WL 2412387, at *4 (same). That method "appears to

27   be dominant," *In re Omnivision Tech, Inc.*, 559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2008), receiving

28   "widespread and nearly exclusive use" in practice, 2 McLaughlin on Class Actions § 6:24 (22nd ed.); *see*

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also Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical L. Stud. 811, 832 (2010) (lodestar method used in 9–12% of settlements at the time); Theodore Eisenberg et al., *Attorneys' Fees in Class Actions: 2009–2013*, 92 N.Y.U. L. Rev. 937, 945 (2017) (lodestar method used only 6.29% of the time from 2009–2013, down from 13.6% from 1993–2002 and 9.6% from 2003–2008); Am. Law Inst., Principles of the Law of Aggregate Litigation §3.13(b) (2010) (the "percentage-of-the-fund approach should be the method utilized in most common-fund cases"); *Thomas v. MagnaChip Semiconductor Corp.*, 2018 WL 2234598, at *3 (N.D. Cal. May 15, 2018) (where the "benefit to the class is easily quantified in common-fund settlements," district courts often "award attorneys a percentage of the common fund in lieu of the often more time-consuming task of calculating the lodestar" (citations omitted)).

The percentage-of-the-fund method makes good sense: it "align[s] the lawyers' interests with achieving the highest award for the class members, and reduc[es] the burden on the courts that a complex lodestar calculation requires." *Tait v. BSH Home Appliances Corp.*, 2015 WL 4537463, at *11 (C.D. Cal. July 27, 2015) (citing *In re Activision Sec. Litig.*, 723 F. Supp. 1373, 1374–77 (N.D. Cal. 1989)). The method likewise "remov[es] the inducement to unnecessarily increase hours, prompt[s] early settlement, reduc[es] burdensome paperwork for counsel and the court and provid[es] a degree of predictability to fee awards." *Activision*, 723 F. Supp. at 1376 (N.D. Cal. 1989) (citing Report of the Third Circuit Task Force, Court Awarded Attorney Fees, 108 F.R.D. 237, 258 (1986)). Instead, "[b]y tying the award to the recovery of the Class, Class Counsel's interests are aligned with the Class, and Class Counsel are incentivized to achieve the best possible result." *In re Anthem, Inc. Data Breach Litig.*, No. 15-MD-02617-LHK, 2018 WL 3960068, at *5 (N.D. Cal. Aug. 17, 2018) (citation omitted)). The "percentage-of-recovery approach" is therefore "generally favored in common fund cases because it allows courts to award fees from the fund in a manner that rewards counsel for success and penalizes it for failure." 6A Fed. Proc., L. Ed. § 12:445.

This Court has repeatedly—including as recently as last year—employed the percentage-of-recovery approach in circumstances like those here, where there is a non-reversionary common fund. *See Ward*, 2024 WL 269149, at *5; *Roman*, 2024 WL 2412387, at *4. The Court should adopt the same approach here for the "home run" (Dkt. 484 at 54) settlement in this case.[5]

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[5] Because Anthropic is paying the Settlement in installments over time, Class Counsel commits to taking its fee only on the portion of the money that has been paid into the fund, not on outstanding payments.

1   **B.   Class Counsel's Fee Request Is Reasonable.**

2   "Under the percentage-of-recovery method, the attorneys' fees equal [a] percentage of the common

3   settlement fund." *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 949 (9th Cir. Feb. 27, 2015). "For

4   more than two decades, the Ninth Circuit has set 'the benchmark for an attorneys' fee award in a successful

5   class action [at] twenty-five percent of the entire common fund.'" *In re Wells Fargo & Co. Shareholder*

6   *Derivative Litig.*, 445 F. Supp. 3d 508, 519 (N.D. Cal. 2020) (quoting *Williams v. MGM Pathe Commc'ns*

7   *Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997)); *see also Roman*, 2024 WL 2412387, at *5 ("[A]wards tend to

8   adhere to our court of appeals' benchmark."). To calculate the percentage-of-recovery award, "courts

9   generally start with the 25 percent benchmark and adjust upward or downward depending on:

10   The extent to which class counsel achieved exceptional results for the class, whether the case
              was risky for class counsel, whether counsel's performance generated benefits beyond the

11   cash fund, the market rate for the particular field of law (in some circumstances), the burdens
              class counsel experienced while litigating the case (e.g., cost, duration, foregoing other work),

12   and whether the case was handled on a contingency basis."

13   *Id.* (cleaned up) (quoting *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 954–55 (9th Cir. 2015)).

14   "Foremost among these considerations, however, is the benefit obtained for the class." *In re Bluetooth*

15   *Headset Prods. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011); *see Hensley v. Eckerhart,* 461 U.S. 424, 434–

16   36 (1983); *McCown v. City of Fontana,* 565 F.3d 1097, 1101–02 (9th Cir. 2009) ("reasonableness of the fee

17   is determined primarily by reference to the level of success achieved by the plaintiff"). ***All*** these factors point

18   to ***increasing*** the benchmark to more than 25% of the recovery. Class counsel, however, is seeking 20% of

19   the recovery here—below the benchmark.

20   **1.   Class Counsel Achieved Exceptional Results for the Class.**

21   The Settlement achieved here is not just exceptional—it is historic. As the Court noted in its Opinion

22   on Preliminary Approval, the Settlement is "the largest copyright class action settlement in history." Dkt.

23   437 at 6. The size of the $1.5 billion non-reversionary settlement is extraordinary, both from an aggregate

24   and per-work perspective, with the settlement fund equating to more than $3,000 per work. That per-work

25   amount is, as the Court observed, "an order of magnitude more than the maximum proposed for books in the

26   *Google Books* settlement that was rejected for releasing future claims." *Id.* at 5–6 (citing *Authors Guild v.*

27   *Google, Inc.*, 770 F. Supp. 2d 666, 672 (S.D.N.Y. 2011)). It is also more than "four times the statutory

28   minimum for ordinary infringement, which is also the most common award in copyright cases," and more

than "fifteen times the statutory minimum for innocent infringement of $200." *Id.* at 5. Although it remains early, the Class's response to the Settlement has been resoundingly positive. As of December 1, 2025, over 29,000 claims have been submitted for over 95,000 works. The high claims rate at this early stage confirms that the Settlement is delivering meaningful compensatory benefits.

Class Counsel also secured valuable non-monetary relief. The Settlement requires Anthropic to "destroy all the original files of works torrented/downloaded from Library Genesis or Pirate Library Mirror, and any copies that originate from the torrented copies," subject to certain legal preservation obligations. Dkt. 363-3 ¶2.2. This destruction is an enormous victory for victims of Anthropic's piracy, given Anthropic's intent to retain the pirated works "forever." Dkt. 244 at 3. Another important benefit is Anthropic's certification that "neither the LibGen or PiLiMi datasets, nor any portions of those datasets, were in the training corpus of any of its commercially released" LLMs. Dkt. 363-3 ¶3.1. That certification further assures that Anthropic must lawfully acquire—and pay for—each copyrighted book the company uses to train its commercially released models. The per-work recovery secured in the Settlement is even stronger in light of Anthropic's certification that it did not use the LibGen or PiLiMi books in any of its commercially released models. *See* Dkt. *Id.* These benefits have repercussions far beyond this litigation:

- **Author Kirk Wallace Johnson**: "This settlement marks an important moment for the legal and moral framework that has bound us to each other since we started telling each other stories: that it's wrong to steal; that the system of justice protects us from those that ignore it, and that we don't have to sacrifice everything we once valued on the altar of big tech." Dkt. 387 ¶10.

- **Author Charles Graeber**: "If you believe books are essential to a culture, this settlement is essential." Dkt. 386 ¶19.

- **Author Andrea Bartz**: "Together, authors and publishers are sending a message to AI companies: You are not above the law, and our intellectual property isn't yours for the taking." Dkt. 385 ¶6.

The Settlement is thus a benefit to creators everywhere, setting a precedent for those who seek to protect their works and livelihoods from some of the world's most powerful technology companies.[6]

Class Counsel's expertise was pivotal to this successful outcome. At preliminary approval, the Court

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[6] *See also* Rachel Kim, *Top 5 Things You Need to Know About Participating in the $1.5 Billion Bartz v. Anthropic Settlement*, COPYRIGHT ALLIANCE (Oct. 28, 2025), https://tinyurl.com/Participating-Bartz ("It was a huge victory for authors and copyright owners of all types . . . as it addresses Anthropic's past infringements, does not give Anthropic permission for future use of copyrighted works, and emphasizes the need for AI companies to move toward a licensed, permission-based access business model.").

lauded the caliber of the lawyers before it as "some of the best [] in America," underscoring the professional

skill that brought the settlement to fruition.[7] Commentators have since praised Class Counsel for working

tirelessly to move a milestone settlement across the finish line on behalf of rightsholders.[8] Indeed, Class

Counsel's strategy in litigating this case has been emulated by plaintiffs elsewhere: for example, the major

music labels sought to amend their complaints to add similar piracy allegations on the heels of the $1.5 billion

settlement announcement in this case.[9] And according to one commentator, "[n]o law firm[s] ha[ve] had a

greater impact among the 50 U.S. copyright lawsuits against AI companies than" *Bartz* counsel.[10]

2. Litigating This Novel Copyright Infringement Claim on a Contingency Basis Against a Well-Funded AI Company Was Extremely Risky.

This case was teeming with risk. Before this litigation, no court had ever (a) found an AI company

liable for copyright infringement, (b) held that piracy by an AI company constituted copyright infringement,

or (c) certified a class in a copyright infringement action against an AI company or for owners of book

copyrights. In fact, other litigants asserting similar theories of liability have not yet succeeded. In *Kadrey v.*

Meta Platforms, Inc., 788 F. Supp. 3d 1026, 1036 (N.D. Cal. 2025), for example, which raised similar claims

of unlawful piracy and unlawful use of registered copyright books for training, the court granted summary

judgment ***to Meta***, a fact that Anthropic emphasized extensively and repeatedly in the briefing.

Even if Class Counsel succeeded in obtaining a large judgment above $3,000 per work, and even if

that judgment and amount stood after JMOLs in this court and after years of appeals, Class Counsel faced

the possibility that Anthropic ultimately would not be able to pay. For example, Anthropic reportedly spent

$5.6 billion in 2024, earning much less than that in revenue[11], all while competing against the "Magnificent

Seven" tech giants. And while Anthropic is currently raising money at eye-popping valuations, there is no

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[7] Craig Anderson, *Judge grants preliminary approval of $1.5B Anthropic AI copyright case*, DAILY JOURNAL (Sept. 25, 2025), https://tinyurl.com/Preliminary-Approval.

[8] *Authors Guild Welcomes Approval of Anthropic Settlement*, AUTHORS GUILD (Sept. 25, 2025), https://tinyurl.com/Authors-Guild-Statement.

[9] Chris Cooke, *Major Labels Add Piracy Claims to Suno Lawsuit After $1.5 billion Anthropic Settlement*, COMPLETE MUSIC UPDATE (Sept. 22, 2025), https://tinyurl.com/Suno-lawsuit-after-Anthropic.

[10] Edward Lee, *The Susman Godfrey Playbook in Lawsuits v. AI*, CHAT GPT IS EATING THE WORLD (Sept. 15, 2025), https://tinyurl.com/Susman-Godfrey-Playbook; *See also* Nelson, Nath, Smyser, *Poisoning the WeLL(M): Pirated Data, Large Language Models, and Copyright*, THE ADVOCATE, Winter 2024, https://tinyurl.com/Poisoning-The-Well

[11] Edward Zitron, *This Is How Much Anthropic and Cursor Spend on Amazon Web Services*, WHERE'S YOUR ED AT? (Oct. 20, 2025), https://tinyurl.com/Anthropic-Spend.

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guarantee the company will perform well years from now or would have the *cash flow* to pay a judgment.

Amidst all this unpredictability, one thing was certain: Class Counsel was sure to face a large team of first-rate defense counsel. *See* Nelson Decl. ¶8. Anthropic, in fact, was represented by counsel from five different law firms, including the second largest American law firm by revenue (Latham & Watkins),[12] three other international law firms (Arnold & Porter, Morrison & Foerster, and Cooley), and a highly regarded IP litigation boutique led by Professor Mark Lemley.[13] Anthropic brought its enormous resources to bear, routinely resisting plaintiffs' discovery requests all the way through motion practice on 17 motions to compel and hearings on many of those motions, resulting in the appointment of a Special Master. *E.g.*, Dkts. 104, 110, 136, 225, 230, 232, 234, 262, 291, 336. The Court itself described the task of litigating against Anthropic as "just a monumental undertaking." Dkt. 484 at 20.

Any one of these issues might have turned the tide against Plaintiffs and left Class Counsel with nothing to show for their efforts other than millions of dollars in unreimbursed time, costs, and expenses. The Court itself observed that while "Plaintiffs have a strong case on the downloading," "success is not assured were they to go to trial." Dkt. 437 at 4. The settlement here thus avoids a paramount risk to the Class—"a prolonged, complex, and expensive trial," whose result could be "a loss [that] would result in no recourse" or a damages award that "could be truncated after trial." *Id.* at 4–5. And even if none of that came to pass, still "[a]ll the district court's rulings and verdict could get appealed." *Id.* at 5. In addition, as the Court itself noted, because "the Court ruled that it was okay for Anthropic to . . . buy the book, take it apart, scan it and use it," the final per-work award of "$3,000 is way more than" the cost of Anthropic's scanning, which would be "$1 or $5 or $10." Dkt. 431 at 14. "So, that was another additional risk . . . going forward." *Id.* Finally, this settlement still has not received final approval and the "blow" provision in the Settlement Agreement remains live. Thus, even now—with significant notice costs spent and more of the anticipated $15 million expenditure ahead, all unrecoverable absent final approval—real risks remain.

3.   The Requested Fee Is Consistent with the Relevant Market Rate.

[12] *Latham & Watkins,* LAW.COM, https://tinyurl.com/Latham-Watkins (last accessed Dec. 2, 2025).

[13] *See Lex Lumina LLP Spotlight Guide*, CHAMBERS & PARTNERS, https://tinyurl.com/Lex-Lumina (last accessed Dec. 2, 2025) (noting the firm's "globally recognized academic leadership in intellectual property" and artificial intelligence specialty); *Vault Law 100*, VAULT, https://tinyurl.com/Vault-Rankings (last accessed Dec 2, 2025) (Latham & Watkins ranked #4, Cooley #22, Morrison Foerster #24, Arnold & Porter Kay Scholer LLP #33).

1   Class Counsel's requested fee award of 20 percent is well within the market rate for contingency

2   representations. "'Market rates' are a question of 'lawyers' reasonable expectations for recovery of

3   contingent fees, which are based on the circumstances of the case and the range of fee awards out of common

4   funds of comparable size.'" *In re Capacitors Antitrust Litig.*, 2018 WL 4790575, at *5 (N.D. Cal. Sept. 21,

5   2018) (internal brackets omitted) (quoting *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1050 (9th Cir. 2002)).

6   In non-class cases, both Susman Godfrey and LCHB receive far greater than the 20% requested here. For

7   example, when Susman Godfrey advances expenses in non-class cases, it typically receives 40% of the gross

8   sum recovered, with increases to 45 to 50% depending on the timing of settlement and trial (indeed, at the

9   time this case settled, SG's typical rate would have been 45%). Nelson Decl. ¶7. Lieff Cabraser is an entirely

10   plaintiff-side firm, and though the overwhelming majority of its fees are awarded in Court-supervised class

11   or mass actions, the firm regularly handles certain individual plaintiff-side cases (such as individual tort

12   matters and whistleblower matters) with similar percentage structures, especially where trial and appellate

13   work are conducted. *See* Geman Decl. ¶ 30. Indeed, were a case like this brought by a standalone, private

14   litigant, "the customary fee arrangement would likely be contingent, on a percentage basis, and in the range

15   of 30% to 40% of the recovery." *Jenson v. First Tr. Corp.*, 2008 WL 11338161, at *13 n.15 (C.D. Cal. June

16   9, 2008). Class Counsel's requested 20% fee is conservative relative to these market benchmarks.

17   The requested is also reasonable relative to percentages awarded in other class actions. An empirical

18   study of every federal class action settlement in 2006 and 2007 shows an average fee award of 25.4% and a

19   median award of 25%, with nearly two-thirds of fee awards between 25% and 30%. Fitzpatrick, *An Empirical*

20   *Study*, at 833–34. The study also evaluated 111 settlements in the Ninth Circuit, and the numbers for those

21   settlements were similar, with a mean of 23.9% and a median of 25%. Fitzpatrick Decl. ¶19. The results of

22   other empirical studies accord. *See* Theodore Eisenberg & Geoffrey P. Miller, *Attorneys' Fees and Expenses*

23   *in Class Action Settlements: 1993–2008*, 7 J. Empirical L. Stud. 248, 260 (2010) (mean award of 24% and a

24   median award of 25%, with a mean and median of 25% in 101 Ninth Circuit cases); Eisenberg et al., 92

25   N.Y.U. L. Rev. at 951 (mean award of 27% and a median award of 29%, with a mean of 26% and a median

26   of 25% in 144 Ninth Circuit cases); *Roman*, 2024 WL 2412387, at *5 ("Various empirical studies . . . have

27   documented the mean percentage award in common fund cases over the span of two decades, and found that

28   in our circuit, the mean award has fluctuated between 23.9% and 26%.").

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The requested fee is also reasonable relative to copyright class cases, in which courts have routinely awarded up to 30% of the settlement fund, as shown in the following table:

Copyright Class Cases			
Case	**Class Recovery and Relief**	**Fees Awarded**	**Attorneys' Fees as Percentage of**
Ferrick v. Spotify USA Inc., No. 16-CV-8412 (AJN), 2018 WL 2324076 (S.D.N.Y. May 22, 2018)	<u>Cash Fund:</u> $43.45 million <u>Overall Settlement Value:</u> $112.55 million	$13.035 million	30% of the Cash Fund 11.6% of the Overall Settlement Value
In re Napster, Inc. Copyright Litig., No. 3:00-MD-00-1369, Dkt. 1324 (N.D. Cal. Feb. 14, 2008)	<u>Settlement Fund:</u> $130 million	~$28.7 million	22.1% of the Settlement Fund
Flo & Eddie, Inc. v. Sirius XM Radio, Inc., No. 13-5693, 2017 WL 4685536 (C.D. Cal. May 8, 2017)	<u>Settlement Fund:</u> between $25.5 million and $73 million, depending on future royalty payments	Between $7.65 million and $21.9 million, depending on future royalty payments	30% of the Settlement Fund

And, when compared to other "megafund" settlements ranging in value from $410 million to more than $2.5 billion, Class Counsel's request for 20% remains a conservative fee award:

Megafund Class Cases			
Case	**Class Recovery and Relief**	**Fees Awarded**	**Attorneys' Fees as Percentage of**
In re: Blue Cross Blue Shield Antitrust Litig., 2022 WL 4587617 (N.D. Ala. Aug. 9, 2022)	<u>Settlement Fund:</u> $2.67 billion	~$626.6 million	~23.5% of the Settlement Fund
In re: College Athlete NIL Litig., No. 20-cv-3919 CW, Dkt. 1001 (N.D. Cal. July 11, 2025)	<u>NIL Claims Fund:</u> $1.976 billion <u>Additional Settlement Fund:</u> $600 million Injunctive relief	$475.2 million + 0.75–1.25% of future amounts	20% of NIL Claims Settlement Fund + 10% of the Additional Compensation Settlement Fund + $20,000,000 upfront injunctive fee + .75% to 1.25% of future amounts
Lawrence E Jaffe Pension Plan v. Household Int'l. Inc., No. 1:02-cv-05893, Dkts.	<u>Settlement Fund:</u> $1.575 billion	~$388 million	~24.7% of the Settlement Fund

2222, 2265 (N.D. Ill. Aug. 29, 2016)			
In re Syngenta AG MIR 162 Corn Litig., 357 F. Supp. 3d 1094 (D. Kan. 2018), *aff'd* 61 F.4th 1126 (10th Cir. 2023)	Settlement Fund: $1.51 billion	~$503.3 million	33.3% of the Settlement Fund
In re TFT-LCD (Flat Panel) Antitrust Litig., No. 2013 WL 1365900 (N.D. Cal. Apr. 3, 2013)	Settlement Fund: $1.08 billion	~309.7 million	28.6% of the Settlement Fund
Allapattah Servs. Inc. v. Exxon Corp., 454 F. Supp. 2d 1185 (S.D. Fla. 2006)	Settlement Fund: $1.075 billion	~$325.4 million	~31% of the Settlement Fund
In re: Facebook, Inc. Consumer Privacy User Profile Litig., No. 3:18-MD-02843-VC, 2023 WL 8445812 (N.D. Cal. Oct. 10, 2023)	Settlement Fund: $725 million	$181.25 million	25% of the Settlement Fund
In re Initial Public Offering Sec. Litig., 671 F. Supp. 2d 467 (S.D.N.Y. 2009)	Settlement Fund: $586 million	~$170.1 million	~29% of the Settlement Fund
Benson v. DoubleDown Interactive, LLC, No. 18-cv-0525-RSL, 2023 WL 3761929 (W.D. Wash. June 1, 2023)	Settlement Fund: $415 million	~$121.5 million	29.3% of the Settlement Fund
In re Checking Acct. Overdraft Litig., 830 F. Supp. 2d 1330 (S.D. Fla. 2011)	Settlement Fund: $410 million	~$123 million	~30% of the Settlement Fund

Courts do not hesitate to award fees of 25% or more in even the largest settlements when the relevant factors support that outcome, as they do here. Indeed, the two cases above with the most comparable settlement size of around $1.5 billion (*Jaffe* and *Syngenta*) awarded 24.7% and 33%; *see also In re Coll. Athlete NIL Litig.*, 2025 WL 1675820, at *21 (N.D. Cal. June 6, 2025) (awarding, *inter alia*, 20% award representing $395.2 million in fees without conducting crosscheck analysis).

Although some empirical studies have found mean and median awards of less than 25% in cases with multi-hundred-million-dollar settlements, *see* Fitzpatrick Decl. ¶¶21, Ninth Circuit case law does not require lower percentages for large settlements. In *Vizcaino*, for example, the Ninth Circuit rejected the "increase-decrease rule"—under which "the percentage of an award generally decreases as the amount of the fund increases"—"as a principle governing fee awards." 290 F.3d at 1047. The Ninth Circuit reiterated that holding in *In re Optical Disk Drive Prods. Antitrust Litig.*, stating, "we have already declined to adopt a

17

1   bright-line rule requiring the use of sliding-scale fee awards for class counsel in megafund cases, and we are

2   bound by circuit precedent." 959 F.3d 922, 933 (9th Cir. 2020); *see also In re Apple Inc. Device Performance*

3   *Litig.*, 2021 WL 1022866, at *6 (N.D. Cal. Mar. 17, 2021), appeal dismissed, No. 23-15416, 2023 WL

4   10447843 (9th Cir. Aug. 8, 2023) (starting with 25% benchmark in $310 million settlement).

5   The Court should decline to apply a sliding-scale approach here. That method "create[s] perverse

6   incentives: if class counsel receives less of each next dollar that they secure for the class, they may have an

7   incentive to settle when their percentage drops from 25% to 20% . . . thereby encouraging quick settlements

8   at sub-optimal levels." 5 Newberg & Rubenstein on Class Actions § 15:80 (6th ed.). It is thus unsurprising

9   that "'[p]rivate parties would never contract for such an arrangement, because it would eliminate counsel's

10   incentive to press for' a higher settlement." *Williams v. Rohm & Haas Pension Plan*, 658 F.3d 629, 636 (7th

11   Cir. 2011) (quoting *In re Synthroid Mktg. Litig.*, 264 F.3d 712, 718 (7th Cir. 2001)). Class Counsel submit

12   that following the traditional approach of aligning the fees to the recovery is especially important here given

13   (a) the precedent-setting nature of this litigation and Settlement;[14] and (b) the dozens of hotly litigated

14   copyright class actions currently pending against AI companies.[15]

15   **4.   A Lodestar Cross-Check Confirms the Reasonableness of the Requested Fees.**

16   Where "the court achieves a reasonable result using the method it selects"—here, by awarding a

17   below-market-rate contingency fee to class counsel—the lodestar "cross-check is not required." *Senne v.*

18   *Kansas City Royals Baseball Corp.*, 2023 WL 2699972, at *18 (N.D. Cal. Mar. 29, 2023). Indeed, a NDCA

19   court recently approved—without conducting a crosscheck analysis in a case with a $1.96 billion settlement

20   fund—"attorneys' fees equivalent to 20% of the NIL Claims Settlement Fund (or $395.2 million in fees),

21   10% of the Additional Compensation Claims Settlement Fund (or $60 million in fees), an upfront injunctive

22   relief award of $20 million to be paid by Defendants."). *In re Coll. Athlete NIL Litig.*, 2025 WL 1675820, at

23   *21 (N.D. Cal. June 6, 2025). Indeed, the "use of a lodestar cross-check has fallen into disfavor." *Beesley v.*

24   *Int'l Paper Co.*, 2014 WL 375432, at *3 (S.D. Ill. Jan. 31, 2014). As the Seventh Circuit explained, courts

25

26   [14] *See, e.g.*, Cade Metz, *Anthropic Agrees to Pay $1.5 Billion to Settle Lawsuit With Book Authors*, N.Y.
     TIMES (Sept. 5, 2025), https://tinyurl.com/Anthropic-Agrees-To-Settle ("The settlement in the Anthropic
27   case . . . could influence other cases.").

28   [15] *See Updated Map of US copyright suits v. AI (Oct. 27, 2025) Total = 57 suits*, CHAT GPT IS EATING THE
     WORLD, https://tinyurl.com/Map-US-Copyright-Suits (identifying copyright suits against AI companies).

1   should "give counsel the market rate for legal services," and counsel's fee should "be answered by reference

2   to arrangements that satisfy willing buyers and sellers rather than the compensation that a judge thinks

3   appropriate as a matter of first principles." *Synthroid*, 325 F.3d at 975. Should the Court nevertheless choose

4   to apply the crosscheck here, such analysis only further supports the fees that Plaintiffs' counsel request.

5   **a.   <u>The Number of Hours Devoted to the Case Was Reasonable.</u>**

6   Under the crosscheck method, the court calculates a "presumptively reasonable" fee by multiplying

7   the hours expended by an hourly rate comparable to other similarly experienced attorneys. *In re Hyundai &*

8   *Kia Fuel Econ. Litig.*, 926 F.3d 539, 571 (9th Cir. 2019); *In re Bluetooth Headset*, 654 F.3d at 941. Counsel

9   have presently devoted 26,191.10 hours to this litigation, resulting in a lodestar of $22,304,844.

10   Geman Decl. ¶23. The hours for each firm are, detailed in the declarations submitted herewith, have been

11   categorized as follows: (1) administrative; (2) experts and consultants (including expert depositions);

12   (3) pleadings, briefs, and legal analysis; (4) case management; (5) offensive discovery; (6) client

13   communications and defensive discovery; (7) third party discovery; (8) court appearances and preparation

14   for the same; (9) investigation and document analysis; (10) depositions; and (11) settlement. Counsels' work

15   was necessary to prosecute Plaintiffs' claims; time spent by attorneys and staff who worked fewer than ten

16   hours on the case, and time devoted to this fee application, have been omitted from the lodestar. *Id.* ¶17.

17   Class Counsel performed this work efficiently. Counsel reviewed hundreds of thousands of

18   documents, took and defended twenty depositions, successfully opposed Anthropic's summary judgment

19   motion, prevailed in their class certification motion, and secured the largest copyright settlement in history.

20   Since the Court granted preliminary approval, Counsel has diligently worked to finalize class notice, respond

21   to inquiries from potential class members, and Zoom information sessions aimed at potential class members

22   to serve as a resource to the Class. Geman Decl. ¶ 6. Additionally, Class Counsel has been actively

23   monitoring communications and marketing campaigns directed at class members. *See, e.g.*, Dkt. 442.

24   Further, Counsel will continue to devote substantial time and resources through final approval and

25   beyond to ensure that Class Members are fully supported. Such "projected fees are appropriate

26   considerations in lodestar cross-checks." *Martin v. Toyota Motor Credit Corp.*, 2022 WL 17038908, at *14

27   (C.D. Cal. Nov. 15, 2022) (citing *In re Volkswagen*, 746 F. App'x 655, 649)). Class Counsel, PCC, and ACC

28   continue to—and will continue to—"bird dog" the claims administration process, as the Court required. This

1   has and will include reviewing and vetting claim submissions from class members (including documentary

2   submissions, like contracts), responding to class member inquiries, facilitating resolution of any

3   discrepancies or conflicting information in claims submissions for the same works, coordinating proceedings

4   with the Special Master, explaining options to class members (submitting a claim, opting out, objecting, or

5   doing nothing) and the consequences of each choice, monitoring social media and internet publications for

6   false and misleading information about the Settlement (*see* Dkt. 442 regarding ClaimsHero), providing

7   individualized assistance to those who wish to file claims or submit opt out forms, and working with and

8   oversee the Settlement Administrator to ensure orderly and accurate notice, administration, and distribution.

9   As such, Counsel reasonably expect that such efforts will require 14,066.50 hours of additional time,

10   resulting in a $9,866,925 lodestar (bringing the total expected lodestar to $32,171,769). *See* Nelson Decl.

11   ¶17; Geman Decl. ¶21; PCC Decl. ¶55, 61; ACC Decl. 18.[16]

b.   The Hourly Rates Are Reasonable.

13   The reasonable hourly rate is "the rate prevailing in the community for similar work performed by

14   attorneys of comparable skill, experience, and reputation." *Fowler v. Wells Fargo Bank, N.A.*, 2019 WL

15   330910, at *6 (N.D. Cal. Jan. 25, 2019) (citation omitted). Courts in this district and Circuit have repeatedly

16   approved Class Counsel's requested hourly rates in class action cases.[17] LCHB and SG's rates also have been

17   approved by other courts, as well.[18] Alongside its class action practice, moreover, SG regularly represents

18   large corporate clients in high-stakes litigation on an hourly basis, and the rates used here are the same rates

19   charged to SG's hourly clients—including by lawyers on this case. Nelson Decl. ¶24. The same is true of

20   O+Z, which also does work for rightsholder clients on an hourly basis.[19]

[16] This lodestar is conservatively calculated using 2025 rates, even though nearly all projected work will occur after 2025 and each law firm will be implementing standard hourly rate increases starting in 2026.

[17] *See, e.g., Grey Fox, LLC v. Plains All-Am. Pipeline, L.P.*, 2024 WL 4267431, at *6 (C.D. Cal. Sept. 17, 2024) (approving hourly rates of LCHB); *Katz-Lacabe, et al. v. Oracle America, Inc.*, No. 3:22-cv-4792, Dkt. 181 at 9 (N.D. Cal. Nov. 11, 2024) (same); *Meta Platforms, Inc. v. Soc. Data Trading Ltd.*, 2022 WL 18806267, at *5 (N.D. Cal. Nov. 15, 2022), *report and recommendation adopted*, 2022 WL 18806265 (N.D. Cal. Dec. 8, 2022) (approving SG's rates); *Flo & Eddie, Inc. v. Sirius XM Radio, Inc.*, 2017 WL 4685536, at *8-9 (C.D. Cal. May 8, 2017) (same). A fuller list is found at Geman Decl. ¶¶26-27.

[18] *In re General Motors LLC Ignition Switch Litig.*, 2020 WL 7481292, at *3 n.3 (S.D.N.Y. Dec. 18, 2020) (LCHB's rates "reflect prevailing rates in the Southern District of New York for 'for similar services by lawyers of reasonably comparable skill, expertise and reputation.'") There are other instances where Lieff Cabraser's fee petitions have been approved in full and the court did not do a lodestar crosscheck. *E.g., Doe v. MasterCorp,* No. 1:24-cv-678 (ED VA 2024), Dkt. Nos. 24, 25, and 33.

[19] *See also In re Facebook Biometric Info. Priv. Litig.*, 522 F. Supp. 3d 617, 633 (N.D. Cal. 2021) (finding

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1   The rates here are also reasonable when compared to prevailing market rates and, if anything, are far

2 *below* such rates. For example, a compilation of rates of peer firms approved by bankruptcy courts shows

3 that rates for partners extended to the low $2,000 range for 12 major law firms, with five firms setting such

4 rates at $2,350 and above, including two of Anthropic's law firms in this case (Morrison and Forester

5 ($2,475) and Latham and Watkins ($2,550)). See Ex. 1. By contrast, no Lieff Cabraser partners' rates are

6 remotely close to that range, and only one Susman Godfrey partner who was regularly involved in the action

7 charged a comparable—but still lower—rate ($2,250), which SG's hourly clients pay. Geman Decl. ¶24;

8 Nelson Decl. ¶26. Meanwhile, the hourly rates for partners Mr. Nath, Ms. Salinas, and Mr. Adamson—who

9 were three of the five main SG partners involved—are *below* the absolute lowest rate reported for partners

10 in that survey. *See* Ex. 1 ($1,050) *with* Nelson Decl. ¶25 ($975); *see also* Geman Decl. ¶24 ($905 rate for

11 Dafa and as low as $835 for other partners); Nelson Decl. ¶ 24 (noting that a 2025 study commissioned by

12 accounting firm PWC reported that the median partner billing rate for an AM Law 50 firm was $1,700). The

13 same trend holds true for associates. *See* Ex. 1 ($760-$1,310); Nelson Decl. ¶25; Geman Decl. ¶24; PCC

14 Decl. Ex. A; ACC Decl. 20 (all Class Counsel associates with rates under $1,000, and most under $700).

15   Considering the prevailing rates in this District, the qualification and experience of counsel, Class

16 Counsel's billing rates are eminently reasonable. *See* Dkt. 362-4 through Dkt. 362-7; Nelson Decl. ¶¶22–26.

       c.   **The Multiplier is Justified Given the Results Obtained, the Complexity of the Issues, and the Contingent Nature of the Representation**

18   The district court may adjust the lodestar calculation upward to account for the "quality of

19 representation, the benefit obtained for the class, the complexity and novelty of the issues presented, and the

20 risk of nonpayment." *In re Bluetooth Headset Prods. Liability Litig.*, 654 F.3d 935, 941-42 (9th Cir. 2011).

21   The requested award of 20% represents a multiplier of approximately 9.32 relative to the combined

22 present and future time expenditures of counsel. This multiplier is supported by the historic nature of the

23 settlement, the cutting-edge nature of the legal issues, the vigorous, hard-fought defense mounted by highly

24 capable counsel, and the high caliber of advocacy necessary to overcome those hurdles and secure a historic

25

26 Edelson PC's hourly rates reasonable for their experience and locality); *id.* at Dkt No. 499-3 at ¶¶ 25-33

27 (N.D. Cal. Oct. 15, 2020) (Declaration of Professor William B. Rubenstein finding that "the hourly rates [Edelson PC] utilize are entirely consistent with the rates judges in [the Northern District of California]

28 explicitly approved in overseeing class action settlement since 2019, and the average, or blended, hourly rate—while above the median—appropriately reflects the level of lawyering required").

1   settlement. *See, e.g.*, Rubenstein Decl. 15-24 (collecting cases); Fitzpatrick Decl. ¶¶19-27 (collecting cases);

2   *Skochin v. Genworth Fin., Inc.*, 2020 WL 6536140, at *10 (E.D. Va. Nov. 5, 2020) (lodestar multiplier

3   of 9.05 following settlement of up to $164 million); *Lloyd v. Navy Fed. Credit Union*, 2019 WL 2269958, at

4   *13 (S.D. Cal. May 28, 2019) (following $24.5 million settlement, the court applied 10.96 multiplier,

5   highlighting the significant risks associated with the contingent nature of the case); *In re Doral Fin. Corp.*

6   *Sec. Litig.*, No. 1:05-md-01706-ECF No. 107 (S.D.N.Y. July 17, 2017) (following a $129 million settlement,

7   the court applied a lodestar multiplier of 10.26).

8   It is worth emphasizing the two expert declarations Class Counsel submitted from Professors

9   Rubenstein and Fitzpatrick—the former, a longtime "proponent of the lodestar cross-check," Rubenstein

10   Decl. at 24, the latter, of the "opinion that courts should not do it," Fitzpatrick Decl. ¶35; *id.* (observing that

11   "half of courts nationwide do not perform the crosscheck with the percentage method," and that "the majority

12   approach is the better one"). Despite their differences in the abstract, their analyses in this case could hardly

13   be more similar. "[T]here is significant evidence in the record of this case," Professor Rubenstein explains,

14   "to support the conclusion that Class Counsel have earned a significant multiplier." Rubenstein Decl. 24. "I

15   believe the fee request here is within the range of reasonable awards," adds Professor Fitzpatrick, because

16   even under the crosscheck the requested award is "hardly unprecedented." Fitzpatrick Decl. ¶36.

17   C.   **The Court Should Reimburse Class Counsel's Reasonable Litigation Expenses**

18   "There is no doubt that an attorney who has created a common fund for the benefit of the class is

19   entitled to reimbursement of reasonable litigation expenses from that fund." *Roman*, 2024 WL 2412387, at

20   *5. Class Counsel have incurred $1,969,421.75 in unreimbursed litigation expenses, including costs related

21   to experts, discovery, mediation, legal research, filing fees, document hosting services, copying and mailing,

22   and other customary litigation expenses. *See* Geman Decl. ¶¶51, 53; Nelson Decl. ¶40; ACC Decl. ¶24; PCC

23   Decl. ¶58. Class Counsel anticipate $17,030,000.00 in future expenses that will be reasonably and necessarily

24   incurred in furtherance of the prosecution of this Action, and request a reserve cost fund up to that amount.

25   Geman Decl. ¶55 (overviewing future expenditures); *see also* Dkt. 399 (Keough Decl) at ¶117 (estimating

26   the cost to complete the robust notice program at $15 million). To be especially mindful of the Class, Counsel

27   are not seeking reimbursement for hotels, meals, and fees paid to Messrs. Rubenstein and Fitzpatrick. Nor

28   are Counsel seeking reimbursement for travel, meal, and lodging expenses for the Class Representatives.

1   Courts regularly find the expenses for which Class Counsel seek reimbursement are "billed

2   to paying clients in non-contingency matters" and are recoverable. *Katz-Lacabe v. Oracle Am., Inc.*, No.

3   2024 WL 4804974, at *5 (N.D. Cal. Nov. 15, 2024) (subsequent history omitted).[20] In megafund cases such

4   as this, courts also commonly approve millions of dollars in costs, including amounts that exceed those that

5   Class Counsel seek here.[21] Class Counsel therefore submit their request is proper.

6   **D.   Service Awards for the Named Class Representatives are Warranted**

7   Class Counsel request that the Court award Class Representatives Andrea Bartz, Inc., MJ+KJ, Inc.,

8   and Charles Graeber service awards of $50,000 for their contributions to, and leadership in, this historic case.

9   "Incentive awards are fairly typical in class action cases." *Rodriguez v. W. Publ'g Corp.*, 563 F.3d 948, 958

10 (9th Cir. 2009) (emphasis omitted) (citing 4 William B. Rubenstein et al., *Newberg on Class Actions* § 11:38

11 (4th ed.2008)). While such "awards are discretionary," they are commonly issued because of the many

12 benefits they provide: "compensat[ing] class representatives for work done on behalf of the class";

13 "mak[ing]up for financial or reputational risk undertaken in bringing the action"; and recognizing class

14 representatives' "willingness to act as a private attorney general." *Id.*

15 Service awards to the class representatives here are particularly warranted in light of the critical

16 contributions they made to the case, the significant out-of-pocket expenditures each tendered as part of their

17 involvement, and the overwhelming monetary recovery provided to the class by the settlement here.[22]

18 _____

19 [20] *See Flo & Eddie, Inc. v. Sirius XM Radio, Inc.*, 2017 WL 4685536, at *10 (C.D. Cal. May 8, 2017) (copyright class action reimbursing expenses related to "discovery, the services of experts and specialist appellate counsel, mediation, travel, technology support costs, a mock trial, and the cost of computer research

20 and services"); *Hofstetter v. Chase Home Fin., LLC*, 2011 WL 5545912, at *1 (N.D. Cal. Nov. 14, 2011) (Alsup, J.) (approving same plus "costs associated with class notice and settlement mailings").

21 [21] *See In re Blue Cross Blue Shield Antitrust Litig.*, 2022 WL 4587617, at *1 (N.D. Ala. Aug. 9, 2022), *aff'd*, 85 F.4th 1070 (11th Cir. 2023) ($40.9 million in costs); *In re: College Athlete NIL Litig.*, No.

22 20-cv-3919 CW, Dkt. 1001 at *5 (N.D. Cal. July 11, 2025) ($9 million in costs); *In re Facebook, Inc. Consumer Priv. User Profile Litig.*, 2023 WL 8445812, at *3 (N.D. Cal. Oct. 10, 2023), *aff'd* 2025 WL

23 484621 (9th Cir. Feb. 13, 2025) ($4.1 million in costs).

24 [22] *See Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 300 (N.D. Cal. 1995) ($50,000 to one class representative); *Wright v. Stern*, 553 F. Supp. 2d 337, 342 (S.D.N.Y. 2008) ($50,000 to each of

25 eleven class representatives); *In re Dun & Bradstreet Credit Servs. Customer Litig.*, 130 F.R.D. 366, 374 (S.D. Ohio 1990) ($35,000-55,000 each to five class representatives); *Kifafi v. Hilton Hotels Ret. Plan*, 999

26 F. Supp. 2d 88, 106 (D.D.C. 2013) ($50,000 award); *McCoy v. Health Net, Inc.*, 569 F. Supp. 2d 448, 479-80 (D.N.J. 2008) ($60,000 award); *Brotherton v. Cleveland*, 141 F. Supp. 2d 907, 914 (S.D. Ohio 2001)

27 ($50,000 to lead plaintiff); *In re Revco Sec. Litig., Nos. 851, 89cv593*, 1992 WL 118800, at *7 (N.D. Ohio 1992) ($200,000 award); *Enterprise Energy Corp. v. Columbia Gas Transmission Corp.*, 137 F.R.D. 240,

28 250-51 (S.D. Ohio 1991) ($50,000 awards to each of six named plaintiffs); *Beaver v. Tarsadia Hotels*, 2017 WL 4310707, at *8 (S.D. Cal. Sept. 28, 2017) ($50,000 award to four representatives); *In re High-Tech*

Andrea Bartz, Inc.: Ms. Bartz, on behalf of Andrea Bartz, Inc., has "invested many hours into this lawsuit" and "will continue to do so for as long as necessary." Dkt. 385 at 1–2. She has (i) "answered extensive discovery requests, handing over thousands of pages of documents and digging through a decade's worth of contracts and communications to provide accurate information"; (ii) "met with my counsel for many hours and participated in an extensive deposition"; (iii) "traveled from [her] home in New York to San Francisco to attend the deposition and major court hearings," including both of the Court's preliminary approval hearings; and (iv) "reviewed and approved major court filings, including the settlement agreement." *Id.* at 2. Ms. Bartz also "pepper[ed] [her] attorneys with questions about the case, read[] up on copyright law, [and] shar[ed] important information about [her] claims and the class's potential point of view." *Id.*

Ms. Bartz also engaged heavily in the settlement process itself. For example, she "dedicated substantial time to the proposed plan of distribution" and was "heavily involved in the creation and refinement of the materials" related to the settlement. *Id.* at 2. To ensure class members could "understand the settlement," Ms. Bartz "made comments and suggestions on the notice packet, claim form, and other materials, identifying potential pitfalls and suggesting language for clarity and inclusion." *Id.* Ms. Bartz was, in short, the consummate "informed and engaged class representative." *Id.*.

Charles Graeber: Mr. Graeber was also thoroughly involved, including "calls and emails at all hours of the day from counsel requesting information and paperwork, and [his] own calls and emails volunteering anything potentially relevant." Dkt. 386 at 2. "Then came the attorney meetings to educate me about the intricacies of the case and my obligations," which "included representing the interests of the full class, a group of hundreds of thousands of authors and publishers." *Id.* As he says, "It became my job." *Id.*

That job required "numerous redeye cross-country flights for critical meetings and depositions," including "travel[] to major court hearings." *Id.* It also required "hours of process and preparation; reviewing thousands of pages of documents to ensure accuracy; reviewing major filings . . .; and ultimately, scrutinizing and signing the settlement agreement," which "was accompanied by a steady back-and-forth of questions" between Mr. Graber and Class Counsel. That process was "daunting, grueling and, at times, invasive." *Id.* Mr. Graber's "work as a writer[] took a back seat": "Whatever my previous deadlines, there was no case but

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Employee Antitrust Litig., 2015 WL 5158730, at *18 (N.D. Cal. Sept. 2, 2015) (authorizing $80,000 and $120,000 awards in case with $415,000,000 settlement fund); *In re Titanium Dioxide,* 2013 WL 6577029, at *1 (D. Md. Dec. 13, 2013) ($125,000 award to lead class representative out of $163.5 million settlement).

this civil case; my top job now was to represent all stakeholders in this critical class action to the best of my ability. This responsibility continues to be an honor, whatever it takes." *Id.* at 3.

In doing so, Mr. Graeber "sank [him]self into details for the proposed plan of allocation," placing himself "in the shoes of the thousands of class members who would be coming to this settlement cold." *Id.* That produced many "urgent" discussions that "started early and went late," by "Zoom, text, email and phone." *Id.* Mr. Graeber recognizes that his "work is only just begun," and he will continue zealously "represent[ing] the settlement to authors, our fellow stakeholders, and the public at large." *Id.* at 3–4.

MJ+KJ, Inc.: Since this case began, Mr. Johnson on behalf of MJ+KJ, Inc., has taken his "responsibility to the others in the class as seriously as possible." Dkt. 387 at 2. That "has taken the form of hundreds of hours of calls with counsel to make sure [he] understood each twist and turn of the litigation; extensive work responding to discovery requests, digging up thousands of pages of contracts, emails, and other documents; sitting for a lengthy deposition; reviewing court filings and the settlement agreement; and flying to attend multiple court hearings." *Id.* Mr. Johnson also "felt a duty to understand the origins and future trajectories of the AI companies that trained their LLMs on pirated intellectual property," and did so by "reading numerous books and long-form reporting," as well as "experimenting extensively with the AI platforms to better understand their capabilities." *Id.* Indeed, Mr. Johnson was "so heavily involved in discussions about the proposed distribution plan that [he] had to set my paid work aside." *Id.* That sacrifice, he reports, was "essential" to his "obligations to explain this settlement to other members of the class." *Id.*

<div align="center">

CONCLUSION

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For the reasons set forth above, Class Counsel respectfully requests that the Court grant their motion for an award of attorneys' fees, reimbursement of costs, and service awards to the Class Representatives.

Dated: December 3, 2025

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<u>ATTESTATION</u>

Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest that all signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing

Dated: December 3, 2025

/s/ Justin Nelson

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANDREA BARTZ, ANDREA BARTZ, INC., CHARLES GRAEBER, KIRK WALLACE JOHNSON, and MJ + KJ, INC., individually and on behalf of others similarly situated, Plaintiffs, v. ANTHROPIC PBC, Defendant.	Case No. 3:24-cv-05417-WHA **DECLARATION OF COURT APPOINTED CLASS COUNSEL JUSTIN A. NELSON IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND CLASS-REPRESENTATIVE SERVICE AWARDS**

I, Justin A. Nelson, declare and state as follows:

1.   I am a partner at Susman Godfrey L.L.P. ("Susman Godfrey"), and serve as an attorney of record for Plaintiffs in the above-captioned class action. I am also a court-appointed Class Counsel. I am an active member in good standing of the bar of Texas, and am admitted *pro hac vice* to practice before this Court. *See* Dkt. 34. I have personal knowledge of the facts stated in this declaration and, if called as a witness, I could and would testify competently to them.

2.   I provide this declaration in support of Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Expenses, and Class-Representative Service Awards.

I.   Susman Godfrey's Present Lodestar Represents its Efficient and Exhaustive Efforts in This Case.

3.   The Susman Godfrey team has intensely litigated this historic case, devoting 9,341.6 hours to the matter as of December 1, 2025, culminating in a lodestar of $9,312,610. That effort resulted in the largest publicly reported copyright recovery in American history, **plus** a past-only release, **plus** Anthropic's permanent destruction of its copies of the pirated datasets subject to legal preservation obligations. The Settlement has been described as "a huge victory for authors and copyright owners of all types." Rachel Kim, *Top 5 Things You Need to Know About Participating in the $1.5 Billion Bartz v. Anthropic Settlement*, COPYRIGHT ALLIANCE (Oct. 28, 2025), https://tinyurl.com/Preliminary-Approval. It is indeed just that.

1   4.   Susman Godfrey prosecuted this case on a purely contingent basis. The firm did so

2   to the exclusion of other fee-generating work, taking on the risk that a fee would be procured here

3   only if counsel obtained meaningful class-wide relief.

4   5.   The below schedule provides a summary reflecting the amount of time spent by the

5   attorneys and professional support staff of Susman Godfrey who were involved in this litigation;

6   the lodestar calculation is made using 2025 billing rates. The schedule was prepared from daily

7   time records regularly prepared and maintained by Susman Godfrey, which are available at the

8   request of the Court. Time expended in preparing the application for fees and submitting requests

9   for reimbursement of expenses are excluded and not reflected below. Hours worked by summer

10   associates and a small number of attorneys and staff who provided fewer than 10 hours of time

11   have also been excluded and are not reflected below.

TIMEKEEPER	TITLE	HOURLY RATE	TOTAL HOURS	VALUE
Bhatia, Vineet	Partner	$ 2,300.00	11.0	$ 25,300.00
Nelson, Justin A.	Partner	$ 2,250.00	1,218.5	$ 2,741,625.00
Connors, Jordan	Partner	$ 1,100.00	356.7	$ 392,370.00
Gervais, Michael	Partner	$ 1,075.00	43.5	$ 46,762.50
Adamson, Michael	Partner	$ 975.00	448.2	$ 436,995.00
Nath, Rohit	Partner	$ 975.00	1,343.0	$ 1,309,425.00
Salinas, Alejandra	Partner	$ 975.00	557.0	$ 543,075.00
Doshi, Samir	Associate	$ 850.00	758.3	$ 644,555.00
Smyser, Craig	Associate	$ 825.00	1,795.8	$ 1,481,535.00
Fredricks, Collin	Associate	$ 750.00	1,050.7	$ 788,025.00
Karlin, Molly	Of Counsel	$ 900.00	165.0	$ 148,500.00
Stemkovsky, Alex	Staff Attorney	$ 625.00	19.5	$ 12,187.50
Clark, Audra	Staff Attorney	$ 575.00	363.7	$ 209,127.50
Galik, Kristin	Staff Attorney	$ 575.00	18.1	$ 10,407.50
Gipson, Vicki	Staff Attorney	$ 550.00	54.3	$ 29,865.00
Mohsen, Rania	Staff Attorney	$ 500.00	260.6	$ 130,300.00
Aana, Patrick	Staff Attorney	$ 450.00	139.4	$ 62,730.00
Mikhael, Nehad	Staff Attorney	$ 450.00	10.2	$ 4,590.00
Sinha, Reetu	Staff Attorney	$ 450.00	532.5	$ 239,625.00
Izquierdo, Martha	Paralegal	$ 300.00	72.8	$ 21,840.00
Loaiza, Nicholas	Paralegal	$ 275.00	122.8	$ 33,770.00
			9,341.6	$ 9,312,610.00

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6.   The foregoing lodestar reflects the markedly efficient staffing model of the Susman Godfrey team. At even the most intense moments in the case, only *two* associates typically worked on the matter at a given time. At the partner level, only four partners typically worked the case at a given time. The efforts of that core team were complemented by a limited number of staff attorneys and paralegals who provided invaluable assistance throughout. That small, core team reflects Susman Godfrey's commitment to acting in the best interests of the class by prioritizing a results-driven—not hours-driven—model of staffing.

7.   Across its cases (both class and non-class), Susman Godfrey takes pride in working as smartly and efficiently as possible. Unlike larger firms, Susman Godfrey does not have a "pyramid structure" with a small number of equity partners and a large number of associates who bill by the hour. Rather, nearly half of Susman Godfrey attorneys are equity partners. Susman Godfrey is able to thrive because rather than billing by the hour, we bet on ourselves to achieve the best result for the client. In non-class cases where the client advances expenses, our normal percentages range from 35-45% depending on the stage of the case. Where we advance expenses as we are doing here, the fee generally ranges from 40-50%. At the stage of the case where this case settled, and with the firm advancing expenses as opposed to the client, our normal contingent fee would have been approximately 45% in a non-class case.

8.   Despite its lean size, the Susman Godfrey team along with co-counsel produced an enormous amount of high-quality work on a compressed schedule. As I noted in an earlier declaration which comprehensively overviews the factual and procedural background of the case, "[t]he Parties produced millions of pages of documents, litigated over one dozen discovery motions, inspected source code and books data in a highly secure environment, and took or defended twenty depositions." Dkt. 363-2 at 6 (Declaration of Justin A. Nelson and Rachel Geman in support of preliminary approval). The parties also "submitted over 100 pages in expert reports in connection with Anthropic's motion for summary judgment and Plaintiffs' motion for class certification," and Plaintiffs were prepared to serve up to a half-dozen additional expert reports just days before the Parties notified the Court of their settlement. *Id.* at 8. In addition, Plaintiffs litigated motions for summary judgment, for class certification, for interlocutory review under 28 U.S.C. § 1292(b), for

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1 interlocutory review under Rule 23(f), to stay (in this Court), and to stay (in the Ninth Circuit). *Id.*

2 at 9–11. Throughout all this, Class Counsel fought off Anthropic's highly skilled lawyers from five

3 different quality firms.

4   9. None of these issues were "cut and paste." They required cutting-edge legal analysis

5 in a fast-moving, novel area of the law. Before this litigation, I am aware of no court having ever

6 (a) held that piracy by an AI company constituted copyright infringement, or (b) certified a class in

7 a copyright infringement action against an AI company. Moreover, the last major copyright class

8 action for copyright owners of books, the *Authors Guild v. Google* case, resulted in failure—a low

9 per-work settlement that the Second Circuit rejected, followed by a total loss on summary judgment

10 later affirmed on appeal. But in this case—just one month after this Court certified the class and

11 two months after the Court denied Anthropic's motion for summary judgment in light of Plaintiffs'

12 opposition, observing that Anthropic's piracy was "inherently, irredeemably infringing"—

13 Plaintiffs secured a $1.5 billion settlement accompanied by significant non-monetary relief. Dkt.

14 231 at 18–19. That result is genuinely historic, and it was possible only because Counsel were

15 willing to take the risk of fighting this case—with a leanly-staffed, streamlined team to boot.

16 Indeed, I and my colleagues Rohit Nath and Craig Smyser wrote an article describing the piracy

17 theory as one that all sides in the debate had previously overlooked. *See* Nelson, Nath, Smyser,

18 *Poisoning the WeLL(M): Pirated Data, Large Language Models, and Copyright*, THE ADVOCATE,

19 Winter 2024, https://tinyurl.com/Poisoning-The-Well.

20   10. Class Counsel's work received exceptional praise from the Court from the beginning

21 of the case to the end. As the Court's scheduling conference on October 10, 2024, for example, the

22 Court asked each side to provide an impromptu two-minute summary of their arguments. I

23 previewed the arguments that have been hotly contested in this Court, including piracy. The Court

24 commented: "A very good, short summary. You get an A plus." Dkt. 50 at 5. Near the end of the

25 second preliminary approval hearing, the Court observed that "We have some of the best lawyers

26 in America in this courtroom now." Dkt. 431 at 17. And the Court has continued to praise the

27 settlement thereafter, calling it a "home run," Dkt. 484 at 54, and stating "I don't see how you could

28 get a better deal than the deal that's on the table now," Dkt. 503 at 139.

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11. Susman Godfrey also reports time records, which are broken down here using eleven categories of task codes: (1) Administrative; (2) Expert Consultants (including expert depositions); (3) Pleading/briefing/legal analysis; (4) Case management (including development of the Works List); (5) Offensive discovery; (6) Client communication and defensive discovery; (7) Third-party discovery; (8) Court appearances/preparation; (9) Investigation and document analysis; (10) Depositions; and (11) Settlement. The schedule below provides a summary reflecting the amount of time spent in aggregate by the attorneys and professional support staff of Susman Godfrey who were involved in this litigation in each of these categories. The schedule was prepared from daily time records. Time expended in preparing the application for fees and submitting requests for reimbursement of expenses are excluded and not reflected below. Hours worked by summer associates and a small number of attorneys and staff who provided fewer than 10 hours of time have also been excluded and are not reflected below.

TASK CATEGORY	TOTAL HOURS	TOTAL
Case Management	3,568.9	$ 3,677,152.50
Pleading/Briefing/Analysis	1,666.3	$ 1,702,782.50
Investigation and Document Analysis	1,212.5	$ 843,872.50
Court Appearance	823.7	$ 1,007,842.50
Settlement	681.2	$ 867,895.00
Offensive Discovery	538.0	$ 466,087.50
Deposition	453.8	$ 426,362.50
Experts/Consultants	290.4	$ 247,987.50
Client Communication/Defensive Discovery	94.1	$ 65,635.00
Third-Party Discovery	12.2	$ 6,855.00
Administration	0.5	$ 137.50
TOTAL	9,341.6	$ 9,312,610.00

12. This categorization of SG's billing reflects the efficient and thoughtful approach the firm employed in litigating this matter. Case Management tasks—the top category—included, among other things, the monumental, first-of-its-kind compilation of a Works List ready to withstand a *Daubert* challenge, involving the identification of half-a-million works captured in pirate shadow libraries (as well as their authors, publishers, copyright claimants, ISBNs, and copyright registration numbers), using information obtained in discovery and through multiple public and proprietary databases, including massive datasets of copyright and ISBN information.

1   To say that producing the Works List was a massive undertaking is an understatement—it alone

2   required ***thousands*** of hours to create. This category also reflects the intensive case work that

3   required constant supervision and oversight, often with multiple judgment and strategy decisions

4   occurring on a daily basis on matters large and small.

5   13.   Similarly, the second category—which includes briefing and legal analysis—

6   reflects the intense efforts of the SG team alongside co-counsel in the most critical areas of this

7   case. Those areas included successfully prevailing on a first-of-its-kind class certification motion;

8   prevailing in part at summary judgment, in yet another first-of-its kind motion; litigating 17 motions

9   to compel; prevailing on Anthropic's motion to stay in the district court; and advancing powerful

10   oppositions to a suite of Anthropic's other motions which were not resolved in light of the

11   settlement (*e.g.*, Anthropic's motions for interlocutory review under 28 U.S.C. § 1292(b), for

12   interlocutory review under a Rule 23(f), and to stay in the Ninth Circuit).

13   14.   Finally, the third category of investigation and document review—which, combined

14   with the prior two categories constitute a total of 69% of the time spent by SG in this case—was

15   especially important. It was Class Counsel who were responsible for revealing through the

16   discovery process the existence and extent of Anthropic's massive piracy of LibGen and PiLiMi

17   datasets. Class Counsel were then successfully able to incorporate that discovery into their motion

18   for class certification due only six days after Anthropic produced its reliance on LibGen and

19   PiLiMi, with the Court ultimately certifying classes with respect to those shadow libraries. The

20   expenditure on investigation and document review likewise dovetails with the extensive discovery

21   in this action, in which more than 80,000 documents from Anthropic (spanning two million pages)

22   were reviewed, alongside hundreds of gigabytes of training data, Slack exports, Notion wikis, and

23   Google Vault data.

24   15.   In short, I believe Susman Godfrey's lodestar is reasonable given the extensive work

25   required in this case, the staffing model that Susman Godfrey employed, and the incredible results

26   that Plaintiffs obtained.

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1   **II.   Susman Godfrey's Future Lodestar Reflects the Significant Work Ahead**

2   16.   The Susman Godfrey team will continue to spend significant time in this case. The

3   final approval hearing is over four months away; the claims-filing period is open for another three-

4   plus months and indeed can extend even past final approval; and Anthropic's payment obligations

5   will, at present, conclude in September 2027. Each of these tasks—preparing for the final approval

6   hearing, assisting in the claims process and dispute resolution, and monitoring Anthropic's financial

7   situation (*e.g.*, qualified financing events; risks to Anthropic's liquidity or ability to pay a judgment)

8   will require additional time expenditures from the Susman Godfrey team.

9   17.   I estimate these tasks projected through February 2027 will require an additional

10   5,356 hours of time expenditure at a lodestar of $3,969,575.00.[1] I and my SG team reached that

11   estimate by making conservative projections based on the time that the Susman Godfrey team

12   invested at analogous points in the case—namely, in the period before and following preliminary

13   approval, where many similar tasks were conducted. That analogy provides a meaningful way to

14   estimate the future time expenditures of counsel as this case progresses. A per-person, per-month

15   overview of these projections is available at the Court's request. Note that these projections do not

16   include any time for appeals.

17   18.   First, the tasks that will be conducted at final approval will overlap—while also

18   extend beyond—those conducted at preliminary approval. Those tasks were significant. At

19   preliminary approval, Susman Godfrey alongside co-Class Counsel (i) submitted an extensive,

20   detailed motion for preliminary approval on September 5, 2025, less than two weeks after executing

21   a binding term sheet; (ii) submitted six separate declarations and a dozen exhibits; (iii) participated

22   in an initial hearing on preliminary approval; (iv) responded to 34 additional questions from the

23   Court in a 53-page submission; (v) submitted a 33-page supplemental brief in support of

24   preliminary approval, Dkt. 401, with a detailed Plan of Allocation, Dkt. 401-1, backed by 16

25   declarations from numerous industry organizations—both author and publisher, *see, e.g.*, Dkts.

26   388–96. Many of these tasks will assuredly have to be conducted for final approval, too—at

27   minimum, the submission of additional briefing, the preparation for and participation in a final

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[1] SG's total present and future time is thus 14,667.6 hours at a lodestar of $13,282,185.00.

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approval hearing, and the submission of fact and potentially expert declarations regarding the settlement. In addition, counsel will also have to inform the Court of developments during the claims process. That process, which has only just begun, will involve author and publisher constituencies across the globe and will implicate nearly half-a-million unique copyrighted works.

19.   Second, the tasks that will be conducted during the claims process and in dispute resolution are also similar—but will again extend beyond—the tasks that occurred during the preliminary approval process. At the time of preliminary approval, the Susman Godfrey team studied a number of contractual relationships between authors and publishers to determine whether to include a default-split option in the Claim Form (as well as what that split should be and in what contexts it should be applied). So too did the Susman Godfrey team review case law concerning issues related to when litigation rights to copyrights vest; whether they can be transferred; and how contracts between authors and publishers can alter those rules. These tasks—reviewing contracts and engaging in legal analysis of the distribution of rights under them—will also be carried out during the settlement process, as Class Counsel offer ongoing aid to the Settlement Administrator and to Class Members in resolving disputes prior to any submission to the Special Master. This will also include monitoring social media and other media for, among other things, misleading statements and solicitations related to the Settlement. *See, e.g.,* Dkt. 478 (minute entry for proceedings regarding nonparty ClaimsHero); Dkt. 442 (Class Counsel's motion addressing misleading solicitations to class members by ClaimsHero).

20.   The claims process and dispute resolution will also require additional efforts from counsel that go beyond analogous tasks conducted during the preliminary approval stage. For example, the Susman Godfrey team will be on standby to address any issues raised by Class Members, including as related to all of their options under the Settlement (*e.g.*, how to file a claim, how to opt out, how to object, how to reinclude); which works of theirs are eligible; when to expect payment and how to receive it; how to coordinate amongst rightsholders; how they want to receive payment and tracking down contact information (especially for owners of a claimed work who did not file their own claim); and any other questions that might arise. The Susman Godfrey team along with co-lead counsel has already been extensively engaged in these efforts, which has taken

1   upwards of 100 hours and which I expect will likely intensify as the claims process continues. The

2   Susman Godfrey team will also provide ample assistance during the dispute resolution process.

3   That assistance will include helping Class Members address issues with respect to their contractual

4   relationships with other Class Members; working with the Settlement Administrator to reach

5   amicable resolutions between differing parties; and ensuring, if ultimately necessary, that Class

6   Members can utilize the services of the Special Master. The proposed future time expenditures

7   account for the significant effort these tasks will take.

8   21.   Third, the Susman Godfrey team will also actively monitor Anthropic's financial

9   situation to ensure the Class is protected. The Settlement Agreement requires that, in the event of

10   a qualified financing event or liquidity event, Anthropic's payments to the class must generally be

11   accelerated to within 30 days of those events' closing. To ensure that the class is timely

12   compensated, Class Counsel will actively monitor and investigate the financing and liquidity events

13   that Anthropic is experiencing. In addition, because Anthropic is competing in a volatile, fast-

14   moving industry—and because Anthropic reportedly spent much more than it earned in 2024—

15   Class Counsel must actively monitor Anthropic's financial condition to ensure it remains able to

16   fulfill its financial obligations to the class. These ongoing supervisory efforts will require additional

17   time expenditures from the Susman Godfrey team.

18   **III.   Susman Godfrey's Rates are Reasonable**

19   22.   Susman Godfrey frequently takes high-stakes, non-class commercial cases on a

20   contingent fee basis (e.g., patent, legal malpractice, antitrust, etc.). In cases like this one where the

21   firm is advancing expenses, the firm typically negotiates contingent fee arrangements starting at

22   40% of the gross sum recovered, with increases to 45% and then again to 50% of the gross sum

23   recovered depending on the stage of the case (plus a separate reimbursement of expenses).

24   Sophisticated parties and institutions repeatedly agree to these standard market terms and have for

25   decades. The requested fee here of 20% of the settlement fund is thus ***substantially less*** than what

26   Susman Godfrey would receive under its standard contingency agreement.

27   23.   Susman Godfrey also enters into hourly arrangements with clients. The hourly rates

28   for Susman Godfrey's attorneys and professional support staff charged here are the firm's standard

1   hourly rates that it uses in its hourly matters with clients. I have been paid my hourly rate in non-

2   contingency, hourly representations, as have other members of the Susman Godfrey team.

3   24.   The hourly rates charged by the core Susman Godfrey litigation team here are

4   reasonable when compared to market rates. In a nationwide survey of AmLaw 50 law firms

5   performed by PwC Product Sales, LLC and issued in June 2025, the median standard billing rate

6   for equity partners was $1,770; the 1st quartile standard billing rate was $2,006; and the 3rd quartile

7   standard billing rate was $1,604. For associates, the median standard billing rate was $1,088; the

8   1st quartile standard billing rate was $1,196; and the 3rd quartile standard billing rate was $986.

9   25.   Here, three of the main five SG partners involved in prosecuting this case—Mr.

10   Nath, Mr. Adamson, and Ms. Salinas—billed at rates ($975) lower than the third-lowest quartile

11   for *associates* ($988). The fourth partner—Mr. Connor—billed at a rate ($1,100) lower than 75%

12   of the partners reported in the PwC survey. The main Susman Godfrey associates involved in this

13   case—Mr. Doshi ($850), Mr. Smyser ($825), and Mr. Fredericks ($750)—meanwhile billed

14   multiple hundreds of dollars lower than the median standard billing rate for associates ($1,088).

15   26.   I was the remaining Susman Godfrey partner significantly involved in this case, and

16   I billed at a rate ($2,250), which is only slightly higher than the 1st quartile standard billing rate

17   reported by the PWC survey. SG's hourly clients regularly pay that rate in cases where SG is

18   engaged in hourly representation. And as indicated in the exhibit of peer firm rates submitted

19   herewith, my rate is indeed lower than the rates approved for partners at *two* of Anthropic's law

20   firms in this very case, Morrison and Forester ($2,475) and Latham and Watkins ($2,550). *See* Ex.

21   1. It is also lower than the top-end range approved in bankruptcy proceedings last year for five

22   comparable law firms (Covington & Burling LLP ($2,625); Kirkland & Ellis LLP ($2,445); Paul

23   Hastings LLP ($2,300); Sullivan & Cromwell LLP ($2,375); Weil, Gotshal & Manges LLP

24   ($2,350)). *Id*. And my rate is equal to the top-end range for two other law firms. *Id.* (Willkie Farr

25   & Gallagher, LLP ($2,250); Quinn Emanuel Urquhart & Sullivan, LLP ($2,250)).[2]

26   _____

27   [2] It is important to underscore that many of these rates, many of which are a year old, appear to
     significantly **understate** present billing practices. For example, partners at Quinn Emanuel now bill
     $3,000, while "[e]ven associates at the firm now bill as much as $1,665 an hour, according to court

28   filings." Debra Weiss, *This law firm bills as much as $3,000 per hour*, ABAJOURNAL.COM, Feb.
     26, 2025, (https://tinyurl.com/QEUS-bills-as-much-as-3000hr). Similarly, Latham "partners were

27.   The billing practices of the core Susman Godfrey team are also justified by their significant experience, which I overview below. A detailed overview of the experience of the Susman Godfrey firm in the class action context is available in paragraph 89 of my declaration submitted at Dkt. 362-2 on September 5, 2025. Susman Godfrey was named "Litigation Boutique of the Year" in 2023 and "Law Firm of the Year" in 2025 by The American Lawyer; "Commercial Litigation Firm of the Year" in 2023 by Benchmark Litigation; and was among five finalists for "Law Firm of the Year" and "Litigation Boutique of the Year" in 2024 by Texas Lawyer (with firms multiple its size). SG has also been consistently recognized across several practice areas in National Law Journal's "Elite Trial Lawyers," which profiles firms specifically for their plaintiff work. Law360 has named Susman Godfrey "Class Action Practice Group of the Year" in three separate years, 2024, 2018, and 2017, cementing its place as a leader in the highly complex practice area; previously gave SG the distinction of "Most Feared Plaintiffs Firm" three years in a row; and named SG the "Media & Entertainment Group" of the year in 2024. Also in 2024, the firm was also named among the few finalists for "Antitrust Firm of the Year," "Technology Firm of the Year" and "Plaintiffs Firm of the Year" by National Law Journal and "Law Firm of the Year" and "Litigation Department of the Year - General Commercial Litigation" by Texas Lawyer. Dozens of the firm's lawyers are recognized each year as "Super Lawyers" and "Rising Stars" in the states where they practice, and the firm leads Lawdragon's list of the country's top 500 lawyers year after year. The firm has also been named the country's leading litigation boutique by Vault every year since 2011.

28.   I am a partner in Susman Godfrey's Houston office and have practiced law for more than twenty years, litigating complex cases in state and federal courts throughout the United States. I have served as an adjunct professor at the University of Texas School of Law. I am a former law clerk to the Honorable Sandra Day O'Conner of the United States Supreme Court and to the Honorable J. Harvie Wilkinson III of the United States Court of Appeals for the Fourth Circuit.

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charging up to $2,745 an hour in the Chapter 11 bankruptcy of online used car seller Vroom."). *See* David Thomas, Mike Scarcella, *More lawyers join the $3,000-an-hour club, as firms close in*, REUTERS, Feb. 27, 2025, (https://tinyurl.com/Lawyers-Join-3000-Hour-Club).

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29.   In 2023, I represented Dominion Voting Systems against Fox News in helping secure the landmark $787.5 million settlement arising from the latter's defamatory news coverage claiming that Dominion's voting machines were responsible for massive voter fraud during the 2020 U.S. presidential election. The settlement is believed to be the largest defamation settlement in history. The Court in *Dominion v. Fox* publicly noted that "this is the best lawyering I've had, ever."

30.   I routinely represent clients in high-stakes and complex litigation, including helping secure a nine-figure settlement against a large rental car company for a group of people who alleged they had been falsely arrested—a set of cases that spanned multiple courts and jurisdictions, including bankruptcy court. I am also a leader in AI litigation, serving as an American Law Institute panel member on Civil Liability for Artificial Intelligence. In 2024, I was nominated for "Litigator of the Year" by the American Lawyer and am a member of the American Law Institute. Among other awards, I have been named as one of the "500 Leading Lawyers", "500 Leading Plaintiff Financial Lawyer" and "500 Leading Litigator" in America by Lawdragon; one of the few litigators on The Hollywood Reporter's list of "Hollywood's Top 100 Attorneys," and also been repeatedly recognized as American Lawyer's "Litigator of the Week" and a Benchmark Litigation, "Litigation Star." I was recently named one of Forbes' "America's Top 250 Lawyers." On May 30, 2025, the OpenAI MDL court in the Southern District of New York appointed me as interim lead class counsel in a case with similar allegations as this case. *See In Re: OpenAI, Inc. Copyright Infringement Litigation*, No. 1:25-md-03143-SHS-OTW (S.D.N.Y. May 30, 2025), Dkt. 83.

31.   Susman Godfrey partner, Rohit D. Nath, has extensive experience litigating class actions, including those involving allegations of breach of contract and royalty disputes. He served as co-lead counsel, alongside a team of Susman Godfrey lawyers, in the AXA COI ($307.5 million settlement) and 37 Besen ($91.25 million settlement) matters discussed above. He has been recognized as one of the best young lawyers in America by Lawdragon and Bloomberg Law. He was also named one of the "California Lawyer Attorneys of the Year" by Daily Journal for his successful defense of COVID-19 eviction-protection measures against constitutional challenges. Mr. Nath joined Susman Godfrey after clerking for Judge Alex Kozinski on the United States Court

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1   of Appeals for the Ninth Circuit and serving as editor-in-chief of the University of Chicago Law

2   Review.

3   32.   Susman Godfrey partner, Alejandra C. Salinas, is an experienced trial lawyer who

4   has litigated complex cases in state and federal courts throughout the United States. She has

5   amassed an impressive collection of litigation victories and favorable settlements for clients who

6   vary from Fortune 500 industry leaders to a class of indigent detainees, including a recent $37.5

7   million jury verdict. She successfully represented indirect purchasers in a class action settlement

8   against telescope manufacturers and distributors. She has been recognized as one of the best young

9   lawyers in America by Lawdragon, a "Texas Rising Star" by Thomas Reuters Super Lawyer, and

10   a "Top Women in Law in Houston" by the National Diversity Council.

11   33.   Susman Godfrey partner, Jordan Connors, has served clients in high-stakes matters

12   in both state and federal court. Connors served as counsel to the largest political subdivisions in the

13   largest state in the nation—including the University of California system, the California State

14   University System, and the County of Los Angeles—in a landmark suit against the "Big 4" wireless

15   carriers, Verizon, AT&T, Sprint, and T-Mobile for fraudulently over-billing the government.

16   Connors' clients secured record settlements valued at $175 million. And in the nationally followed

17   environmental matter, *In re Flint Water Crisis Litigation*, Connors represents a class of tens of

18   thousands of Flint residents impacted by the Flint water crisis, for whom he secured a $641 million

19   settlement with multiple government defendants. Connors has been recognized by Law & Politics

20   Magazine as a "Rising Star" every year since 2013, an honor bestowed on 2.5 percent of attorneys

21   in the state of Washington for "demonstrated excellence in the practice of law."

22   34.   Susman Godfrey partner, Michael Adamson, represents plaintiffs and defendants in

23   arbitrations and federal and state courts across the country. He has been recognized by Daily Journal

24   as a "Top 40 Lawyer Under 40" (2022), by Law.com as a "Lawyer on the Fast Track" (2025), and

25   by National Law Journal as a "Plaintiff's Attorney Trailblazer" (2023). In 2023, he secured more

26   than $330 million in a confidential arbitration pertaining to the renewable energy industry. He also

27   represents a putative class of disabled students and their families alleging systemic constitutional

28   violations, as well as violations of the Individuals with Disabilities Education Act, seeking

1   injunctive relief in the form of widespread reform to the educational system afforded to disabled

2   students in Virginia. Mr. Adamson joined Susman Godfrey after clerking for Judge Gerald Tjoflat

3   on the U.S. Court of Appeals for the Eleventh Circuit.

4   35.   Susman Godfrey associate, J. Craig Smyser, has represented both plaintiffs and

5   defendants in complex commercial and intellectual property disputes across the country. He is a

6   former law clerk to Chief Judge Debra Ann Livingston of the United States Court of Appeals for

7   the Second Circuit; and Judge Christopher R. Cooper of the United States District Court for the

8   District of Columbia. In the first major jury trial in the New York Commercial Division following

9   the COVID-19 pandemic, he represented Match.com over claims relating to valuation of synthetic

10   equity options owned by the founders of Tinder. In addition to his work on this matter, he also

11   represents putative classes of book authors—including George R. R. Martin, John Grisham, and

12   Jonathan Franzen—against OpenAI and Microsoft in *In re: OpenAI Copyright Litigation*, No. 25-

13   md-3143-SHS-OTW (S.D.N.Y.), and putative classes of book authors against Mosaic and

14   Databricks in *In Re Mosaic LLM Litigation,* No. 3:24-cv-01451-CRB-LJC (N.D. Cal.), and against

15   NVIDIA in *Nazemian v. NVIDIA Corp.*, No. 4:24-cv-1454-JST-SK (N.D. Cal.). Alongside Mr.

16   Nelson and Mr. Nath, he co-authored an article for the Texas State Bar's *The Advocate* referenced

17   above.

18   36.   Susman Godfrey associate, Samir Doshi, has litigated complex cases throughout the

19   United States. He is a former law clerk to Chief Justice John G. Roberts, Jr., of the United States

20   Supreme Court; the Honorable Raymond J. Lohier, Jr., of the United States Court of Appeals for

21   the Second Circuit; and Judge Randolph D. Moss of the United States District Court for the District

22   of Columbia. He also served as a Bristow Fellow in the Office of the Solicitor General in the United

23   States Department of Justice. He represents the class plaintiffs in *In re National Football League's*

24   *"Sunday Ticket" Antitrust Litigation*, No. 2:15-ml-02668-PSG-SK (C.D. Cal.), which resulted in a

25   $4.7 billion pre-trebling jury damages award, now on appeal to the Ninth Circuit after the District

26   Court's grant of JMOL in defendants' favor. In 2024–2025, Mr. Doshi also represented Everly

27   Health in an arbitration for breach of contract and violations of the Lanham Act, which resulted in

28   an arbitral award to Everly for $987 million, later confirmed by the United States District Court for

the District of Delaware at over $1.03 billion. Mr. Doshi has been named a "Rising Star of the Plaintiffs' Bar" by the National Law Journal and features in the 2026 edition of "Best Lawyers: Ones to Watch in America" in the commercial litigation category.

37.   Former Susman Godfrey associate, Collin Fredricks, is a 2020 graduate of the University of Texas McCombs School of Business and a 2024 graduate of Stanford Law School. Mr. Fredricks departed Susman Godfrey in July 2025 to begin a clerkship on the United States Court of Appeals for the Ninth Circuit for the Honorable Daniel Bress and is expected to thereafter complete a clerkship on the United States District Court for the Southern District of New York for the Honorable Arun Subramanian.

38.   True copies of the Susman Godfrey attorneys' profiles are attached as Exhibit A.

39.   In addition to the core litigation team, 10 total staff attorneys and paralegals at Susman Godfrey assisted in this action, including principally in conducting offensive and defensive discovery tasks, and aiding in the preparation of filings to the Court. As noted, per-task, per-person billing entries (including for staff attorneys and paralegals) are available for the Court's review.

IV.   Susman Godfrey's Expenses were Reasonable and Necessary

40.   SG also contributed $952,500 to the joint litigation cost fund in this case. As categorized and shown in the below schedule, separate from the joint litigation fund, SG also advanced a total of $114,248.75 in other un-reimbursed expenses in connection with the prosecution of this case. These expenses were reasonably necessary to the prosecution of this case and are of the type SG normally incurs in litigation. These include costs advanced in connection with customary litigation expenses, such as testifying and consulting experts, mediation, travel fees, and other customary litigation expenses. Expenses were calculated from the firm's books and records and represent an accurate recordation of costs and expenses. To safeguard the financial interests of the class, SG has declined to submit for reimbursement any expenditures incurred on meals or hotels.

DECLARATION OF JUSTIN NELSON
CASE NO. 3:24-CV-05417

EXPENSE TYPE	TOTAL
Air Travel	$ 43,900.35
Outside Photocopy Services	$ 21,689.48
Expert Fees	$ 14,125.00
Ground Transportation (Taxis, Car Service)	$ 12,516.65
Research Charges	$ 12,395.44
Filing Fees	$ 2,275.00
Deposition Expenses	$ 1,570.65
Prints (Color)	$ 1,052.00
Videotaped Deposition Expenses	$ 1,000.00
Prints (Black & White)	$ 960.90
Messenger Delivery Service	$ 572.44
Online Research Services	$ 419.39
Trial Transcripts	$ 383.55
Court Document Alerts	$ 333.90
Process Service Fees	$ 328.00
Parking	$ 231.15
Court Reporter Expense	$ 196.85
Secretarial Overtime	$ 150.00
Trial and Trial Preparation Expenses	$ 77.00
Certificate Copies of Documents	$ 50.00
Mileage (Travel)	$ 21.00
TOTAL	$ 114,248.75

41.   It is Susman Godfrey's policy and practice to prepare records from official source materials such as receipts and credit card records. Based on my oversight of the compilation of Susman Godfrey's expenses in this case, I believe them to constitute an accurate record of the expenses reasonably and actually incurred in the prosecution of this action. Indeed, they understate the expenses because we did not include expenses for hotel or food even though the firm imposes limitations on reimbursement amount and even though such costs are regularly submitted for reimbursement in class action cases. For airfare, I personally purchase economy tickets and Susman Godfrey reimburses no higher than the lowest refundable economy fare. All case expenses were passed along at cost, with no additional mark-up to the firm. Itemized expense reports are available for review by the Court should the Court deem it appropriate.

***

42.   I, Justin A. Nelson, declare under penalty of perjury under the laws of the United States and the State of Texas that the foregoing is true and correct to the best of my knowledge and that this declaration was executed in New York, New York on December 3, 2025.

DECLARATION OF JUSTIN NELSON
CASE NO. 3:24-CV-05417

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2
Respectfully submitted,

3
/s/ Justin Nelson

4
Justin A. Nelson (*Pro Hac Vice*)

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SUSMAN GODFREY L.L.P.

6
Co-Lead Class Counsel

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DECLARATION OF JUSTIN NELSON
CASE NO. 3:24-CV-05417

EXHIBIT A

The Susman Godfrey Difference

For over forty years, Susman Godfrey has focused its nationally recognized practice on just one thing: high-stakes commercial litigation. We are one of the nation's leading litigation boutique law firms, with offices in Houston, Los Angeles, New York, and Seattle. Susman Godfrey's experiences, track record of success, and staying power are reflected in its wide recognition as the nation's preeminent trial firm, including by *The American Lawyer* in its first-ever "Litigation Boutique of the Year" competition (an award the firm won again in 2023); by being included yearly on *National Law Journal*'s "America's Elite Trial Lawyers" list; and by being named as *Benchmark Litigation*'s National Trial Firm of the Year in 2022 and 2023. *Vault* has likewise named Susman Godfrey its #1 Litigation Boutique in America every year since 2011.

The Will to Win

At Susman Godfrey we are stand-up trial attorneys, not discovery litigators. We approach each case as if it is headed for trial. Everything that we do is designed to prepare our attorneys to persuade a jury. When you are represented by Susman Godfrey, the opposing party will know that you are willing to take the case all the way to a verdict if necessary; this fact alone can make a good settlement possible.

Susman Godfrey has a longstanding reputation as one of the premier firms of trial lawyers in the United States. We are often brought in on the eve of trial to "rescue" troubled cases or to take the reins when the case requires trial lawyers with a proven record of courtroom success.

We also want to win because we share the risk with our clients. We prefer to work on a contingency-fee basis so that our time and efforts pay off only when we win. Our interests are aligned with our clients—we want to achieve the best-possible outcome at the lowest possible cost.

Finally, we want to win because each of our attorneys shares a commitment to your success. Each attorney at the firm—associate as well as partner—examines every proposed contingent fee case and has an equal vote on whether or not to accept it. The resulting profit or loss affects the compensation of every attorney at the firm. This model has been a tremendous success for both our attorneys and our clients.

Unique Perspective

Susman Godfrey represents both plaintiffs and defendants. We thrive on variety, flexibility, and creativity. Clients appreciate the insights that our broad experience brings. "I think that's how they keep their tools sharp," says one.

We know from experience what motivates both plaintiffs and defendants. This dual perspective informs not just our trial tactics, but also our approach to settlement negotiations and mediation presentations. We are successful in court because we understand our opponent's case as well as our own.

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An Uncommon Structure

There is no costly pyramid structure at Susman Godfrey. As a business, we are lean, mean and un-leveraged—with a two-to-one ratio between partners and associates. To counter the structural bloat of our opponents, who often have three associates for each partner, we rely on creativity and efficiency.

Susman Godfrey's experience has taught what is important at trial and what can be safely ignored. We limit document discovery and depositions to the essential. For most depositions and other case-related events we send one attorney and one attorney alone to handle the matter. After four decades of trials, we know what we need—and what is just a waste of time and money.

Unparalleled Talent

Susman Godfrey prides itself on a talent pool as deep as any firm in the country. Clerking for a judge in the federal court system is considered to be the best training for a young trial attorney, 100% of our Associates and over 95% of our Partners served in these highly sought-after clerkships after law school. Eleven of our trial lawyers have clerked at the highest level—for Justices of the United States Supreme Court.

Each trial attorney at Susman Godfrey is invested in our unique model and stands ready to handle big-stakes commercial litigation.

SUSMAN GODFREY

Justin A. Nelson

Partner

Houston

(713) 651-9366

jnelson@susmangodfrey.com

Overview

Justin Nelson is the go-to lawyer for high-stakes litigation. Justin's practice centers on taking cases to trial, arguing key motions leading up to trial or the appeal, and positioning the case for victory. He brings an unparalleled combination of trial and appellate excellence. In 2024, he was nominated for Litigator of the Year by the *American Lawyer*.

Justin represented Dominion Voting Systems in its litigation against Fox, culminating in April 2023 with a $787.5 million settlement—an amount that represented "vindication and accountability," as Justin stated. Watch the video here.

> "
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> *"Justin Nelson has always had a reputation as a 'go to' lawyer in high stakes litigation but his major win in the defamation claim against Fox News has just elevated the 'go to' to 'must have.'"*
> **LawFuel, "Who is Justin Nelson – The Star Lawyer Who Took Fox News To Task"**

> "
>
> *"Justin is an amazing lawyer. He has it all. In court he's a sight to behold. His command of the law and facts is masterful."*
> **Anthony C. Lame, CEO of Green Mountain Glass**

> "
>
> *"Justin is a giant slayer. He wins. It is so impressive to watch him in action. Smart, dedicated. He fights hard for you and he does it with a smile. He's exactly what you want from a lawyer."*

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Ruben Bonet, CEO of Fractus

"

"Since Justin Nelson began appearing, the court "has granted Nelson almost everything he has asked for."
The *American Lawyer*, click here for the full article

The Court in *Dominion v. Fox* publicly noted at the time of the settlement that "this is the best lawyering I've had, ever." Justin took the deposition of Rupert Murdoch, among other key witnesses. A CNN legal commentator stated about that deposition: "I've never seen anything like these admissions. This is one of the most damaging depositions I've ever seen in my thirty years practicing law."

Justin is one of the foremost leaders and experts in AI litigation. He was selected by the Court to serve as Interim Lead Class Counsel in MDL suits versus OpenAI and Microsoft, *In re: Open AI Copyright Infringement Litigation* (read more).

Justin is co-lead counsel representing copyright owners against Anthropic, alleging Anthropic committed copyright infringement in its artificial intelligence systems. The case against Anthropic recently settled in "historic" fashion.

Justin has a number of other cases regarding artificial intelligence, including other copyright matters along with patent litigation. He also is defending Media Matters against X Corp., a case that has received attention based on the implications for the First Amendment and for media organizations. Justin also serves as an American Law Institute panel member on Civil Liability for Artificial Intelligence and speaks regularly on AI-related issues.

Justin's practice spans across other complex cases as well, from antitrust to bankruptcy to contractual disputes to fraud to patent litigation to trade secret theft.

Among other cases, Justin was lead counsel for Green Mountain when it obtained a $64.5 million judgment against Ardagh in the Federal District Court of Delaware—a verdict upheld on appeal and was included on *National Law Journal's* Top 100 Verdicts of the Year list. Justin won a $38 million judgment for repeat client, Fractus, (a case that later settled on appeal) and has led a strategy that has resulted in Fractus recovering over $100 million..

HIGH PROFILE LITIGATION

Dominion v. Fox was one of a number of high-profile cases for Justin. In Dominion v. Fox, the summary judgment briefing in the case earned widespread praise from the legal community and the broader public alike.

SUSMAN GODFREY

Justin also represented a number of plaintiffs against a major car rental company that resulted in victories in court and ultimately a settlement.

Justin previously represented various governmental individuals regarding the 2020 election. His clients included entities with both Republican and Democratic control. Among his clients, Justin represented the Arizona Secretary of State in *Bowyer v. Ducey* and argued the successful motion to dismiss regarding the false allegations of election fraud. Justin also successfully represented the Governor of Wisconsin in a series of litigations related to the 2020 election.

Justin also represented a number of plaintiffs against a major car company that allegedly falsely reported its clients to the police for car theft. That case resulted in a combined nine-figure settlement across the hundreds of plaintiffs who had been injured by the false reports. The artificial intelligence cases and the ERC cases also have generated substantial attention given their intersection of law and policy—an area where Justin often litigates.

RECOGNITION

The legal industry has taken note of Justin's litigation talents. In June 2024, he was named one of Hollywood's Top 100 Lawyers by the *Hollywood Reporter*. In 2010, *American Lawyer* wrote about how Justin fought off efforts from large banks to ram through a plan that would have disadvantaged individuals in the multi-billion Washington Mutual bankruptcy. And he has been names to Forbes' America's Top 250 Lawyers for 2025, and has been repeatedly honored as a *Lawdragon 500* Leading Litigator. In 2024, the *American Lawyer* nominated Justin for Litigator of the Year.

BACKGROUND & COMMITMENT TO THE LEGAL INDUSTRY

Justin is a former law clerk to Justice Sandra Day O'Connor at the United States Supreme Court and for Judge J. Harvie Wilkinson, United States Court of Appeals for the Fourth Circuit. Justin has represented various parties as amici in the Supreme Court of the United States, in cases ranging from intellectual property to antitrust to election law. He has practiced First Amendment law on behalf of various media companies.

Justin is one of the very few lawyers who have both clerked for the United States Supreme Court and also served as lead trial counsel in a verdict of over $50 million.

Justin also has taught Advanced Constitutional Law on the Law of the Political Process and has served as the Chair of the Economics of the Profession Committee in the American Bar Association's Intellectual Property Division. He is a Fellow of the American Bar Association and the Texas Bar Association. Justin also currently teaches *Legislation & Statutory Interpretation* as an adjunct professor at The University of Texas School of Law, a class that

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covers a wide range of issues from public policy to statutes to criminal law to Constitutional law and the First Amendment.

In addition to his legal writings, Justin's article on Lyndon Johnson's role at the 1968 Democratic Convention appeared in the Presidential Studies Quarterly.

Justin is a member of Susman Godfrey's Executive Committee.

Notable Representations

Representative Matters

- ***In re: Open AI Copyright Infringement Litigation.*** <u>Selected by the Court to serve as Interim Lead Class Counsel</u> in MDL suits versus OpenAI and Microsoft. The case is in early stages.

- ***Andrea Bartz et al. v. Anthropic PBC.*** Co-lead counsel to a class of copyright owners bringing copyright infringement claims against Anthropic pending before Judge William Alsup in the Northern District of California. Class plaintiffs are best-selling authors who allege their books were illegally pirated and used to develop Anthropic's Large Language Models. The case recently announced a historic proposed settlement.

- ***Dominion v. Fox***. Justin represented Dominion in the Dominion v. Fox litigation, a case that received widespread attention and resulted in a historic $787.5 million settlement.

- ***ParTec v. Microsoft.*** Representing German supercomputing pioneer ParTec AG—which has helped design some of the most powerful supercomputers in Europe—in litigation against Microsoft. ParTec alleges that the infrastructure powering Microsoft's AI services and used for AI training and inferencing infringes ParTec patents relating to the dynamic assignment of computing resources and tasks.

- **Nvidia Class Action.** Counsel to a putative classes of book authors bringing copyright infringement claims against Nvidia pending before Judge Jon Steven Tigar in the Northern District of California. Class plaintiffs are best-selling authors who allege their books were illegally pirated and used to develop Nvidia's Large Language Models.

- **DataBricks Class Action.** Counsel to a putative classes of book authors bringing copyright infringement claims against Databricks and Mosaic ML pending before Judge Charles Breyer in the Northern District of California. Class plaintiffs are best-selling authors who allege their books were illegally pirated and used to develop Databrick's and Mosaic's Large Language Models.

- **Election Litigation** Working pro bono on election-related litigation, Justin successfully represented various governmental actors in a non-partisan capacity during the 2020 election. His clients included those controlled by Republicans and Democrats. As Susman Godfrey lead counsel, his

SUSMAN GODFREY

representations included the Arizona Secretary of State and the Wisconsin Governor in litigation defending the integrity of the 2020 election. These cases generated a significant amount of attention because the rulings—including in a case that Justin argued—made clear that the rule of law would prevail.

- ***Cohen v. OAN.*** Persuaded One America News Network (OAN) to publicly retract a false article that OAN published about Michael Cohen, Donald Trump's former personal counsel. The retraction came after an OAN article falsely claimed Mr. Cohen was having an affair with adult film actress Stormy Daniels, and that Mr. Cohen was trying to extort Mr. Trump. Read more.

- ***Green Mountain Glass LLC and Culchrome LLC v. Saint-Gobain Containers, Inc., d.b.a Verallia North America.*** Served as lead counsel to Green Mountain Glass LLC in a patent infringement matter that spanned three years. A federal jury in Wilmington, Delaware awarded Green Mountain Glass more than $50.3 million in its lawsuit against Ardagh Glass, Inc. The jury found Ardagh, formerly known as Saint-Gobain Containers, willfully infringed Green Mountain's patent No. 5,718,737 for technology that allows glass manufacturers to use recycled glass of mixed colors. Click herefor more on the case or click here to read *Law360's* feature on the case in their "How They Won It" series.

- **Equity Committee of Washington Mutual**. Representing the Equity Committee, Justin helped the equity holders in Washington Mutual receive stock in the re-emerged company and a substantial role in the Liquidation Trust. In confirming the plan, the bankruptcy judge stated: "*I think the equity committee has really, really done a great job in getting a recovery for its constituents*." *American Lawyer*awarded Justin "Litigator of the Week" for his work on the case.

- ***Fractus v. Samsung et al***. Served as co-lead counsel in a patent case involving antennas for mobile phones. In addition to running the case on a daily basis and examining key witnesses, Justin argued case-dispositive matters such as Markman and summary judgment. Before trial, Fractus reached licenses with all the original Defendants except for Samsung. These licenses resulted in agreements worth over $100 million in total. During trial against Samsung, Justin presented and cross-examined key witnesses such as one of the inventors of the patents-in-suit; Fractus's technical expert; Samsung's lead engineer; and Samsung's damages expert. The trial resulted in a $23 million jury verdict for his client Fractus against Samsung, and a $38 million judgment. The case was settled after Justin's appellate argument. Read more.

- ***In re Stewart***. Represented a family member who had been excluded from a large estate. Justin prevailed against the Estate's Motion to Dismiss and invalidated the in terrorem clauses in the will and trust. In addition, he successfully argued that the trial court that Arizona should recognize a claim of tortious interference with inheritance, becoming the

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first court in the state to do so. Soon after the court ruled in favor of Justin's client, the case settled.

Honors & Distinctions

- Litigator of the Week, Law.com (2025)
- Named Among America's Top 250 Lawyers 2025, *Forbes* (2025)
- Power Lawyer, *The Hollywood Reporter* (2024)
- *Lawdragon* 500 Leading Lawyer (2024, 2025)
- Patent Star, *Managing IP* (2025)
- IAM Patent 1000: Worlds Leading Patent Professionals (2023, 2024)-
- *American Lawyer's*Litigator of the Week in 2023 for his work related to *Dominion v. Fox* and in 2010 for his work related to the Washington Mutual litigation.
- Litigation Star, Benchmark Litigation (2022, 2023, 2024, 2025 Euromoney)
- *Lawdragon* 500 Leading Plaintiff Financial Lawyer (2023, 2024, 2025)
- *Lawdragon*500 Leading Litigator (2023, 2024, 2025, 2026)
- Recommended Lawyer, Dispute Resolution: General Commercial Disputes, The Legal 500 (2018, 2019)
- Recommended Lawyer, IAM Patent 1000
- John Ordronaux Prize for Highest Academic Average in Graduating Class
- James Kent Scholar, 1997-98, 1998-99, 1999-2000
-

Clerkships

Honorable Sandra Day O'Connor, Supreme Court of the United States, 2002-2003

Honorable J. Harvie Wilkinson III, United States Court of Appeals for the Fourth Circuit, 2000-2001

Education

Yale University (B.A., cum laude, 1997)

Columbia Law School (J.D., 2000)

SUSMAN GODFREY

Rohit Nath

Partner

Los Angeles

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rnath@susmangodfrey.com

Overview

Rohit Nath leads groundbreaking litigation across the United States. For plaintiffs, he has recovered over $500 million, taking on the world's largest technology companies, insurers, international wireless carriers, and more. On the defense side, Nath has represented Fortune 500 companies in cases with billions at stake. Nath has been named a California Lawyer of the Year (*Daily Journal*), a Rising Star of the Plaintiffs Bar (*NLJ*), a Sports and Entertainment Litigation Trailblazer (*NLJ*), and a Top Intellectual Property Lawyer (*Daily Journal*).

Most recently, Nath has been at the forefront of artificial intelligence litigation. This includes *Bartz v. Anthropic*, where he co-led a Susman Godfrey team that secured a $1.5 billion settlement, which, if approved, will be the largest reported copyright settlement in history.

LANDMARK AI LITIGATION

In a historic copyright infringement action, Nath co-led a team from Susman Godfrey to secure a $1.5 billion settlement for rightsholders whose books were downloaded by Anthropic from pirated databases. The settlement is subject to court approval and, if approved, would be the largest reported settlement in copyright history. Nath and his co-lead counsel were named Litigators of the Week by Law.com for this precedent-setting result.

Nath argued successfully in opposition to Anthropic's summary judgment motion on fair use, which paved the way for the settlement. Read more in the *New York Times*, *Bloomberg,* and Law.com.

Nath is also leading litigation related to copyright infringement and artificial intelligence in *In re OpenAI Inc. Copyright Infringement Litigation*, where he represents a group of prominent writers—including the John Grisham, David Baldacci, Jonathan Franzen, and Pulitzer Prize winners Stacy Schiff and Kai

SUSMAN GODFREY

Bird—against OpenAI and Microsoft. Nath also co-leads AI copyright cases against Databricks and NVIDIA.

In *Doe v. Mindgeek*, Nath represents a certified class of minors against the world's largest online pornography company. The case alleges that Mindgeek promoted and profited from the distribution of child pornography on its websites. In July 2024, Nath argued summary judgment on cutting edge issues of Section 230.

WINS FOR INSURANCE POLICYHOLDERS

Nath helped secure a $307.5 million deal against AXA for victims of an life insurance rate increase targeting elderly insureds. The settlement came after nearly seven years of litigation, and after plaintiffs succeeded on class certification and defeated summary judgment.

In *37 Besen Parkway LLC v. John Hancock Life Insurance Co,* Nath helped secure a settlement of $91.25 million (before fees and expenses) for a certified class of insurance policy owners against John Hancock Life Insurance Company. In the final approval order, Judge Paul Gardephe described the settlement as a "**quite extraordinary . . . result achieved on behalf of the class**." You can read more about the case here (subscription required).

DEFENSE-SIDE LITIGATION

On the defense side, Nath has represented some of the largest companies in their biggest disputes. In 2021, Nath represented Match Group in a nearly four week jury trial over a multi-billion dispute related to the founding of the popular dating app Tinder. In 2025, Nath represented Chevron U.S.A. in a property dispute in Kern County, where Nath argued and won key motions on the eve of trial.

PRO BONO

Nath previously received a Public Counsel Pro Bono award for his work defending the COVID-19 mortarium in the City of Los Angeles and other moratoria across the state. In *Apartment Association of Greater Los Angeles.v. City of Los Angeles*, Nath helped secure the first federal appellate decision upholding a COVID-19 eviction moratorium in the country.

The *Daily Journal* profiled Nath and his colleagues for their work in this area and named them a California Lawyer Attorney of the Year in 2023 for their critical work. Read more in the San Francisco Chronicle and Law360 (subscription required).

BACKGROUND

Nath joined Susman Godfrey after working as a trial attorney at the U.S. Department of Justice and as a law clerk for Judge Alex Kozinski (Ret.) on the U.S. Court of Appeals for the Ninth Circuit. He graduated with high honors

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from The University of Chicago Law School, where he served as editor-in-chief of *The University of Chicago Law Review*.

Before law school, he taught eighth-grade math in Oklahoma as a Teach for America corps member. Nath is a longtime board member of the South Asian Bar Association of Southern California and served as co-president during the 2021-2022 term. He is also a member of the Executive Committee of the Litigation Section of the Los Angeles County Bar Association.

Notable Representations

Insurance

- ***In re AXA Equitable Life Insurance Company COI Litigation (S.D.N.Y)*** Secured a $307.5 million deal for a putative class of plaintiffs who challenged AXA's 2016 hike of cost on insurance rates on hundreds of elderly insureds, claiming AXA unfairly increased the cost of insurance for certain flexible-premium universal life insurance policies.

- ***Helen Hanks v. Voya Retirement Insurance and Annuity Company*** **(S.D.N.Y.)** Secured settlement worth $118 million, before fees and expenses, including a cash fund of over $92 million and an agreement by Voya not to impose a higher rate scale for 5 years, on behalf of a certified class of 46,000+ policyholders over allegations that Voya improperly raised cost-of-insurance charges.

- ***37 Bensen Parkway v. John Hancock Life Insurance Company (S.D.N.Y)*** Secured a $91.25 million settlement all-cash, non-reversionary settlement (before fees and expenses) for insurance policy owners against John Hancock Life Insurance Company. The Honorable Paul Gardephe described the settlement as a "**quite extraordinary . . . result achieved on behalf of the class."**

Breach of Contract

- ***State of California, et al., On The Go Wireless, LLC, v. Cellco Partnership, et al****. Served as trial counsel representing the largest political subdivisions in the largest state in the nation—including the University of California system, the California State University System, and the County of Los Angeles, to name a few—in this groundbreaking suit against Verizon, AT&T, and Sprint for over-billing the government. Nath helped secure settlements with all defendants collectively valued at $175 million, which have been paid to hundreds of California and Nevada government entities. These record-setting settlements are the largest of their kind in California.

- ***Rui Zhi Ventures, Ltd. v. Lighting Science Group Corporation*** **(C.D. Cal. and JAMS Arbitration)** Represented Lighting Science Group Corporation in a fee dispute with its former patent broker. After

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successfully compelling arbitration, the parties reached a confidential settlement on the eve of the plenary arbitration hearing.

- ***Bernstein, et al. v. Cengage Learning, Inc.* (S.D.N.Y.)** Represented authors of higher education textbooks for failure to pay royalties owed on their contracts when those texts were offered on the company's online platforms. Secured a non-reversionary settlement of $21 million approved by the court for past damages.

Intellectual Property

- <u>***Bartz et al. v. Anthropic PBC***</u> **(N.D. Cal)** Secured a <u>$1.5 billion settlement</u> in a "<u>historic</u>" deal for rightsholders whose books were downloaded by Anthropic from the pirated databases "Library Genesis" and "Pirate Library Mirror." This settlement is the largest publicly reported recovery in the history of U.S. copyright litigation. When preliminarily approving the settlement, Judge Alsup said, **"We have some of the best lawyers in America in the courtroom right now."** Read more in *<u>Bloomberg</u>* and <u>Law.com</u>.

- ***In Re OpenAI Inc. Copyright Infringement Litigation* (S.D.N.Y.)** Represents a putative classes of book authors bringing copyright infringement claims against OpenAI and Microsoft. Class plaintiffs are best-selling authors who allege their books were illegally pirated and used to develop OpenAI and Microsoft's Large Language Models, including the models used in ChatGPT.

- ***Flo & Eddie Inc. v. Pandora* (C.D. Cal.)** Served as co-lead counsel representing Flo & Eddie (the founding members of 70's music group, The Turtles) in a putative class action alleging infringement of the public performance right in sound recordings, copying, and misappropriation. This case followed the similar*, Flo & Eddie v. Sirius XM*, in which Susman Godfrey secured a settlement for the class valued at up to $73 million. The Court granted final approval of that settlement in 2017.

- ***Personalized Media Communications, LLC Cases* (E.D. Tex.)** Represented Personalized Media Communications (PMC) in a series of patent infringement cases against Vizio, Samsung, and Funai. Nath played a key role in these cases, which included taking and defending key depositions and briefing claim construction motions. PMC reached favorable, confidential settlements with each defendant.

Honors & Distinctions

- Litigator of the Week, Law.com (<u>2025</u>)

- Top Intellectual Property Lawyer, *The Daily Journal* (<u>2025</u>)

- Lawdragon 500X – The Next Generation of Leading Lawyers (<u>2023</u>, <u>2024</u>, <u>2025</u>)

- "<u>They've Got Next: The 40 Under 40</u>" *<u>Bloomberg Law</u>* (Bloomberg, 2023)

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- <u>California Lawyer Attorney of the Year</u>, *Daily Journal* (2023)

- <u>Rising Stars of the Plaintiffs Bar</u>, *National Law Journal's* Elite Trial Lawyers (2022, ALM)

- Public Counsel <u>Pro Bono Award</u> (2020)

- Named a <u>Sports and Entertainment Litigation Trailblazer</u> by *National Law Journal* (2020, ALM)

- Rising Star, Southern California (2020, 2021, <u>2022</u>, <u>2023</u>, <u>2024,</u> <u>2025</u> Thomson Reuters)

- Editor-in-Chief, *The University of Chicago Law Review*

- Order of the Coif

- Kirkland & Ellis Scholar: Awarded to top 5 percent of the 1L class

- 2011 Teacher of Today Award

- Wake Forest University Debate Team

Clerkships   Honorable Alex Kozinski, United States Court of Appeals for the Ninth Circuit

Education   **The University of Chicago Law School** (J.D., with High Honors, Order of the Coif, 2014)

- Editor-in-Chief, *The University of Chicago Law Review*

Wake Forest University (B.A., magna cum laude, 2009)

SUSMAN GODFREY

Alejandra C. Salinas

Partner

Houston

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Overview

Recognized as a "Top Women in Law in Houston" by the National Diversity Council, a "Texas Rising Star" by Thomas Reuters Super Lawyer, and as a member of "The Next Generation of Leading Lawyers" by Lawdragon, Alejandra Salinas tries high stakes cases in courtrooms across the country.

Alejandra has helped secure hundreds of millions of dollars for her clients. She litigates cases across a wide array of practice areas, including contract disputes, intellectual property disputes, antitrust claims, and many other complex commercial and financial matters.

Among other cases, Alejandra currently represents Pulitzer-winning authors in a federal copyright infringement class action against OpenAI and Microsoft, related to the companies' unlicensed use of the authors' books for training its large language models such as ChatGPT (*Reuters*).

Alejandra also has significant pro bono experience, including successfully defending Harris County Judge Lina Hidalgo and other county officials in election contests (*Texas Tribune*), working with the ACLU to secure a settlement with Magnolia ISD to eliminate its discriminatory hair policy (*Houston Chronicle*), co-drafting a Supreme Court amicus brief on political gerrymandering, and successfully arguing an immigration case before the 9th circuit whereby the client was able to remain in the county.

Before joining the firm, Alejandra was a surrogate for President Barack Obama and the youngest member of the Democratic National Committee's Executive Committee. She delivered a nationally televised speech on the final night of the 2012 Democratic National Convention, addressed embassies around the world, and was interviewed by CNN, Univision, Telemundo, NPR, PBS, and USA Today.

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Notable Representations

Notable Representations

- ***Atlas Global Technologies LLC v. TP-Link Technologies Co., Ltd. et al* (E.D. Tex.)** Won a $37.5 million verdict for Atlas Global Technologies in its patent infringement case against Chinese telecom equipment manufacturer TP-Link. A Texas jury issued the verdict against TP-Link for infringing five patents for wireless routers that meet an industry standard known as "WiFi 6," which was developed to provide fast, efficient internet connections for high-density locations such as offices, shopping malls and apartment buildings. Following a five-day trial and just a few hours of deliberations, the jury determined TP-Link owes Atlas $37,481,264 in damages. Read more.

- ***UNM Rainforest Innovations v. Taiwan Semiconductor Manufacturing Company (TSMC), Samsung Electronics Co. Ltd., and GlobalFoundries Inc.*** Secured confidential settlements for UNM Rainforest Innovations in its patent infringement cases against TSMC, Samsung, and GlobalFoundries involving semiconductor manufacturing technology. UNM Rainforest Innovations is the University of New Mexico's non-profit corporation dedicated to commercializing the wide range of technology developed at the UNM. Ms. Salinas delivered the opening argument in an eight-figure arbitration against one of the defendants.

- ***Insignia Systems v. News Corporation and News America Marketing (NAM).*** Secured a $20 million settlement for retail marketing firm, Insignia Systems, in its antitrust case against News Corporation and its subsidiary NAM. Insignia was one of NAM's only remaining competitors for in-store advertising displays and alleged that News Corp. and NAM acquired and maintained a monopoly in this market through exclusionary agreements. Before settlement, Ms. Salinas deposed several current and former News Corp. and NAM executives.

Honors & Distinctions

- Lawdragon 500X – The Next Generation of Leading Lawyers (2023, 2024, 2025)

- Rising Star, Texas Super Lawyers (2022, 2023, 2024, 2025 Thomson Reuters)

- Future Leader – LGBT + Equality, Chambers USA (2019)

- Top Women in Law, The National Diversity Council (2017)

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Clerkships

Chief Judge Sidney R. Thomas, United States Court of Appeals for the Ninth Circuit

Education

Boston College Law School (J.D., cum laude)

• Point Foundation Scholar (national LGBTQ scholarship)

The University of Texas (B.B.A., Management)

• Friar Society (UT's oldest honor society)

Leadership & Professional Memberships

• Board Member, Greater Houston LGBTQ+ Chamber of Commerce

• Former Co-Chair, Susman Godfrey Diversity Committee

• Board Member, Second Mile Haiti, a non-profit organization focused on empowering Haitian women and children

• Former Young Lawyer Representative, American Bar Association Antitrust Law Section

• Member, Houston Bar Association LGBTQ+ Committee

SUSMAN GODFREY

Michael Adamson

Partner

Los Angeles

(310) 789-3100

madamson@susmangodfrey.com

Overview

Trial lawyer Michael Adamson has been recognized by *Daily Journal* as one of the Top 100 Lawyers in California (2025) and a Top 40 Lawyer Under 40 (2022), by *Law.com* as a Lawyer on the Fast Track (2025), and by *National Law Journal* as a Plaintiff's Attorney Trailblazer (2023). Michael is a versatile litigator representing plaintiffs and defendants in arbitrations and federal and state courts across the country.

LEGAL VICTORIES

In a "historic" copyright infringement action, Adamson and a team from Susman Godfrey secured a $1.5 billion settlement for rightsholders whose books were downloaded by Anthropic from pirated databases "Library Genesis" and "Pirate Library Mirror." This settlement is the largest publicly reported recovery in the history of U.S. copyright litigation. When preliminarily approving the settlement, Judge Alsup said, **"We have some of the best lawyers in America in the courtroom right now."** Read more in *Bloomberg* and Law.com

Michael previously secured over $330 million in a confidential arbitration for a client in the renewable energy industry. The litigation proceeded from demand to hearing in just 60 days. After speeding through fact and expert discovery, Michael led damages examinations at the hearing and helped secure an award of 100 cents on the dollar of the client's proposed damages model. Michael also secured for the client a full reimbursement of attorneys' fees and expenses from the opposing party.

On the defense side, Michael represented Wyle Labs, a subsidiary of KBR, in a trade-secrets case. By the end of a four-week trial, the court had struck most of the damages, and the jury had rejected the most significant remaining claims. Through post-trial briefing, Michael helped defeat some of the jury's

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few unfavorable findings. The case ultimately settled for a tiny fraction of the tens of millions in damages asserted – a knockout win for Wyle.

Michael has also achieved victories for both plaintiffs and defendants in class actions. He recently helped secure an eight-figure settlement for a nationwide class of hundreds of policyholders suing PHL Variable Insurance Company for breach of contract. In state court, Michael defended cybersecurity company Bitdefender in a consumer class action asserting claims under California's Unfair Competition Law. Through mediation, Michael helped negotiate a favorable pre-discovery settlement.

PRO BONO

Michael represents a putative class of disabled students and their families alleging systemic constitutional violations, as well as violations of the Individuals with Disabilities Education Act. The class seeks injunctive relief in the form of widespread reform to the educational system afforded to disabled students in Virginia. Michael argued against defendants' motion to dismiss in this case, which has garnered national media attention from the _Wall Street Journal_, _Washington Post_, _Politico_, _Associated Press_, and others. Read more.

BACKGROUND

Michael joined Susman Godfrey after clerking for Judge Gerald Tjoflat on the U.S. Court of Appeals for the Eleventh Circuit. He received his law degree from Duke University School of Law and his undergraduate degree from the Marriott School of Business at Brigham Young University where he studied accounting and later became a Certified Public Accountant.

Before law school, Michael worked in Washington, D.C. as a legislative aide for the Ranking Member of the Senate Finance Committee, specializing in tax, banking, and financial policy.

Notable Representations

Contract Disputes

- **Confidential Arbitration.** Obtained an award of hundreds of millions of dollars in connection with fraud and breach-of-contract claims. The arbitration proceeded from demand to hearing in just 60 days, during which Michael took and defended several depositions, coordinated expert reports and discovery, and examined several witnesses at the hearing, with emphasis on damages issues. In the tribunal's award, the arbitrator fully adopted the client's damages model, awarding 100 cents on the dollar.

- **_Chevron v.California Resources Corp._** Served as counsel for American multinational energy corporation, Chevron, in a complex contractual dispute regarding oil production and gas balancing. Prior to arbitration,

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Michael helped achieve a business solution to the dispute on favorable terms for Chevron.

Insurance and Annuities

- ***Advance Trust & Life Escrow Servs, LTA et al. v. PHL Variable Ins. Co.,*(S.D.N.Y.)** Represented plaintiffs asserting breach-of-contract claims stemming from PHL Variable Insurance Company's unlawful cost of insurance rate increases imposed on plaintiffs' universal life insurance policies. After fully briefing the motion for class certification and starting summary judgment briefing, the parties agreed to an eight-figure settlement for the class.

- ***Vida Longevity Fund, LP v. Lincoln Life & Annuity Co. of N.Y.* (S.D.N.Y.)** Represents a certified class of hundreds of policyholders in an action against Lincoln National's New York affiliate, Lincoln Life & Annuity Co. of New York. The court has granted class certification.

- ***TVPX ARS Inc. v. Lincoln Nat'l Ins. Co.*(E.D. Pa.)** Represents a putative class of thousands of insurance policyholders who are asserting breach-of-contract claims against Lincoln National Insurance Company, which failed to reduce cost of insurance rates to reflect improvements in mortality rates, as the contracts require. Michael led efforts to write and file class-certification and Daubert motions, both of which are currently pending decision.

- ***Iwanski v. First Penn-Pacific Life Ins. Co.*(E.D. Pa.)** Serving as counsel to plaintiffs in this matter against Lincoln National's affiliate First Penn-Pacific Life Insurance Co. Michael has led all aspects of discovery and all major briefings. The parties are awaiting the court's decision on pending class-certification and Daubert motions.

- ***Angus v. Lincoln Nat'l Life Ins. Co.*(E.D.P.A.)** Briefed the opposition to Lincoln National's motion to dismiss, which is pending decision, in this putative class action. The plaintiff is alleging breach of contract due to Lincoln's failure to lower cost of insurance rates on universal life insurance policies despite substantial improvements in Lincoln's mortality expectations.

- ***Clinton v. Security Benefit Life Ins. Co.* (D. Kan.)** Represents putative class members asserting RICO, fraud, statutory consumer-protection claims related to misrepresentations made in connection with annuity sales made to tens of thousands of contract holders.

Intellectual Property

- ***Bartz et al. v. Anthropic PBC* (N.D. Cal)** Secured a $1.5 billion settlement in a "historic" deal for rightsholders whose books were downloaded by Anthropic from the pirated databases "Library Genesis" and "Pirate Library Mirror." This settlement is the largest publicly reported recovery in the history of U.S. copyright litigation. When preliminarily

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approving the settlement, Judge Alsup said, **"We have some of the best lawyers in America in the courtroom right now."** Read more in *Bloomberg* and Law.com.

- *Positron v. KBRWyle***(Cal. Super. Ct.)** Defended construction company, KBR and its subsidiary Wyle Laboratories against trade secret claims. After developing legal defenses not asserted by prior counsel and trying the case to a jury verdict, the court struck nearly all plaintiff's damages and the case settled for fractions of a penny on the dollar.

- *Finjan v. Bitdefender* **(N.D. Cal.)**Defended cybersecurity company, Bitdefender, in a patent infringement case. Michael argued claim construction, led all aspects of discovery, and took and defended key depositions in multiple countries. The case settled on favorable terms for Bitdefender.

Terrorism Financing

- *King et al. v. Habib Bank Ltd.* **(S.D.N.Y.)** Represents dozens of Gold Star families asserting claims associated with terrorist attacks allegedly financed and facilitated by Pakistani bank, Habib Bank Limited.

Pro Bono

- *D.C. et al. v. Fairfax County School Board et al.***(E.D. Va.)** Represents a proposed class of disabled students and their parents against the Virginia Department of Education and Fairfax County School Board for systemic constitutional violations, as well as violations of the Individuals with Disabilities Education Act. Read more.

Honors & Distinctions

- Top 100 Lawyer in California, *Daily Journal* (2025)
- Lawdragon 500X – The Next Generation of Leading Lawyers (2024, 2025)
- Recorder and Law.com – Lawyer on the Fast Track (2025)
- Plaintiff's Attorney Trailblazer, *National Law Journal* (2023)
- Top 40 Under 40, *Daily Journal* (2022)
- Finalist, Leaders in Law Rising Star, *Los Angeles Business Journal* (2021)

Clerkships

Honorable Gerald B. Tjoflat, United States Court of Appeals for the Eleventh Circuit

Education

Duke University School of Law (J.D., magna cum laude, Order of the Coif, 2016)

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- Executive Editor, *Duke Law Journal*

- Top 5 Percent of Graduating Class

- Governing Faculty Award for Excellence in Business and Finance Law

- Order of the Coif

Brigham Young University (B.S., Accounting, 2011)

Admissions

Bar Admissions

- California

- New York

Court Admissions

- U.S. District Court for the Southern District of New York

- U.S. District Court for the Eastern District of New York

- U.S. District Court for the Central District of California

- U.S. District Court for the Northern District of California

- U.S. Court of Appeals for the Fourth Circuit

Leadership & Professional Memberships

- Certified Public Accountant

SUSMAN GODFREY

Jordan Connors

Partner

Seattle

(206) 516-3880

Overview

Jordan Connors is a trusted litigator with a nationwide practice serving clients in high-stakes matters in both state and federal court. Connors has successfully represented plaintiffs and defendants in a wide variety of commercial cases, including cases that involve environmental disasters, class actions, intellectual property, trusts and estates, securities fraud, and false advertising. Connors has achieved success for his clients – who range from industry leaders to small businesses and individuals – against some of the largest companies and organizations in the world, from big banks, to big tech, to big wireless, to the United States Government.

SIGNIFICANT LITIGATION

Connors is frequently called on to litigate some of the nation's most cutting-edge cases.

For example, Connors currently represents some of the most awarded and celebrated authors in the world in their federal copyright infringement class actions against Anthropic, OpenAI, Microsoft, and others. These cases allege that the defendants have used the authors' books in connection with training and developing their large language models such as Claude and ChatGPT.

In the nationally followed environmental matter, *In re Flint Water Crisis Litigation*, Connors represents a class of tens of thousands of Flint residents impacted by the Flint water crisis. Connors has served as a leader on the case from drafting the initial complaint to coordinating and overseeing the strategic planning and efforts among the nine law firms litigating the case on behalf of the class. Connors's team recently secured preliminary approval of a $641 million settlement with multiple government defendants. Connors continues to pursue claims against the remaining defendants on behalf of certain residents in the City of Flint harmed by the water crisis.

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Connors also served as second chair in a multi-forum dispute, spanning an arbitration, two state court actions, and litigation abroad concerning a business dispute among a set of Chinese companies and investors. Connors client, Gang Yuan, achieved a complete victory at the final arbitration hearing and in related disputes in Washington State and the People's Republic of China.

Connors served as counsel to the largest political subdivisions in the largest state in the nation—including the University of California system, the California State University System, and the County of Los Angeles—in a landmark suit against the "Big 4" wireless carriers, Verizon, AT&T, Sprint, and T-Mobile for fraudulently over-billing the government. Connors' clients secured record settlements valued at $175 million. Read more about the case on _Law Street Media_ and _Law360 (subscription required)._

Connors also secured a $16.5 million settlement one month before trial (net settlement of $11.7 million) in a securities fraud class action arising from alleged misrepresentations by a biotechnology executive in a conference call with investors.

RECOGNITION AND BACKGROUND

Law & Politics Magazine, published by Thomson Reuters, has named Mr. Connors a "Rising Star" every year since 2013, an honor bestowed on 2.5 percent of attorneys in the state of Washington for "demonstrated excellence in the practice of law."

Connors is an active member of the Federal Bar Association for the Western District of Washington where he represents the Seattle Community Police Commission in its effort to provide community input on reforms for the Seattle Police Department. Before joining Susman Godfrey Connors served as Law Clerk to The Honorable Vaughn R. Walker, Chief Judge of the U.S. District Court for the Northern District of California

Notable Representations

Ongoing Litigation

- _Genus Lifesciences, Inc. v. Lannett Company, Inc._ **(N.D. Cal.).** Lead trial counsel for Genus Lifesciences, Inc. in a Lanham Act false advertising lawsuit against Lannett Corporation, Inc. involving Lannett's alleged false advertising of its C-Topical product (cocaine hydrochloride 4% solution).

- **Flint Water Crisis Litigation (E.D. Mich.).** Representing a class of tens of thousands of plaintiffs in complex litigation stemming from the contamination of the Flint, Michigan water distribution system with highly corrosive water following the 2014 switch to a new water supply. On behalf of a certified class of Flint residents, Connors has led many of the key depositions in the multiple cases, obtaining critical information about

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the truth of who and what caused the water crisis. He has also led efforts to shape the legal strategy for challenging the conduct of private engineering firms and government officials and continues to seek out compensation for the injuries resulting from lead poisoning, property damage, and other harm resulting from the highly corrosive water. Settlements to date are valued at $641 million. The case remains ongoing against remaining defendants.

- **North Carolina PFAS Litigation (E.D.N.C.).** Representing plaintiffs in a proposed class action lawsuit against DuPont and Chemours. The case seeks relief on behalf of thousands of North Carolinians who have been harmed by decades of discharges by DuPont and Chemours of GenX and other toxic PFAS chemicals by DuPont and Chemours into the water supply in the Cape Fear River basin. Click here or here for coverage on this news (*subscription required*).

- **Whidbey Island/OLF Coupevlle Naval Airflight Operations (Fed. Cl.).** Representing a class of residents of Whidbey Island, Washington pursuing a class action filed against the United States government in the U.S. Court of Federal Claims based on the U.S. Navy's substantial increase in EA18-G Growler flight operations from a small airstrip on the island and the impact on residents' properties.

Previous Wins

- ***State of California, et al., On The Go Wireless, LLC, v. CELLCO Partnership, et al*** (CA Superior Ct.). Represented some of California's largest political subdivisions—including the University of California system, the California State University System, and the County of Los Angeles, to name a few—in this groundbreaking suit against the "Big 4" wireless carriers, Verizon, AT&T, Sprint, and T-Mobile. The team recently secured settlements totaling $175 million.

- ***Clark v. AdvanceMe, Inc.***, **(C.D. Cal.).** Secured a $23.4 million settlement (set settlement of $19 million) on behalf of businesses in a class action alleging they had been injured by financial arrangements in violation of California usury laws.

- ***McGuire v. Dendreon*** **(W.D. Wash.).** Secured a $16.5 million settlement one month before trial (net settlement of $11.7 million) in a securities fraud class action arising from alleged misrepresentations by a biotechnology executive in a conference call with investors.

Honors & Distinctions

- Rising Star, Washington Super Lawyers (2013 – Present, Thomson Reuters)

- Whitney North Seymour Medal for Columbia Law student who shows greatest promise of becoming a distinguished trial advocate (2007)

- Senior Editor, Columbia Law Review (2007-2008)

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- Harlan Fiske Stone Moot Court Finalist (2008)

- Harlan Fiske Stone Scholar (2005-2006, 2006-2007, 2007-2008)

- Ann C. Seminara Award in Public Policy (2003)

Clerkships

Honorable Vaughn R. Walker, Chief Judge, United States District Court for the Northern District of California, 2008-2009

Education

Stanford University (B.A., Public Policy, 2003)

Columbia Law School (J.D., 2008)

Admissions

Bar Admissions

- Washington

Court Admissions

- Federal Bar Association for the Western District of Washington

- U.S. District Court for the Eastern District of Texas

- U.S. Court of Appeals Federal Circuit

Leadership & Professional Memberships

- Federal Bar Association for the Western District of Washington

SUSMAN GODFREY

Michael Gervais

Partner

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Overview

Michael Gervais is a skilled and accomplished trial lawyer who represents both plaintiffs and defendants in all types of high stakes commercial litigation. Gervais has amassed an impressive collection of litigation victories and favorable settlements for clients who vary from Fortune 500 industry leaders to classes of unfairly treated plaintiffs in several national high-profile lawsuits.

LANDMARK LITIGATION

Gervais worked alongside Managing Partner, Neal Manne, Partner Lexie White, and Partner Joseph Grinstein representing a class of indigent misdemeanor arrestees pro bono in a landmark case to challenge the money bail scheme in Harris County, Texas. Along with Civil Rights Corps and the Texas Fair Defense Project, Gervais's work helped secure a sweeping preliminary injunction from a Houston federal judge, who struck down Harris County, Texas' money bail system. The decision focused national attention on the countrywide practice of jailing poor people because they are unable to afford bail when arrested for minor offenses and has been covered by national outlets such as _The New York Times_, _The Houston Chronicle_, and _Lawdragon_. In the first year in which the injunctive relief was in effect, more than 12,000 people were released from jail.

In another high-profile class action, Gervais worked alongside Partners Kalpana Srinivasan, Steven Sklaver and Steve Morrissey representing Flo & Eddie, members of the 1960's rock group The Turtles, in addition to a class of copyright owners in a case against Sirius XM. In this landmark case it was established under California law, that these owners of sound recordings from before 1972 have the exclusive right to perform those recordings. Under a groundbreaking settlement, Sirius XM agreed to pay at least $25.5 million (over $16 million after fees and expenses) and royalties under a 10-year license that is valued up to $62 million (over $41 million after fees and

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expenses) as compensation for publicly performing without a license Pre-1972 sound recordings. The settlement was underlined approved by the Court, and has received widespread media coverage from publications such as *The New York Times*, *Billboard*, *The Hollywood Reporter*, *Law360*, *Rolling Stone*, *Variety*, *Reuters* and *Managing IP*.

Additionally, Gervais won a complete dismissal for energy company, Vitol, of $10 billion antitrust case filed in federal district court in Miami by a litigation trust asserting claims against numerous defendants on behalf of a Venezuelan national oil company. Gervais' firm, Susman Godfrey, was tapped to take the lead in briefing and arguing the motion to dismiss for the multi-party joint defense group. This win was reported on by *Wall Street Journal* and *Law360*. The 11th Circuit Court of Appeals affirmed the district court's decision in 2021.

Gervais was appointed by the court to serve on the Steering Committee to represent plaintiffs in a Biometric Information Privacy Act class action MDL against TikTok and its parent company. In July 2022 this District Court gave final approval to a $92 million litigation-wide settlement. This marked one of the highest privacy-related settlements in the country.

U.S. SUPREME COURT ROOTS

Before joining Susman Godfrey, Gervais served as a clerk at both the Supreme Court of the United States and in the Ninth Circuit U.S. Court of Appeals. These experiences have given him a unique perspective and a valuable background that supports the success he brings his clients in federal, district and state courts as well as in arbitration and at every level of litigation.

Notable Representations

Current Litigation

- ***In re Accellion Inc. Data Breach Litigation*** **(N.D. Cal.)** Represent a proposed nationwide class of individuals suing Accellion, Inc., after their personal information was exposed in one of the largest data breaches during the last five years.

Past Wins

- ***In re: Telescopes Antitrust Litigation*** **(N.D. Cal.)** Served as Court-appointed co-lead counsel representing a putative class of indirect purchasers of amateur telescopes impacted by a conspiracy to fix prices and allocate markets for telescopes sold to consumers in the United States. The parties reached a settlement for $32 million, which was approved by the Court. Read more.

- ***City of Sacramento v. Teva Pharmaceutical Industries, Ltd. et al.*** Represented the City of Sacramento in its opioid litigation that seeks to hold the major manufacturers and distributors of opioids responsible for

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the harm they've caused to the City. The city opted into various national settlements to resolve litigation.

- ***IQVIA, Inc. v. Veeva Systems* (D.N.J.)** Represented Veeva Systems, a CRM and master data management technology company, in federal court antitrust litigation against healthcare data and information technology provider IQVIA, Inc. The case, which involved antitrust issues relating to master data management and alleged trade secrets, settled.

- ***PHT Holding I LLC v. Security Life of Denver Insurance Company*(D. Colo.)** Represented a class of life insurance policyholders in a breach-of-contract suit against Security Life of Denver challenging increases to cost-of-insurance charges. Michael's team secured class certification of a 31-state class on a state law breach-of-contract claim. On the eve of trial, the parties settled for $30 million, a settlement the Court subsequently approved.

- ***Federal Trade Commission v. Intercontinental Exchange, Inc. (ICE) and Black Knight, Inc.*(N.D. Cal./Federal Trade Commission (FTC)** Served as counsel to Intercontinental Exchange (ICE) in proceedings brought by the FTC in federal court in California and in an administrative hearing in the FTC related to ICE's proposed acquisition of Black Knight. Working closely with ICE and the legal team, Gervais successfully navigated challenges by the FTC to clear the way for the $11.7 billion deal to move forward.

- ***Meta Platforms Inc. v. Octopus* (N.D. Cal.) *and Meta Platforms Inc. v. Social Data Trading Ltd.* (N.D. Cal.)** Represented Meta in its lawsuits against companies illicitly scraping data from its platforms.

- ***In Re: Tiktok, Inc Consumer Privacy Litigation* (N.D. Ill.)** Appointed by the U.S. District Court Northern District of Illinois to serve on the Steering Committee to represent plaintiffs in a Biometric Information Privacy Act class action MDL against TikTok and its parent company. In July 2022 this District Court gave final approval to a $92 million litigation-wide settlement. This marked one of the highest privacy-related settlements in the country.

- ***Helen Hanks vs. Voya Retirement Insurance and Annuity Company* (S.D.N.Y.)** Negotiated settlement worth $118 million, before fees and expenses, including a cash fund of over $92 million and an agreement by Voya not to impose a higher rate scale for 5 years, on behalf of a certified class of 46,000+ policyholders over allegations that Voya improperly raised cost-of-insurance charges. Over the course of litigation, the team from Susman Godfrey secured certification of the nationwide class and defeated summary judgment. The Court recognized the quality of the work, stating: "I want to commend you all for the work done on the pretrial order and motions in limine . . . I'm very happy to have you as lawyers appearing before me."

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- ***David McLaughlin v. HomeLight, Inc. et al.* (C.D. Cal.):** Successfully obtained on behalf of HomeLight a dismissal with prejudice a Lanham Act claim brought in California federal court. Read the Court's order here.

- ***PDVSA US Litigation Trust v. Lukoil Pan Americas LLC et al* (S.D. Fl.)** Won a complete dismissal for Vitol of $10 billion antitrust case filed in federal court in Miami by a litigation trust, represented by David Boies, asserting claims on behalf of the Venezuelan national oil company. Susman Godfrey was tapped to take the lead in briefing and arguing the motion to dismiss for the multi-party joint defense group. The 11th Circuit Court of Appeals affirmed the district court's decision in 2021.

- ***ODonnell et al. v. Harris County, et al*.** In this landmark constitutional case coming out of Harris County, Texas, won a landmark ruling in 2017, and was later affirmed in 2018, by the U.S. Court of Appeals for the Fifth Circuit, that the system of cash bail used in Harris County, Texas, violated the Due Process and Equal Protection rights of the thousands of misdemeanor arrestees. Gervais served on this case pro bono and was an active and critical part of the team from the filing of the Complaint to the consent decree entered by the district court following settlement.

- ***Flo & Eddie v. Sirius XM* (C.D. Cal.)** Served on a team from Susman Godfrey that was co-lead counsel to Flo & Eddie (the founding members of 70's music group, The Turtles) along with a class of owners of pre-1972 sound recordings for copyright violations by music provider Sirius XM.   Flo & Eddie settled with Sirius XM on behalf of the class in a deal worth millions and approved by the Court in May 2017. Sirius XM agreed to pay at least $25.5 million (over $16 million after fees and expenses) and royalties under a 10-year license that is valued up to $62 million (over $41 million after fees and expenses)

- ***Bahnsen et al. v. Boston Scientific Neuromodulation Corp* (D.N.J.)** Secured favorable settlement for whistleblower clients against Boston Scientific Neuromodulation Corp. Gervais was instrumental in obtaining critical deposition testimony and document discovery, defeating the defendant's motion for summary judgement, and arguing and winning crucial motions in limine that ultimately led to settlement.

Honors & Distinctions

- Lawdragon 500X – The Next Generation of Leading Lawyers (2023, 2024, 2025)

- Lawdragon, Top 500 Plaintiff Financial Lawyers (2024, 2025)

- 40 and Under Hot List, *Benchmark Litigation* (2022, 2023, 2024 Euromoney)

- Future Star, *Benchmark Litigation* (2023, 2024, 2025 Euromoney)

- "They've Got Next: The 40 Under 40" *Bloomberg Law* (Bloomberg, 2021)

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- "How I Made Partner" *Law.com* (ALM, July 2021)

- Minority Leader of Influence: Attorneys, *Los Angeles Business Journal* (2021)

- Founding Member, 1844. 1844 is a group of black male lawyers practicing primarily in BigLaw and in-house legal departments around the country. The group's name "1844" is in reference to the year that the first black person, Macon Bolling Allen, was admitted to practice law in America. The purpose of 1844 is to build genuine relationships between its members and leverage those relationships to help them develop personally and professionally and give back to their communities. 1844 has been widely lauded for its exceptional work, including the New York City Bar Association's 2016 Diversity and Inclusion Champion Award.

- Founding Member, Black BigLaw Pipeline ("BBP"). BBP's purpose is to serve as a powerful and unique resource for reshaping diversity and, specifically, the experience of Black attorneys in the legal profession.

- Former Chairperson, Susman Godfrey Diversity Committee

- Term Member, Yale Law School Executive Committee

- Southern California Rising Star, Super Lawyers (2020, 2021, 2022, 2023 Thomson Reuters)

- 2017 Fellow, Associate Leadership Institute (NYC Bar)

Clerkships

Honorable Stephen Breyer, Supreme Court of the United States

Honorable Alex Kozinski, United States Court of Appeals for the Ninth Circuit

Education

Yale Law School (J.D.)

American University (B.A., International Studies, summa cum laude)

Admissions

Bar Admissions
- California
- New York

SUSMAN GODFREY

Vineet Bhatia

Managing Partner

Houston

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Overview

Vineet Bhatia is a seasoned, first-chair commercial trial lawyer with nearly 30 years of experience handling a wide variety of complicated, high-stakes disputes for plaintiffs and defendants. He has tried more than 25 cases to verdict or arbitration decision and has led dozens more that have resolved successfully for his clients before trial commenced.

Mr. Bhatia's renowned trial experience in bet-the-company cases has repeatedly led clients to call him to take over cases shortly before trial. In those situations, clients need a lawyer with a proven track record of consistent trial wins to represent them in their high-stakes litigation. A quick learner, Mr. Bhatia is adept at breaking down complex factual and legal disputes succinctly and convincingly to judges and juries. This skill is invaluable when he comes into a case shortly before trial.

"

"His ability to absorb information is scary; his ability to weave together information is unbelievable. His ability to digest that stuff is fantastic and he has a keen legal mind. He is a brilliant strategist."
As quoted from Chambers 2018 USA Guide – Antitrust: Mainly Plaintiff

"

"Vineet has a knack for putting together a great story but without sacrificing an in-depth knowledge of the details of a case, no matter how complex it may be."
As quoted from Chambers 2016 USA Guide, State Regulatory & Litigation (Oil & Gas)

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We hired Susman Godfrey, a law firm with a great reputation for fighting hard and winning big cases in court. The goal was to send a

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message that we were serious. The message was received, and we achieved excellent results without having to go to court.
Jason Ryan, Client and Vice-President, Centerpoint

Mr. Bhatia has been hired to try lawsuits for numerous Fortune 500 companies, including ACE Limited, Genworth Financial, Great Plains Energy, KBR, LyondellBasell, Philip Morris, Walmart, and Westar Energy. He has also been hired by private equity firms and their portfolio companies, including Apollo and its portfolio company, Hexion Specialty Chemicals. Likewise, Bhatia has faced off against industry giants such as Bank of America, Tyco Healthcare Group, Genzyme Corporation, Wells Fargo, and Venezuela national oil company, PDVSA – and won.

In addition to representing corporate clients, Mr. Bhatia often represents individuals either in mass actions or class actions and smaller companies in their disputes with larger corporate defendants.

Mr. Bhatia's practice has spanned the country. He has handled lawsuits or arbitrations in Arkansas, Arizona, California, Colorado, Florida, Kansas, Kentucky, Mississippi, Missouri, New York, New Jersey, Massachusetts, North Carolina, Oklahoma, Oregon, Pennsylvania, Texas, Virginia, and Washington. His cases have involved antitrust, breach of contract, fraud, theft of trade secrets, patent infringement, insurance coverage, environmental contamination, product liability litigation, the federal false claims act, and many other types of cases. Mr. Bhatia has also handled numerous arbitrations arising out of corporate transactions, including disputes related to purchase price adjustments, contingent compensation, and tax sharing agreements. He has also handled arbitrations in London in multiple insurance coverage disputes.

Mr. Bhatia graduated from the Columbia Law School in 1990, where he was a Harlan Fiske Stone Scholar and a Notes and Comments Editor on the *Columbia Law Review*. He started his career at Wachtell Lipton Rosen & Katz in New York City in 1991 and joined Susman Godfrey in 1996. He became a partner at Susman Godfrey a year later in 1997 and has served frequently on the firm's Executive Committee.

Notable Representations

Notable Plaintiff-Side Victories

Mr. Bhatia has proved repeatedly that he is the lawyer to call when one is looking to secure a significant award from a legal dispute. A few of his high-stakes plaintiff-side litigation victories include:

- After intervening in the SEC's action against digital music streaming service, Akazoo, secured $35 million settlement on behalf of a group of

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PIPE and SPAC investors over allegations that Akazoo defrauded them and lied about business prospects both before and after its 2019 special purpose acquisition company merger. The group represented by Bhatia and Susman Godfrey in the matter was awarded $30.1 million of the settlement ($25.3 million after fees and expenses). Read more.

- Serving as lead counsel to prosecute Peak Web Litigation Trust's $100+ million claim against Machine Zone for breach of contract, fraud and theft of trade secrets in state court in San Jose, CA. The case was settled in December 2017 shortly before trial for a confidential amount.

- Serving as lead counsel in LyondellBasell's business interruption insurance claim arising out of Hurricane Ike, a matter that was litigated in a confidential arbitration in London. The case settled one day before the arbitration hearing was scheduled to commence. Mr. Bhatia led the settlement negotiations with insurers. The settlement amount is confidential, although LyondellBasell disclosed in SEC filings that it received in excess of $100 million from its insurers.

- Serving as co-lead counsel in a $100+ million breach of contract claim brought on behalf of Lyondell-Citgo Refining L.P. against PDVSA, the Venezuela national oil company, for breaching a long-term crude supply contract. The case was filed in the Southern District of New York and arose under New York and Venezuelan law. After defeating PDVSA's motion to dismiss the case under the "act of state" doctrine and completing extensive discovery in the United States and Venezuela, Mr. Bhatia obtained an adverse inference against PDVSA for refusing to produce documents, and, following that discovery sanction, filed a plaintiff-side motion for summary judgment. The case settled on confidential terms while that summary judgment motion was pending.

- Representing the world's largest retailer, Walmart, in its claims against tuna manufacturers for price-fixing in federal court in San Diego. Bhatia was responsible for the day-to-day handling of the case and led the settlement discussions with defendants. Walmart has now resolved all of its claims against the tuna manufacturers for confidential amounts, although one defendant did publicly disclose that it paid $20.5 million to settle its role in the case. Read more on this case here.

- Serving as lead counsel to two Kansas utilities involved in disputes over wind energy projects. In one case, he represented KCP&L in an arbitration involving the purchase of wind energy. KCP&L prevailed on all claims in the arbitration. In a second case, he represented a Westar Energy subsidiary, in which his client prevailed on all claims and required the other side to pay attorney fees and costs.

- Being selected by a class of shareholders to serve as lead trial counsel in a securities action against Genzyme Corporation. On the eve of trial, Genzyme agreed to pay $64 million to the class.

- Making a major contribution to one of 2005's Top Ten Verdicts in the United States, when he and firm founder, Steve Susman, obtained a $140

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million jury verdict (automatically trebled to $420 million) in an antitrust case against Tyco Healthcare Group. The claims had been brought under the federal antitrust laws based on Tyco's anticompetitive practices that prevented Masimo from selling its competing pulse oximetry products to hospitals located in the United States. In 2006, the Court upheld the jury's findings of antitrust liability but ordered a new trial on damages. The Ninth Circuit Court of Appeals affirmed the liability verdict and the new damage award. Bhatia selected the jury and presented and cross-examined most of the witnesses at trial.

- Serving as co-lead counsel with the head of the firm's Los Angeles office, Marc Seltzer, representing a class of injured people whose reserves for future medical care and living expenses had been looted from trust funds. The suit was filed after the trustee stopped paying disbursements of settlement proceeds to over 250 seriously injured people and wrongful death claimants. In large part due to Mr. Bhatia's efforts, several large financial institutions paid more than $100 million to settle consolidated class actions enabling plaintiffs to recover 100% of their losses.

- Winning an arbitration on behalf of Lyondell Chemical Company against Atlantic Richfield Company. The arbitration involved the breach of a long-term agreement to supply MTBE. After the arbitration decision, the parties agreed that ARCO should pay Lyondell $21.5 million. Mr. Bhatia served as lead counsel in this case, and the result was featured in an article in the *National Law Journal* on the top plaintiff firms in the United States.

- Serving as lead counsel for Western Resources in a purchase price adjustment arbitration and related litigation against Westinghouse Electric Corporation. The arbitration and related case involved Western Resources's purchase of Westinghouse's home-monitored security business in December 1996. The terms of the settlement were confidential, although Western Resources disclosed, as required by the SEC, that it received $37.5 million to resolve all the claims.

Notable Defense-Side Wins

In addition to winning money for plaintiffs, Mr. Bhatia successfully has defended clients facing multi-million and multi-billion dollar claims. Here are a few examples:

- As lead counsel, Mt. Bhatia secured a favorable award for Flutter Entertainment when an arbitrator in New York nearly doubled the exercise price its opponent, FOX Corporation, sought for its option to acquire 18.6% of Flutter's portfolio company, FanDuel Group. This high stakes, high profile arbitration resulted from FOX's assertion that it should be entitled to the same price Flutter paid for its share of FanDuel two years before the arbitration took place – $2.1 billion, with an implied company valuation of $11.2 billion. The arbitrator, however, found that FOX's payment must be based on a substantially higher FanDuel valuation of $20 billion it was hoping for, plus an additional 5% interest per year. At the

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time of the decision, this equated to a valuation for FanDuel of $22 billion and an option exercise price of $4.1 billion for FOX — nearly twice the amount that FOX argued it should be required to pay. The arbitrator also rejected FOX's claim that Flutter had not provided commercially reasonable resources to the Fox Bet business. Read more.

- KBR, asked Mr. Bhatia to serve as lead counsel in a lawsuit in California state court filed against KBR's subsidary, Wyle Laboratories. The lawsuit had been pending for three years, and the main claim against Wyle Labs was for theft of trade secrets. The plaintiff was seeking tens of millions in damages. Bhatia and his team mastered the complex facts of the case and developed legal defenses that had not been previously asserted by prior counsel. The case was then tried to a jury verdict, with the jury rejecting the trade secret claim and the Court striking nearly all of plaintiff's damages. The plaintiff was awarded less than $250,000 by the jury (a tiny fraction of what they were seeking) and that amount is now being challenged in post-trial motions.

- Bhatia was part of a team selected to represent Walmart two months before trial, in a theft of trade secret case pending in Arkansas federal court. Mr. Bhatia put on several witness at trial and cross-examined the CEO of the plaintiff and plaintiff's damage expert. While the jury awarded damages to the plaintiff, over 95% of those damages were struck by the Court on post-trial motions. The record that Mr. Bhatia developed during cross-examination was cited extensively in the Court's ruling. The case is currently on appeal.

- During the financial crisis, Mr. Bhatia was hired by longtime client, Genworth Financial, to serve as lead counsel in a series of arbitrations involving mortgage fraud and negligent underwriting arising out of the housing downturn. In one of the cases, two weeks before arbitration proceedings were to begin, Mr. Bhatia's client resolved a dispute with a mortgage originator over $500-plus million in bulk mortgage insurance. In addition to defending Genworth in such cases, he provided strategic advice to guide them through a multi-year litigation effort.

- Bhatia was serving as co-lead counsel to ConocoPhillips when a federal district court in San Antonio dismissed all claims by 53 plaintiffs suing the company as well as and Rio Grande Resources, alleging that defendants' uranium mining and milling operations caused cancer and other medical ailments. Plaintiffs sought damages in excess of $50 million plus punitive damages; they recovered nothing.

- Mr. Bhatia was selected by Philip Morris to be on a National Steering Committee to organize the defense of tobacco litigation brought by dozens of foreign countries. In that role, he also was charged with leading the defense of the cases brought in Texas.   The cases in Texas and throughout the country were dismissed, and those dismissals were upheld on appeal. Philip Morris ended up paying nothing.

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Honors & Distinctions	*Lawdragon* 500 Global Plaintiff Lawyer (<u>2024</u>, <u>2025</u>) *Lawdragon* 500 Leading Litigator (<u>2023</u>, <u>2024</u>, <u>2025</u>, <u>2026</u>) *Lawdragon* Legend (<u>2021</u>) - Litigation Star, Benchmark Litigation (<u>2022</u>, <u>2023</u>, 2024, <u>2025</u> Euromoney) - Recommended Lawyer, Antitrust: Civil Litigation/Class Actions: Plaintiff (2019, 2020, <u>2021</u>) and Dispute Resolution: General Commercial Disputes, (2019, 2020, <u>2021</u>, 2022, <u>2023</u>) The Legal 500 *Lawdragon* 500 Leading Plaintiff Financial Lawyers (<u>2019</u>, 2020, <u>2021</u>, <u>2022</u>, 2023, <u>2024</u>, <u>2025</u>) - The Best Lawyers in America, <u>Excellence in Commercial Litigation</u> (Woodward White Inc., 2018 – 2026) - Featured in Lawdragon's 2018 cover story, "<u>Don't Mess With Texas – How Susman Godfrey Became America's Leading Trial Firm</u>" *Lawdragon* 500 Leading Lawyers in America (<u>2014</u>, <u>2015</u>, <u>2016</u>, <u>2017</u>, <u>2018</u>, <u>2019</u>, 2020, 2021, <u>2022</u>, <u>2023</u>, <u>2024</u>) - AV Preeminent Lawyer, Martindale-Hubble (2018 – 2019) - Chambers USA Guide to America's Leading Lawyers – General Commercial Litigation (2009) - Super Lawyer, Texas – an honor awarded to the top 5% of lawyers in Texas (2021, 2006, 2021, 2022, 2023, 2024, 2025, Thomson Reuters) - Rising Star, Super Lawyers, Texas – an honor awarded to the top 2.5% of lawyers in the Texas (2004 – 2005, Thomson Reuters)
Clerkships	Honorable Jack B. Weinstein, United States District Court for the Eastern District of New York
Education	**Columbia Law School** (J.D., 1990) **Rice University** (B.A., 1987)
Admissions	**Bar Admissions** - Texas - New York

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Leadership & Professional Memberships

- American Bar Association; Litigation Section, Antitrust Section

- New York State Bar Association

- New York City Bar Association

- Texas Bar Association

- Houston Bar Association

SUSMAN GODFREY

J. Craig Smyser

Associate

New York

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Overview

Since joining Susman Godfrey, Craig has scored successes for his clients in some of the most significant cases in the United States.

WINS

In the "historic" copyright infringement action *Bartz v. Anthropic*, Craig and a team from Susman Godfrey secured a $1.5 billion settlement for rightsholders whose books were downloaded by Anthropic from pirated databases. If approved, it will be the single largest recovery in any copyright case ever. Read more in *The New York Times*, *Bloomberg*, *Reuters*, and Law.com. Relatedly, alongside Susman Godfrey partners Justin Nelson and Rohit Nath, Craig co-authored an article for the Texas State Bar's *The Advocate* setting forth their analysis of copyright cases in which AI companies are alleged to have pirated millions of books. The approach in their article prefigured the historic settlement in *Bartz v. Anthropic*.

Craig also serves as counsel on behalf of a group of prominent writers— including John Grisham, David Baldacci, Jonathan Franzen, and George R.R. Martin—against OpenAI and Microsoft in *In re: Open AI Copyright Infringement Litigation*. In addition, Craig is representing plaintiffs against NVIDIA and Databricks in litigation related to copyright infringement and artificial intelligence.

Other major wins include:

- Representing the former owner of an NFL football team in issues involving the sale of the franchise.

- Securing significant licensing agreements for antenna design firm, Fractus, S.A., following patent litigation against ADT and Vivint in the Eastern District of Texas. The Vivint suit settled shortly after Craig argued

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at the claim construction hearing, and the ADT case settled on the eve of trial following favorable rulings Craig achieved at the pre-trial conference on summary judgment and *Daubert*.

- Scoring a win for air ambulance companies who challenged regulations promulgated under the Federal No Suprises Act before the district court and the Fifth Circuit in *Texas Medical Association, et al. v. U.S. Dep't of Health and Human Services*.

- Representing Match.com in the first major jury trial in the New York Commercial Division after the start of the COVID-19 pandemic against founders of Tinder over claims relating to valuation of synthetic equity options. The client described Craig as a "**star**" with "**superb**" "**client management skills**."

BACKGROUND

Craig joined Susman Godfrey after clerking for the Honorable Debra Ann Livingston of the United States Court of Appeals for the Second Circuit and for the Honorable Christopher R. Cooper of the United States District Court for the District of Columbia.

Craig earned his J.D. *magna cum laude* from Harvard Law School, where he was a semifinalist in the Ames Moot Court competition and served as Executive Submissions Editor of the *Journal on Legislation*. Before that, he graduated *cum laude* with Departmental Honors in Philosophy from Dartmouth College. Prior to law school, Craig served as a Fulbright Teaching Fellow in Turkey and worked as a consultant for L.E.K. Consulting in New York City.

Clerkships	Honorable Christopher R. Cooper, United States District Court for the District of Columbia
	Honorable Debra Ann Livingston, United States Court of Appeals for the Second Circuit
Education	**Harvard Law School** (J.D., magna cum laude)
	Dartmouth College (B.A., Philosophy, cum laude)
Admissions	**Bar Admissions**

- New York
- Texas

SUSMAN GODFREY

Collin Fredricks

Associate

Houston

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cfredricks@susmangodfrey.com

Overview

Collin joined Susman Godfrey after earning his J.D. from Stanford Law School, where he served as Executive Editor of the *Stanford Law Review*. He participated in the law school's Religious Liberty Clinic, where he successfully argued an appeal in the U.S. Court of Appeals for the Ninth Circuit.

Before law school, Collin worked as a management consultant at Boston Consulting Group. He earned his undergraduate degree from the University of Texas at Austin.

Clerkships

Honorable Arun Subramanian, United States District Court for the Southern District of New York, 2026 - 2027

Honorable Daniel Bress, United States Court of Appeals for the Ninth Circuit, 2025 - 2026

Education

Stanford Law School (J.D.,)

The University of Texas at Austin (B.B.A. Business Honors, with Highest Honors)

The University of Texas at Austin (B.A. Plan II Honors, with Highest Honors)

Admissions

Bar Admissions

- Texas

SUSMAN GODFREY

Samir Doshi

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New York

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Overview

Since joining Susman Godfrey after clerking for Chief Justice Roberts on the United States Supreme Court, Samir has represented clients in the most significant cases in the country.

LANDMARK WINS

Samir's representations include:

Serving as counsel to the certified class of Plaintiffs in *Bartz v. Anthropic*, where he and the Susman Godfrey team secured a $1.5 billion settlement, which, if approved, will be the largest reported copyright settlement in history. Read more in *The New York Times*, *Bloomberg*, and *Reuters*.

Serving as counsel to Everly Health in an arbitration for breach of contract and violations of the Lanham Act. After a two-week trial, the arbitrator awarded Everly $987 million. Everly then successfully moved to confirm the arbitration award in the United States District Court for the District of Delaware, notwithstanding an opposing motion to vacate. The Court confirmed the award in a judgment valued at over $1.03 billion. Read more in *Reuters*, the *Chicago Tribune*, and *Law360* (subscription required).

Representing Dutch telecommunications company Koninklijke KPN N.V. (KPN) in a breach of contract dispute against Samsung Electronics Co. After a week-long trial, the jury awarded KPN $341 million in damages. When Samsung attempted to remove the case to federal court post-trial, Samir led KPN's remand briefing in E.D. Tex., filing an opposition brief in just days and then arguing two of the three main issues to the court. Samir prevailed and the case was summarily remanded. The jury verdict for KPN has been covered in *Texas Lawyer*, *Bloomberg Law,* and *World IP Review*. Read more.

Representing a certified class of plaintiffs in *In re: National Football League's Sunday Ticket Antitrust Litigation*, Susman Godfrey served as trial counsel in an antitrust action against the National Football League and its 32 teams. After

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a three-week trial, the jury awarded plaintiffs more than $4.7 billion in damages before trebling. The trial court vacated the verdict on a post-trial motion, while leaving untouched the jury's determination that the NFL violated the Sherman Act. The case is on appeal to the Ninth Circuit. Read more in _Fortune_, ESPN, _Reuters_, and CNN.

Samir's clients have also included multiple leading pharmaceutical companies, multiple Fortune 500 companies, and a leading academic research institution—covering intellectual property, patent, financial, and complex commercial issues.

BACKGROUND

Samir joined Susman Godfrey after clerking at all three levels of the federal judiciary, most recently for Chief Justice of the United States, John G. Roberts, Jr., and previously for Judge Raymond J. Lohier, Jr. of the United States Court of Appeals for the Second Circuit, and Judge Randolph D. Moss of the United States District Court for the District of Columbia. Samir also served as a Bristow Fellow in the Office of the Solicitor General at the United States Department of Justice, where he assisted in the briefing and preparation of argument for matters on behalf of the federal government in the U.S. Supreme Court.

Samir is a graduate of the Yale Law School, where he received the Thurman Arnold Prize, Potter Stewart Prize, William E. Miller Prize, and John Fletcher Caskey Prize. Samir was also selected as a Coker Fellow in Contracts, served as Notes and Comments editor on the _Yale Law Journal,_ and served as co-President of the Trial Advocacy Team. Samir received his B.A., _magna cum laude_, Phi Beta Kappa, with distinction in all subjects from Cornell University, where he was elected commencement speaker for the Government Department and received an "All American" award from the American Mock Trial Association.

Samir has published in the Harvard Law School Forum for Corporate Governance, and, prior to law school, worked as management consultant at McKinsey & Company.

Honors & Distinctions

- One to Watch, Commercial Litigation _Best Lawyers_ (2026 Woodward White, Inc.)
- Rising Star of the Plaintiffs' Bar, _National Law Journal's_ Elite Trial Lawyers (2025)

Clerkships

Chief Justice John G. Roberts, Jr., Supreme Court of the United States

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Honorable Raymond J. Lohier, Jr., United States Court of Appeals for the Second Circuit

Honorable Randolph D. Moss, United States District Court for the District of Columbia

Education

Yale Law School (J.D.)

- Notes and Comments Editor, *Yale Law Journal*

- Thurman Arnold Prize

- Potter Stewart Prize

- William E. Miller Prize

- John Fletcher Caskey Prize

- Coker Fellow, Contracts

Cornell University (B.A., magna cum laude, with distinction in all subjects)

- Phi Beta Kappa

- All American award, American Mock Trial Association

Admissions

Bar Admissions

- New York

Court Admissions

- U.S. Court of Appeals for the Fourth Circuit

- U.S. Court of Appeals for the Ninth Circuit

- U.S. District Court for the Eastern District of Texas

- U.S. District Court for the Southern District of New York

- U.S. District Court for the Eastern District of New York

- U.S. District Court for the Northern District of New York

SUSMAN GODFREY

Molly Karlin

Of Counsel

Los Angeles

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Overview

Molly is an experienced appellate lawyer and a go-to attorney for high-stakes cases. A writer by nature, Molly has drafted numerous briefs and petitions before the United States Supreme Court and appellate courts and has successfully briefed and argued dispositive motions in both the federal and state courts and in arbitration. Her diverse practice runs the gamut from complex commercial litigation, on behalf of both plaintiffs and defendants, to defense-side criminal appeals. She is adept at finding creative solutions to the toughest problems, identifying novel issues and adopting out-of-the-box approaches to resolve disputes in her clients' favor.

"

"[Your brief] is excellent. Very clear and hard-hitting."
– Hon. Alex Kozinski, Former Chief Judge of the U.S. Court of Appeals for the Ninth Circuit

Molly currently holds an undefeated record in complex commercial appeals. The United States Supreme Court has also called for responsive briefing to nearly all of the petitions for writs of certiorari Molly has filed, indicating its interest in her clients' cases even where the opposing party waived its right to be heard. State and federal courts have corrected defects in their court rules and pattern jury instructions in direct response to issues Molly raised in her clients' appeals. On the political front, her cases have spurred remedial legislation.

LANDMARK WINS

Prior to joining Susman Godfrey, Molly prevailed for her clients in several high-profile matters.

In a case that captured widespread public attention, Molly represented Marissa Alexander, a young Black mother who had been sentenced to twenty years in

prison for firing a warning shot to defend herself against her abusive partner. Molly persuaded the Florida Court of Appeals to reverse Ms. Alexander's conviction; then, on retrial, she convinced the trial court to admit the copious evidence of the "victim's" violent attacks on his prior romantic partners. Rather than attempt to defend this damning pattern of abuse before a jury, the prosecution agreed to a sentence of time served. Ms. Alexander's case led the Florida legislature to amend the state's Stand-Your-Ground law to permit the firing of a warning shot in circumstances like hers. The case was heavily covered by nearly every major news outlet in the United States, several magazines, and publications in other countries, including *The New York Times*, *USA Today*, *Reuters*, *U.S. News and World Report*, *NPR*, *The Guardian*, *The Toronto Star*, various cable news channels, and *Rolling Stone*, *Slate*, *The Nation*, *Essence*, and *Salon* magazines.

On behalf of a Berkshire Hathaway subsidiary, Molly drafted the successful summary judgment briefing that eliminated plaintiff Ford Motor Company's claims for hundreds of millions in punitive damages, leading to a favorable settlement for the Berkshire subsidiary. In a related case, Molly prevailed for her insurer client in arbitration and then obtained a federal court's confirmation of the arbitrator's decision denying Ford the hundreds of millions it sought. Both cases received coverage in *Law360*.

Molly obtained the acquittal at trial of a Syrian man on several terrorism-related offenses stemming from the alleged construction of improvised explosive devices (IEDs) in the Iraq War. On appeal of the remaining convictions, she then argued and obtained reversal—and complete dismissal—of the counts alleging the commission of a crime of violence. She further persuaded the court of appeals to vacate the defendant's life sentence, which included a conviction for conspiring to use a weapon of mass destruction. The case was covered by media outlets across the globe, including *The Associated Press*, *Reuters*, *FOX News*, and *The Times of Israel*.

PRO BONO

Molly is deeply committed to *pro bono* work. Recently, she secured a grant of clemency by the President for a client sentenced to life without parole under a federal three-strikes law. She obtained legal status in immigration court, precluding deportation, for a client who had been sexually assaulted by gang members in El Salvador due to her transgender status. Molly also regularly represents *amici curiae* in the defense of constitutional rights and civil liberties and in opposition to capital punishment.

BACKGROUND

For a decade prior to joining Susman Godfrey, Molly served as a federal public defender, advocating for indigent defendants convicted of serious federal crimes. Before that, she worked as an associate at other high-powered firms, where she was the primary drafter of important briefing in billion-dollar disputes. Molly holds a J.D. from Columbia Law School, where she was a

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Harlan Fiske Stone Scholar, earned the Parker School Certificate of Achievement in International and Comparative Law, and served as an Articles Editor for *The Columbia Journal of Gender and Law*. After graduating, she served as a law clerk on the United States Court of Appeals for the Ninth Circuit. She earned her B.A., *cum laude* and with distinction in the English major, from Yale University.

Notable Representations

Appellate

- ***United States v. Alahmedalabdaloklah*, 94 F.4th 782 (9th Cir.).** Argued and obtained reversal and complete dismissal of charges for conspiracy to possess a destructive device in furtherance of a crime of violence and aiding and abetting, and reversal of life sentence for conspiracy to use a weapon of mass destruction and conspiracy to maliciously destroy government property.

- ***United States v. Charley*, 1 F.4th 637 (9th Cir.).** Argued and obtained reversal, in published opinion, of federal convictions for assault resulting in serious bodily injury and assault with a dangerous weapon for defendant who had been abused by victim boyfriend, followed by complete dismissal of charges.

- ***Camargo v. Ryan*, 684 F. App'x 607 (9th Cir.).** Argued and obtained reinstatement of federal habeas corpus petition for defendant serving 25-year sentence for kidnapping and assault.

- ***Consumer Financial Protection Bureau v. United Guaranty Corp.* (11th Cir.).** Obtained dismissal of appeal on behalf of mortgage insurer against third party seeking to upset settlement agreement between client and the Consumer Financial Protection Bureau.

- ***Riddle v. Bank of Am.*, 588 F. App'x 127 (3d Cir.).** Obtained affirmance of dismissal on behalf of mortgage insurer in class action alleging an illegal kickback scheme in violation of the Real Estate Settlement Practices Act.

Complex Commercial Litigation

- ***HDI-Gerling Industrie Versicherung v. Ford Motor Co.* (S.D.N.Y.).** Defeated half-billion dollar claim in arbitration on behalf of insurer against major automobile manufacturer; then obtained confirmation of award in federal court.

- ***Ford Motor Co. v. National Indemnity Co.* (E.D. Va.).** Obtained favorable settlement in federal court on behalf of defendant reinsurer against major automobile manufacturer after prevailing on summary judgment denying plaintiff's claim for hundreds of millions in punitive damages.

SUSMAN GODFREY

- ***Primo Hospitality v. Americana at Brand* (Cal. Super. Ct.).** Obtained win at trial on behalf of major developer against restaurant claiming contract violations and seeking millions in damages plus attorneys' fees.

Honors & Distinctions

- Harlan Fiske Stone Scholar
- Parker School Certificate of Achievement in International & Comparative Law
- Winner of Notes Competition, *Columbia Journal of Gender & Law*
- Articles Editor, *Columbia Journal of Gender & Law*

Clerkships

Honorable Arthur L. Alarcón, United States Court of Appeals for the Ninth Circuit

Education

Columbia Law School (J.D., 2009)

Yale University (B.A., cum laude, 2004)

Admissions

Bar Admissions

- California
- New York
- Arizona

Court Admissions

- United States Supreme Court
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Tenth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the Central District of California
- U.S. District Court for the Northern District of California
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Western District of New York

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SUSMAN GODFREY

- U.S. District Court for the District of Arizona

- U.S. District Court for the Eastern District of Oklahoma

SUSMAN GODFREY

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Overview

Reetu represents plaintiffs and defendants in a variety of commercial litigation matters. Prior to joining Susman Godfrey, Reetu clerked on the Western District of Texas, and then worked as an associate at a litigation boutique, where she represented parties at various stages of the litigation process.

Education

The University of Texas School of Law (J.D., with Honors)

Mary Baldwin College (B.A., magna cum laude)

Admissions

Bar Admissions

- Texas

Court Admissions

- U.S. District Court for the Western District of Texas

SUSMAN GODFREY

Audra Clark

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Overview

Audra represents plaintiffs and defendants in a variety of commercial litigation matters. While in law school, Audra clerked at the United Nations International War Crimes Tribunal for the Former Yugoslavia in The Hague, The Netherlands.

Education

South Texas College of Law (J.D.)

The University of Texas (B.A., Pre-Law Government)

The University of Texas (B.A., Pre-Law Sociology)

Leadership & Professional Memberships

- Texas Bar Foundation, Fellow
- Leadership Houston, Class of XXXII
- College of the State Bar of Texas, Member

SUSMAN GODFREY

Rania Mohsen

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Overview

Rania represents plaintiffs and defendants in a variety of commercial litigation matters. Prior to joining Susman Godfrey, Rania worked as an associate in a law firm where she represented plaintiffs in first party property insurance claims. Rania joined Susman Godfrey in the spring of 2016. Rania earned her law degree from the University of Texas School of Law in May of 2015.

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SUSMAN GODFREY

Patrick Aana

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Overview

Patrick represents both plaintiffs and defendants in a variety of commercial litigation matters. Prior to joining Susman Godfrey, Patrick practiced in the Houston office of an international law firm, where his disputes practice focused on cross-border and domestic arbitrations as well as complex litigation in state and federal courts. Over the years, Patrick has volunteered considerable time to the Houston Young Lawyers Association (HYLA) and has served as an elected director and Secretary on HYLA's Board of Directors.

Patrick is a Houston native, having earned an undergraduate degree from the University of Houston and a master's degree from the University of St. Thomas. He worked in the non-profit sector for several years before attending the University of Texas School of Law for his law degree, which he achieved in 2019. At Texas Law, Patrick served as an Articles & Notes Editor for the Texas International Law Journal and was selected as a Human Rights Scholar for the Rapoport Center for Human Rights and Justice. In addition, Patrick served as a Dean's Fellow and Society Coordinator in the law school's Society Program and participated in the Texas Law Fellowships, Assault & Flattery, and mock trial. Patrick interned in the Appellate Section of the U.S. Attorney's Office for the Southern District of Texas. Texas Law honored him as a Pro Bono Torchbearer for his pro bono work.

Education

The University of Texas School of Law (J.D.)

The University of Saint Thomas ()

- Masters, International Studies

The University of Houston (B.A., magna cum laude)

Admissions

susmangodfrey.com

SUSMAN GODFREY

Bar Admissions

- Texas

Court Admissions

- U.S. District Court for the Southern District of Texas

Leadership & Professional Memberships

- Member, Litigation Section, Houston Bar Association
- Secretary of the Board of Directors, Houston Young Lawyers Association
- Alumni Board Member, Texas International Law Journal
- Member, Texas Law 2019 Class Committee
- Member, Texas Law Houston Young Alumni Steering Committee
- Fellow, Houston Bar Foundation
- Fellow, Houston Young Lawyer Foundation
- Member, World Affairs Council of Greater Houston
- Friend of HAMUN, Houston Area Model United Nations

SUSMAN GODFREY

Vicki Gipson

Houston

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Overview

Vicki represents plaintiffs and defendants in a variety of commercial litigation matters. Prior to joining Susman Godfrey, Vicki worked as an attorney at a law firm where she represented exploration and production companies in a variety of oil and gas transactional matters. She also worked as a Finance professional prior to attending law school. Vicki earned her law degree from the Thurgood Marshall School of Law in May of 2011.

Education

Thurgood Marshall School of Law (J.D.)

Texas Southern University (M.B.A., Business)

Louisiana State University (B.S., Finance)

Admissions

Bar Admissions

- Texas
- District of Columbia
- Wyoming

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SUSMAN GODFREY

Alex Stemkovsky

Los Angeles

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Overview	Alex has been an e-Discovery attorney for over 20 years specializing in complex litigation at the federal and state level. Some matters Alex was involved in include antitrust, false claims act, employment, securities fraud, and breach of contract. While in law school Alex interned at the New Jersey State Attorney General's Office in Newark. Prior to joining Susman Godfrey Alex was with O'Melveny & Myers LLP.
Education	**New York Law School** (J.D., 1996) **Montclair State University** (1993)
Languages	Russian

SUSMAN GODFREY

Kristin Galik

Houston

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Overview

Kristin represents both plaintiffs and defendants in various types of commercial litigation matters in federal and state courts. Prior to joining Susman Godfrey, Kristin represented clients in matters in all types of industries, including oil and gas, corporate law, and probate. Kristin earned her law degree from the University of Houston in 2005.

Honors & Distinctions

- Houston Business and Tax Law Journal, Managing Editor

Education

The University of Houston Law Center (J.D.)

The University of Texas (B.B.A. in Accounting, summa cum laude)

San Antonio, Texas

SUSMAN GODFREY

Nehad Mikhael

Staff Attorney

Houston

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Overview

Nehad Mikhael graduated *summa cum laude* from the University of Houston Law Center, where he earned both his JD and LLM in Health Law. During law school, Nehad won various awards, was ranked 4th in his class, and was on the Dean's List.

Prior to law school, Nehad worked as a pharmacist and is currently licensed in the States of New York, New Jersey, and Texas. He earned his PharmD from Bernard J. Dunn School of Pharmacy in Winchester, Virginia. He is also a Board-Certified Pharmacotherapy Specialist by the Board of Pharmacy Specialties.

Honors & Distinctions

- Dean's List (Fall 2021, Spring 2022, Fall 2022, Spring 2023, & Fall 2023)
- Order of the Barons
- Huey O'Toole Award Recipient
- CALI Award Recipient (for highest grade) in Legal Research and Writing I, Criminal Law, Torts II, and Contracts II

Education

The University of Houston Law Center (LLM, Health Law)

The University of Houston Law Center (J.D., summa cum laude)

Shenandoah University Bernard J. Dunn School of Pharmacy (PharmD)

Admissions

Bar Admissions

- Texas

EXHIBIT 1

Bartz v Anthropic PBC
Case No. 3:24-cv-05417-WHA
Peer Firm Rates Approved By Courts

Firm	Date Filed	Year of Rates	Partner	Counsel	Associate	Staff Atty.	Law Clerk	Paralegal	Support	Legal Asst.	Cited Documents
Akin Gump Strauss Hauer & Feld LLP	2024	2024	$1,540 - 2,195	$1,345 - 1,425	$840 - 995			$270 - 530			*In re Endo Int'l plc*, No. 22-22549 (May 17, 2024 Bankr. S.D.N.Y.), Dkt. 4314; Order (Aug. 16, 2024) Dkt. 4497
Allen Overy Shearman Sterling US LLP	2024	Aug 23 - May 24	$1,460 - 2,130	$1,425 - 1,555	$775 - 1,415						*In re Amyris, Inc.*, No. 23-11131 (June 20, 2024 Bankr. D. Del.), Dkt. 1558; Certificate (June 20, 2024) Dkt. 1559
Covington & Burling LLP	2024	2025	$1,525 - 2,625	$1,425 - 2,625	$825 - 1,375			$350 - 850			*In re Kidde-Fenwal, Inc.*, No. 23-10638 (Nov. 20, 2024 Bankr. D. Del.), Notice, Dkt. 1634
King & Spalding LLP	2024	2024	$1,005 - 1,510	$1,630	$500 - 1,075	$430 - 460		$355	$425		*In re Bestwall LLC*, No. 17-31795 (July 25, 2024 Bankr. D. N.C.), Dkt. 3470; Order (Aug. 16, 2024) Dkt. 3499
Kirkland & Ellis LLP	2024	2024	$1,365 - 2,445	$1,745	$785 - 1,395			$355 - 625	$495 - 995		*In re Rite Aid Corp.*, No. 23-18993 (June 21, 2024 Bankr. D.N.J.), Dkt. 3888; Certificate (July 10, 2024) Dkt. 4195
Latham & Watkins LLP	2025	2025	$1,680 – 2,550	$1,775	$835 - 1,565			$580 - 595	$600		*In re AIG Financial Productions Corp.*, No. 22-11309 (May 15, 2025 Bankr. D. Del.), Dkt. 630; Certificate (June 9, 2025) Dkt. 641
McDermott Will & Emery LLP	2024	2024	$1,475 - 1,750	$590- 1,855	$805 - 1,245	$515		$500 - 700			*In re Cano Health, Inc.*, No. 24-10164 (June 14, 2024 Bankr. D. Del.), Dkt. 1303; Certificate (Aug. 28, 2024) Dkt. 1400
Milbank LLP	2024	Oct 23 - Feb 24	$1,625 - 2,245	$1,575	$825 - 1,275					$430	*In re Rite Aid Corp.*, No. 23-18993 (Apr. 15, 2024 Bankr. D.N.J.), Dkt. 2837; Court Notice (June 27, 2024)
Morrison & Foerster LLP	2025	Nov 24 - Mar 25	$1,290 - 2,475	$1,300 – 1,425	$780 – 1,330			$370 - 560	$450 - 530		*In re Oldco Tire Distributors, Inc.*, No. 24-12391 (May 14, 2025 Bankr. D. Del), Dkt. 1101; Order (June 9, 2025) Dkt. 1169
Paul Hastings LLP	2024	2024	$1,050 - 2,300	$1,120 - 1,850	$885 - 1,395			$565 - 625			*In re Cano Health, Inc.*, No. 24-10164 (June 14, 2024 Bankr. D. Del.), Dkt. 1322; Certificate (Aug. 30, 2024) Dkt. 1402
Quinn Emanuel Urquhart & Sullivan, LLP	2024	2024	$1,505 - 2,250		$990 - 1,390		$605 - 880	$515	$175		*In re Wesco Aircraft Holdings, Inc.*, No. 23-90611 (Aug.16, 2024 Bankr. S.D. Tex.), Dkt. 2303; Order (Nov. 25, 2024), Dkt. 2373
Skadden, Arps, Slate, Meagher & Flom LLP	2024	2024	$1,395 - 2,133	$1,268 - 1,674	$716 - 1,359	$657	$630	$263 - 522			*In re Endo Int'l plc*, No. 22-22549 (May 23, 2024 Bankr. S.D.N.Y.), ECF Nos. 4312; Order (Aug. 16, 2024) Dkt. 4497
Sullivan & Cromwell LLP	2024	2024	$1,695 - 2,375	$1,675 - 2,375	$850 - 1,575			$450 - 650			*In re FTX Trading, Inc.*, No. 22-11068 (Apr. 26, 2024 Bankr. D. Del.), Dkt. 12927; Certificate (May 17, 2024) Dkt. 15142
Weil, Gotshal & Manges LLP	2024	2024	$1,795 - 2,350	$1,595	$830 - 1,470			$350 - 595	$510		*In re Cano Health, Inc.*, No. 24-10164 (August 12, 2024 Bankr. D. Del.), Dkt. 1314-3; Certificate (Aug. 27, 2024) Dkt. 1392
White & Case LLP	2024	2023	$1,270 - 1,950	$1,210 – 1,310	$680 - 1,270				$315 - 640	$380	*In re Celsius Network LLC*, No. 22-10964 (Jan. 17, 2024 Bankr. S.D.N.Y.), Dkt. 4256; Order (July 1, 2024) Dkt. 5193
Willkie Farr & Gallagher, LLP	2024	2024	$1,550 - 2,250	$1,500 - 2,125	$490 - 1,475		$245 - 565	$345 - 590			*In re NanoString Techs., Inc.*, No. 24-10160 (June 28, 2024 Bankr. D. Del.), Dkt. 690; Certificate (July 1, 2024) Dkt. 692
Wilson Sonsini Goodrich & Rosati, P.C.	2024	2024	$1,100 - 1,840		$525 - 1,145			$485			*In re Rite Aid Corp.*, No. 23-18993 (Apr. 15, 2024 Bankr. D.N.J.), Dkt. 2832; Court Notice (June 27, 2024)
AVERAGE RANGE[1]			**$1,430 - $2,195**	**$1,285 – $1,765**	**$760 - $1,335**	**$430 - 540**	**$425 - $690**	**$395 - $585**	**$420 - $550**	**$405**	

[1] Rounded down to the nearest multiple of $5. Where only a single rate is provided, that rate is used to calculate the high end of the average range only, not the low end.

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Co-Lead Class Counsel
(Pro Hac Vice)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ANDREA BARTZ, ANDREA BARTZ, INC., CHARLES GRAEBER, KIRK WALLACE JOHNSON, and MJ + KJ, INC., individually and on behalf of others similarly situated, Plaintiffs, v. ANTHROPIC PBC, Defendant.	Case No.: 3:24-cv-05417-WHA **DECLARATION OF COURT APPOINTED CLASS COUNSEL RACHEL GEMAN IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND PLAINTIFF SERVICE AWARDS**

I, Rachel Geman, declare:

1.   I am a partner at the law firm of Lieff Cabraser Heimann & Bernstein, LLP ("LCHB"), counsel to Plaintiffs and Court-appointed Co-Lead Class Counsel ("Class Counsel"). Dkt. 244, at 14-15; Dkt. 437, at 14. I am a member in good standing of the State Bar of New York, and am admitted *pro hac vice* before this Court. I have personal knowledge of the facts stated in this Declaration. If called as a witness, I could and would testify competently to them.

2.   I respectfully submit this Declaration in support of Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Expenses, and Plaintiff Service Awards.

I.   INTRODUCTION

3.   On behalf of the Plaintiffs and a Class of rightsholders in hundreds of thousands of books, Class Counsel has reached a settlement with Anthropic PBC ("Anthropic") that provides a $1,500,000,000 non-reversionary common fund (plus accrued interest) to be distributed evenly among the Class Works, as well as non-monetary relief requiring Anthropic to destroy the LibGen and PiLiMi datasets after the expiration of any litigation preservation or other court orders. In exchange, the Class is entering into a narrow and tailored past-only release.

4.   Based on our work in this case, Class Counsel are seeking 20% of the Settlement Fund, reimbursement of expenses (those already incurred and a reserve for future expenses), and Service Awards for the Class Representatives.

5.   Class Counsel has set forth the contours and scope of the pre-trial efforts and settlement-related works in other briefing. *See* Declaration of Court Appointed Class Counsel Rachel Geman and Justin A. Nelson in Support of Motion for Preliminary Approval of Settlement Agreement. Dkt. 363-2, at ¶¶ 4-61; *see also* Declaration of Court Appointed Class Counsel Justin A. Nelson, filed concurrently herewith, at ¶¶ 8-10, 12-14 (addressing Class Counsel efforts). Plaintiffs' counsel have spent over 22,300 hours so far, and the hard work continues, as we now enter the crucial phase where Class Members are making their choices, such as whether to participate or opt-out, whether to claim, or whether to elect the default or not (where relevant). Because the Settlement provides multiple opportunities for Class Members to recover—including the primary claims process with a March 30 deadline, an additional 70-day window for Class

1   Members who hold rights in works claimed by others, and several opportunities to cash checks even without

2   submitting a claim—the work in overseeing the claims process will continue. In my decades of experience,

3   this settlement will require an unusual amount of work from Class Counsel post-preliminary approval—and

4   even post-final approval—to administer.

5   6.   Already Class Counsel have answered hundreds of Class Member inquiries and conducted

6   targeted research to validate their contact information. Class Counsel have also conducted several town hall

7   webinars to inform Class Members about the Court-approved notice materials and website, and participated

8   in efforts to amplify awareness among the Class of the settlement and Class Members' options under the

9   settlement. For claimants requiring additional assistance, Class Counsel have assisted with Settlement

10   Website navigation and escalation paths for complex issues, including bulk filing for Class Members with

11   multiple works on the Works List. In doing so, Class Counsel aim to reduce barriers to participation and

12   foster confidence in the claims process. Class Counsel also closely monitor third party communications

13   about the Settlement, as ensuring that Class Members are adequately informed about their choices and

14   deadlines is of paramount importance.

15   **II.   ATTORNEYS' FEES, LITIGATION EXPENSES, AND SERVICES AWARDS**

16   **A.   Lodestar**

17   1.   **General**

18   7.   LCHB has a current lodestar of roughly nine-and-a-half million, specifically, we have

19   $9,651,053.50 through December 1, 2025 based on 2025 rates.

20   8.   LCHB prosecuted this case on a purely contingent basis where counsel are advancing all

21   necessary expenses. This by definition (and perhaps especially in this case given the schedule) is to the

22   exclusion of other potential fee-generating work.   The risks of this undertaking—especially against a group

23   of large, talented, and well-resourced defense firms including Arnold and Porter, Morrison & Foerster, and

24   Latham & Watkins—are set forth in our memorandum of points and authorities and elsewhere. *See* Dkt.

25   363 at 22-23.

26   9.   LCHB nonetheless efficiently managed the case. This case was staffed principally by the two

27   Class Counsel law firms—LCHB and Susman Godfrey—with all the discovery and depositions, including

28   post-summary judgment trial depositions, conducted by the two Class Counsel firms. LCHB worked hand in

GEMAN DECLARATION ISO MOTION FOR ATTYS' FEES,
REIMBURSEMENT OF EXPENSES, AND SERVICE AWARDS
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hand with Co-Lead Class Counsel Susman Godfrey, assembling a lean, qualified team that was up to the

task of handling litigation of this magnitude and complexity. This promoted clear communication channels,

eliminated the potential for duplication of work, and efficiently streamlined work flows such as legal

research and drafting. And, we worked efficiently with Cowan DeBaets and the Publishers' Coordination

Counsel, as well as receiving discrete strategic guidance from others such as Samuel Issacharoff.

10.   Within LCHB, we had a small team of partners, with the vast majority of the partner-level

work done by myself and Daniel Hutchinson. At no time were there more than three partners actively

working on the day-to-day of the litigation. Two of those partners were based in San Francisco and the third

(myself) was based in New York. I brought extensive depth of experience in copyright law in the AI

context.[1] Elizabeth Cabraser also provided invaluable strategic guidance, and another of our partners, Anne

Shaver, had a discrete, small role leveraging her areas of knowledge.

11.   The case was initially staffed with one primary associate, Jacob Miller. As the case headed

towards motion practice and then again closer to trial, we added other associates, including an SF-based

associate and others based on their experience in other similar cases (in particular with the legal issues and

briefing). And, other colleagues, including staff attorneys, assisted in document analysis, including

deposition preparation across the board. Partners, associates, and staff attorneys have over the last several

months dedicated a significant amount of time—and continue to dedicate a significant amount of time—to

assisting with claims administration and class notice.

12.   Throughout this litigation, we implemented internal protocols and procedures to ensure that

the litigation was run as efficiently as possible, and to ensure the work involved in the litigation was value

additive, cost-effective, and non-duplicative. We made an effort to assign work to the lowest billing

timekeepers where feasible. Tasks were delegated appropriately among partners, associate attorneys,

paralegals, and other staff according to their complexity. Where necessary, projects were assigned to

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[1] For example, I, with my firm Lieff Cabraser and co-counsel Cowan DeBaets, filed a class action against OpenAI in September 2023 in which we—uniquely at that time, and as relevant for our background in serving our clients in this case – asserted claims related specifically to the most high-quality LLM content (books) on behalf of a specific proposed class of registered copyright rightsholders, and where we emphasized the existence and dangers of the pirate libraries like LibGen given their particular threat to the publishing industry. *Authors Guild, et al. v. OpenAI Inc., et al.,* No. 1:23-cv-08292-SHS-OTW (S.D.N.Y. Sept. 19, 2023) Dkt. 1.

experienced lawyers with depth in the field who could effectively and efficiently manage and run such projects.

13.   Specifically, we implemented eleven categories of mandatory task codes at the onset of the litigation: (1) Administrative; (2) Expert Consultants (including expert depositions); (3) Pleading/briefing/legal analysis; (4) Case management; (5) Offensive discovery; (6) Client communication and defensive discovery; (7) Third-party discovery; (8) Court appearances/preparation; (9) Investigation and document analysis; (10) Depositions; and (11) Settlement. LCHB's standard timekeeping practices and protocols require each timekeeper to enter time on a daily basis for all categories of work performed on behalf of Plaintiffs and Class Members.

14.   The distribution of significant amounts of time between and among these core tasks further illustrates the breadth and depth of time that Class Counsel devoted to this litigation.

15.   On the litigation side, large categories are discovery (offensive/defensive/third party), pleading/briefing/legal analysis, and document analysis (which included significant work for deposition prep and work related to the factual record). Within the categories, we strove for efficiency. For example, with respect to offensive discovery, to begin the process, Class Counsel first established a detailed document review protocol and coding panel with dozens of fields. Class Counsel then spent significant time training all attorneys analyzing produced documents in the details of the case and the coding panel to ensure the categorization was as efficient and useful as possible. Those attorneys then carefully reviewed, coded, and annotated, many of which were highly technical in nature. The information discerned from this review and analysis was used extensively in the litigation for the purpose of: (1) crafting additional discovery requests; (2) amending the complaint; (3) supporting the class certification briefing and experts; (4) identifying deponents; (5) preparing deposition outlines; and (6) assisting settlement efforts and presentations. And, across categories, we strove for other efficiencies as well, such as having "through lines" on topics. For example, the same associate who handled a meet and confer over an issue might write the brief and then argue it, though notably LCHB was able to resolve a number of discovery issues on or near the courthouse steps. The settlement category has required an especially large investment of attorney time. That is due to the peculiar intensity and nature of the settlement, the extensive work necessary to

1 address high-level settlement strategy and achieve preliminary approval, and the need to devote significant

2 junior-level staffing to class member communications and assistance.[2]

3   16.   Finally, we used experienced personnel members, working under my and my partners'

4 direction, to collect, review, and audit Lieff Cabraser's contemporaneous time records to further ensure their

5 accuracy. These personnel reviewed all submissions to confirm that the submitted time was specifically

6 authorized, appropriately categorized, timely submitted, and adequately detailed.

7   17.   **Exhibit A** includes all work performed by LCHB on behalf of Plaintiffs and Class Members,

8 as summarized by timekeeper. As shown in **Exhibit A**, LCHB has devoted approximately 13,149 hours to

9 this litigation, accumulating a lodestar of approximately $9,651,053 from inception to December 1, 2025.[3]

10 This excludes time spent by attorneys and staff who billed fewer than 10 hours on the case and, to be clear,

11 time spent on the fee application is in a separate matter not accounted for here.

12   18.   The chart below provides information by the eleven categories:

TASK CODE	DESCRIPTION	HOURS
1	Administrative	442.90
2	Experts/Consultants (Including Expert Depositions)	204.20
3	Pleading/Briefing/Legal Analysis	1,619.70
4	Case Management	639.10
5	Offensive Discovery	748.80
6	Client Communication and Defensive Discovery	1,401.80
7	Third-Party Discovery	111.30
8	Court Appearances and Preparation for Same	582.90
9	Investigation and Document Analysis	3,261.50
10	Depositions	773.60
11	Settlement	3,363.30
	Total Hours	**13,149.10**

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[2] This is most true for some of the more junior personnel. My own time, for example, was mostly divided among case management, pleadings/briefing/legal analysis, depositions, court appearances, and settlement. Much of the more-recent time expended in the settlement category reflects this key work, which was performed by junior-level staff, not partners or associates.

[3] LCHB will submit their detailed time records to the Court for *ex parte in camera* review, if the Court so requests, to shield from public disclosure material protected by the work product privilege and redacted to remove material subject to the attorney-client privilege. *See* Civ. L.R. 54-5(b)(2).

19.   LCHB's and Class Counsel's reasonable lodestar is certain to increase meaningfully due to a significant allocation of resources overseeing the Class Notice program and distribution of the Settlement Fund. Specifically, Class Counsel have devoted—and will continue to devote-significant resources to obtaining and verifying Class Member contact information; responding to Class Member inquiries; monitoring and directing the Settlement Administrator; and drafting and submitting final settlement approval papers and reports to the Court.   If the Court grants final approval, Class Counsel's commitments and responsibilities will extend, conservatively, until February 2027, and likely beyond.

20.   LCHB remains committed to working on behalf of Plaintiffs and Class Members through final resolution and beyond. LCHB's attorneys and non-attorneys staff are currently overseeing settlement administration, responding to Class Member inquiries, and assisting Class Members who choose to exercise their options under the Settlement. Those efforts will continue through the opt-out and objection deadlines, the reinclusion deadline, and the claims deadline. LCHB anticipates devoting the same amount of attorney and non-attorney resources to these important tasks through Fairness Hearing date. If the Settlement is finally approved, LCHB will continue working with Class Members, the Settlement Administrator, and the Special Master to ensure that claims are processed fairly and paid as expeditiously as possible.

21.   I estimate these tasks will require an additional 6,535 hours of time expenditure at a lodestar of $4,149,725.00 through February 2027.

22.   LCHB reached that estimate by making conservative projections based on the time that LCHB invested in this matter to date on similar or identical work. These projections do not include any time for appeals. If there are objections and subsequent appeals, Class Counsel's commitments and responsibilities may extend for several more years beyond 2027.

23.   Class Counsel request an attorneys' fee award of 20% of the $1,500,000,000 non-reversionary common fund (plus accrued interest). The total lodestar for all law firms is $22,304,844. To the extent a lodestar cross-check is conducted, the requested attorneys' fee award represents a multiplier of approximately 9.32 when accounting for the substantial further work remaining.

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1

2. **Specific Lawyers and Billing Rates**

24.   The hourly rates used to determine the lodestar represent LCHB's current, customary

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professional rates effective for the year 2025. The billing rates of the team members who contributed to this

4

case range from $835–$1,740 for partners, $550–$690 for associates, $630-655 for non-partner-track

5

attorneys, and $480–$565 for paralegals and other support staff.

6

25.   Our rates reflect each professional's title, years of relevant experience, and periodic reviews

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of internal costs and business needs. Timekeepers within the same employment category (for example,

8

partners, associates, and paralegals) may have different rates based on factors such as experience level,

9

demonstrated expertise, and matter-specific requirements..

10

26.   LCHB's hourly rates are consistent with market rates nationally and in the Bay Area. Our

11

firm's current billing rates have been accepted by courts in other contingent complex litigation and class

12

actions. *See, e.g.*, *Vela, et al. v. AMC Networks, Inc.*, No. 1:23-cv-02524-ALC, at *6 (S.D.N.Y. May 16,

13

2024), ECF No. 64 (approving Class Counsel's current, 2024 billing rates); *Czarnionka, et al. v. The Epoch*

14

Times Association, Inc., No. 1:22-cv-06348-AKH, at *6 (S.D.N.Y. July 10, 2024), ECF No. 106 (same); *In*

15

re Google Location Hist. Litig., No. 5:18-CV-05062-EJD, 2024 WL 1975462, at *15 (N.D. Cal. May 3,

16

2024) (finding Class Counsel's 2023 rates ranging from $550–$1,300 for partners, $420–$720 for

17

associates, and $535 for paralegals and other support staff "fall within the range of those approved in other

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similar cases") (citations omitted); Final Order & Judgment at 9, *In re Arizona Theranos, Inc. Litig.*, No.

19

2:16-cv-2138-DGC (D. Ariz. Feb. 6, 2024), ECF No. 619 (approving Class Counsel's 2023 rates); *Corker v.*

20

Costco Wholesale Corp., No. 19-cv-00290-RSL, 2023 WL 6215108, at *1 (W.D. Wash. Sept. 25, 2023)

21

("Counsel's hourly rates, while steep, are not unreasonable given the nature of this litigation."); *Gutierrez v.*

22

Amplify Energy Corp., No. 21-CV_01628-DOC (JDEx), 2023 WL 6370233, at *7 (C.D. Cal. Sept. 14,

23

2023) (surveying Northern District orders awarding attorneys' fees, finding that Class Counsel's hourly

24

"rates are consistent with market rates in their area"); *Ramirez v. Trans Union, LLC*, No. 12-cv-00632-JSC,

25

2022 WL 17722395, at *9 (N.D. Cal. Dec. 15, 2022) (finding that Class Counsel's rates, at the time, "from

26

$1,325 to $560 for partners and associates, and $485-$455 for 'litigation support' and paralegals" were

27

"generally in line with rates prevailing in this community for similar services") (citations omitted); *Vianu v.*

28

AT&T Mobility LLC, No. 19-cv-03602-LB, 2022 WL 16823044, at *11 (N.D. Cal. Nov. 8, 2022) (finding

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1   Class Counsel's "billing rates are normal and customary for timekeepers with similar qualifications and

2   experience in the relevant market") (citations omitted); *see also Cottle v. Plaid Inc.*, No. 20-cv-03056-DMR,

3   2022 WL 2829882, at *11 (N.D. Cal. July 20, 2022) (approving rates); *Pulmonary Assocs. of Charleston*

4   *PLLC, et al. v. Greenway Health, LLC, et al.*, No. 19-00167, at *5–8 (N.D. Ga., Dec. 2, 2021) (approving

5   rates); *Roberts v. AT&T Mobility LLC*, No. 15-cv-03418-EMC, 2021 WL 9564449, at *4 (N.D. Cal. Aug.

6   20, 2021); *In re Samsung Top-Load Washing Mach. Mktg., Sales Pracs. & Prods. Liab. Litig.*, No. 17-ml-

7   2792-D, 2020 WL 9936692, at *7 (W.D. Okla. June 11, 2020) *aff'd,* 997 F.3d 1077 (10th Cir. 2021) ("Class

8   Counsel's billing rates are reasonable for their respective geographic areas in comparable cases."); *Hosp.*

9   *Auth. Of Metro. Gov't of Nashville v. Momenta Pharms., Inc.*, No. 15-cv-01100, 2020 WL 3053468, at *1

10   (M.D. Tenn. May 29, 2020) (approving Class Counsel's rates); *In re Volkswagen "Clean Diesel" Mktg.,*

11   *Sales Pracs., & Prods. Liab. Litig.*, MDL No. 2672 CRB (JSC), 2017 WL 1047834, at *5 (N.D. Cal. Mar.

12   17, 2017) (finding that Class Counsel's rates were "more than reasonable given the complexities of this case

13   and the extraordinary result achieved for the Class").

14   27.   In the class action (and other) contexts, my rates repeatedly have been approved by courts

15   and/or used as a part of a cross-check; there are also examples where I have been co-lead counsel and my

16   fee petitions have been approved without a cross-check. Recent examples include: *Guida v. Gaia,* 1:22-cv-

17   02350-GPG-MEH, D. Colo. (2024 settlement), Dkt. No. 90 at *5 (accepted fees, no cross check); *Doe v.*

18   *MasterCorp,* INDEX NO. 1:24-cv-678 (ED VA 2024), Dkt. Nos.24, 25, 33 (same); *Chen-Oster v. Goldman*

19   *Sachs*, No. 10- cv-6950 (S.D.N.Y.) (2023 approval), Dkt. No. 1467 at *10 (finding that Class Counsel's

20   award of one-third of the settlement was reasonable and supported by a lodestar cross-check); *United States*

21   *v. Allergan,* No. 8:18-203-JVS, Dkt. No. 195 (C.D. Cal. July 24, 2023) (in context of a *qui tam* fee

22   application, court approved LCHB's (and my) rates, and noted that Allergan did not dispute LCHB's 2023

23   rates); *Cottle v. Plaid Inc.*, No. 4:20-cv-03056-DMR, ECF No. 184 at *18-19 (N.D. Cal., July 20, 2022)

24   ("The court finds that the attorney rates [for LCHB] are reasonable and in line with prevailing rates in this

25   community for similar services performed by attorneys of comparable skill and experience."); *In re General*

26   *Motors LLC Ignition Switch Litig.*, No. 14-md-2543, 2020 WL 7481292, at *3 n.3 (S.D.N.Y. Dec. 18, 2020)

27   (court engaged in ongoing review of lodestar; "[t]he Court also finds that the hourly rates reported," which

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1   included LCHB's – and my - rates, "reflect prevailing rates in the Southern District of New York for 'for

2   similar services by lawyers of reasonably comparable skill, expertise and reputation.'"),

3   28.   Below, I provide more information about the key LCHB team members.

4   29.   Elizabeth J. Cabraser is a founding partner of Lieff Cabraser Heimann & Bernstein, LLP.

5   Since 1978, she has served as court-appointed lead and class counsel in scores of federal class actions,

6   multi-district and state coordinated proceedings. Ms. Cabraser has been repeatedly recognized as one of the

7   foremost litigators in the U.S., and was selected an unprecedented four times as one of the 100 Most

8   Influential Lawyers in America by the National Law Journal, which has called her "a pillar of the plaintiffs'

9   bar." Her cases include multi-state tobacco, the Exxon Valdez disaster, Breast Implants, Fen-Phen (Diet

10   Drugs), Vioxx, Toyota sudden acceleration, numerous securities/investment fraud cases, and Holocaust

11   litigation. She has recently served in court-appointed leadership positions in several of the nation's highest

12   profile civil cases: the BP Gulf Oil Spill, In re National Prescription Opiate ("Opioids"), as well as serving

13   as sole Lead Counsel and Chair of the Plaintiffs' Steering Committee in the Volkswagen "Clean Diesel"

14   Emissions litigation and the Fiat Chrysler Ecodiesel Emissions litigation. Her work to advance the

15   administration of justice includes service on the Council of the American Law Institute (now emeritus), the

16   Federal Civil Rules Advisory Committee (2010-2017), as a fellow of the American Academy of Arts and

17   Sciences, and as Editor in Chief of the ABA's annual "The Law of Class Action" publication. Her many law

18   review articles include The Participatory Class Action, 92 N.Y.U. L. Rev. 846 (2017), co-authored with

19   Samuel Issacharoff. In this case, Ms. Cabraser provided critical guidance on litigation and settlement

20   strategy.

21   30.   I, Rachel Geman, am a partner in Lieff Cabraser's New York office with a practice dedicated

22   to class actions and the False Claims Act. I chair the firm's Whistleblower Practice Group, which includes

23   both litigation and under-seal matters. I have served as co-lead or class counsel in a variety of consumer,

24   privacy, employment, and financial fraud matters, including those listed in paragraph 28. Virtually all of my

25   clients are individuals, though I have also represented government entities in anti-discrimination matters and

26   ERISA plans in financial fraud matters. To avoid repetition, I refer to my recitation of my background in

27   earlier briefing, including at Dkts. 125-1 at 7-8, 363-5 (describing my class action cases, my awards, and my

28   history of service to the bar).

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31.   To update my biography in relevant respects, in the time between my last declaration in September and the present, (a) I was appointed to a three-year term of the Joint Southern District of New York/Eastern District of New York Rules Committee and (b) I spoke as the plaintiffs-side representative about AI copyright cases at the ABA's Class Action Conference, in respectful dialogue with members of the defense-side bar and experts.

32.   LCHB partner Daniel M. Hutchinson is the chair of the firm's employment practice group. Mr. Hutchinson has served as lead or co-lead counsel on cases that recovered over $800 million for his clients in all variety of industries and across myriad discrimination, unpaid wages, ERISA, consumer protection, and financial fraud cases. Mr. Hutchinson has pursued dozens of federal statutory damages class action cases against major banks and financial services providers. His efforts helped result in the largest monetary settlements in the history of the Telephone Consumer Protection Act and ended harassing robocalls to millions of consumers. Mr. Hutchinson has been recognized as a nationwide leader in employment law. In 2014, Law360 acknowledged Mr. Hutchinson as one of six of the nation's top employment lawyers under 40. The Daily Journal named him as a "Top 40 Under 40" leading lawyer in California. The Recorder endorsed him as one of "50 Lawyers on the Fast Track." Mr. Hutchinson has spoken and presented papers at national employment and consumer law conferences, including events sponsored by the American Bar Association's Section of Labor and Employment Law, the Mason Judicial Education Program, the Practicing Law Institute, the Impact Fund, the UCLA School of Law, the National Employment Lawyers Association, and the Consumer Attorneys of California. Mr. Hutchinson has served as the Board Chair for the Lawyers Committee for Civil Rights. Mr. Hutchinson graduated from the University of California, Berkeley, School of Law (Berkeley Law) and from Brown University.

33.   Jallé Dafa is a partner at LCHB. Ms. Dafa represents consumers and workers in high-stakes class action litigation spanning antitrust, consumer protection, and privacy and cybersecurity matters, and has helped secure significant monetary and injunctive relief in complex nationwide cases. Her work has been recognized by industry publications, including Lawdragon's 500 Leading Plaintiff Consumer Lawyers and 500 Leading Global Antitrust & Competition Lawyers for 2025, as well as Best Lawyers: Ones to Watch (2023–2025). Active in the Bay Area legal community, Ms. Dafa serves on the Board of the ACLU Foundation of Northern California and on the Executive Committee of the Bar Association of San

1   Francisco's Litigation Section. Ms. Dafa received her J.D. from the University of California, Berkeley

2   School of Law in 2011. Prior to her work at Lieff Cabraser, Ms. Dafa clerked for Judge Mary M. Schroeder

3   of the United States Court of Appeals for the Ninth Circuit and Judge Jacqueline S. Corley of the United

4   States District Court for the Northern District of California. Ms. Dafa became involved in this Action in July

5   2025.

6   34.   Reilly T. Stoler is a former partner at LCHB, and an experienced trial lawyer who has

7   represented individuals, classes and States as plaintiffs. He has worked on complex, aggregate litigations

8   across a range of fields and jurisdictions, including the *In re Juul Labs Mktg. Sales Practices & Prods. Liab.*

9   *Litig.* matter, for which the firm received the Consumer Attorney of the Year Award from the Consumer

10   Attorneys of California and the California Attorney of the Year Award from The Daily Journal. Mr. Stoler

11   left LCHB to work at the San Francisco City Attorney's Office.

12   35.   LCHB associate Danna Elmasry is a graduate of the University of Michigan Law School and

13   the University of Chicago. Ms. Elmasry re-joined the firm after clerking for Judge Nusrat J. Choudhury in

14   the United States District Court for the Eastern District of New York. Ms. Elmasry was involved in this

15   action from January 2025 to present.

16   36.   Lieff Cabraser associate Amelia Haselkorn received her J.D., *magna cum laude*, from the

17   University of California, Irvine, School of Law, in 2021. Ms. Haselkorn has been involved in this action

18   from August 2025 to the present.

19   37.   Lieff Cabraser associate Jacob Miller is a graduate of Harvard Law School and Harvard

20   College. Prior to joining Lieff Cabraser, Mr. Miller was a law clerk in the United States District Court for

21   the Northern District of California and the Supreme Court of Hawaii. Mr. Miller also practiced as a

22   litigation associate at Kaplan Hecker & Fink LLP. Mr. Miller has been involved in this action from

23   September 2024 to present.

24   38.   Betsy Sugar is an associate at Lieff Cabraser. Ms. Sugar received her J.D. from the

25   Vanderbilt University Law School in 2024. Ms. Sugar has been involved in this action from June 2025 to

26   the present.

27   39.   In addition to the core litigation team, several staff attorneys have performed the roles

28   described above: Hannah Lazarz received her J.D. from University of California, Los Angeles, School of

1   Law in 2020; Peter Roos received his J.D. from Rijksuniversiteit Limburg Faculteit der Rechtsgeleerdheid,

2   Maastricht, Netherlands in 1989 and his LLM from University of San Francisco, School of Law in 2001; Jae

3   Park received her J.D. from University of Pennsylvania Law School in 2005; Katherine Post received her

4   J.D. from University of San Francisco, School of Law in 1983; Jose Garcia received his J.D. from

5   University of California, Los Angeles, School of Law in 1985; Jonathan Zaul received his J.D. from

6   University of San Francisco, School of Law in 2009; Cameron Saunders received her J.D. from Golden

7   Gate University, School of Law in 2006, and her LLM in taxation from Golden Gate University, School of

8   Law in 2008.

9   40.   In addition, once the Settlement was preliminarily approved, staff attorney Tanya Ashur—

10   who received her J.D. from Chicago-Kent College in 2000—helped field complex inquiries about the

11   Settlement, along with some of the other staff attorneys listed above.

12   41.   Lieff Cabraser staff attorneys are full-time salaried employees of the firm receiving a full

13   array of benefits. Their legal work concentrates on the factual analysis of a case, but they are not

14   presumptively on partner track. Lieff Cabraser's staff attorneys focus their practice primarily on discovery

15   activities, with an emphasis on technology-assisted efficiencies, deposition preparation, and other document

16   analysis. Each of these staff attorneys performed these roles in connection with the analysis of discovery in

17   this Action at various times throughout this period.

18   42.   The primary litigation staff at Lieff Cabraser in this Action have been senior paralegals

19   Ariana Delucchi and Elizabeth Keenley, and case clerk Cahron Cross. Their tasks in this case included:

20   organizing case documents, assisting with filings and checking the factual and legal materials cited in

21   pleadings and briefs, conducting research and investigation, speaking with Class members, assisting with

22   the service of case documents, managing Lieff Cabraser's case file, preparing hearing preparation and other

23   materials for court proceedings, and coordinating with the firm's Litigation Support Department, discussed

24   below, concerning document discovery and review.

25   43.   Lieff Cabraser maintained and managed the substantial document database for this action in

26   house, through its Litigation Support department. The primary team of litigation support staff (including

27   Anthony Grant, Margie Calangian, Fawad Rahimi, Michael Mazzarella, and Muna Texier who have 25, 17,

28   8, 6, and 3 years of experience in litigation support, respectively) managed all aspects of Anthropic's

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1   document productions and the collection, preservation, and production of our clients' files. They assisted

2   with a variety of other projects as well, including: technical aspects of the ESI protocol; preparing especially

3   complex saved searches to assist in the document review efforts; and various troubleshooting requests

4   inherent to any large case.

5   44.   Once the Settlement was announced, the core litigation team was assisted by a team of

6   approximately 15 paralegals and case clerks who conducted Class member communications, gathered

7   missing Class member contact information to aid with direct notice, and monitored media and internet

8   activity to help Class Counsel identify and address false or misleading information being spread about the

9   Settlement.

10   3.   **Other Counsel**

11   45.   Further, as we discussed in Dkt. No. 400 (Supplemental Class Counsel Declaration re Motion

12 for Settlement), "[t]he proposed claim process was developed after extensive consultation between Class

13 Counsel and a wide variety of industry experts and stakeholders, including (in addition to the Class

14 Representatives themselves), the Authors Guild, the American Association of Publishers ("AAP"), The

15 Textbook and Academic Authors Association ("TAA"), as well as counsel for each of these groups. The

16 Guild, the AAP, and the TAA are not claimants in this case. None of them have received or will receive any

17 compensation for their work in assisting Class Counsel." The TAA had retained Slarskey LLC and the

18 Archstone Law Group—two firms experienced in representing authors—to assist with its contributions to

19 the working group. In light of their contributions, Class Counsel intends to share $137,431.40 from any fee

20 awarded to Slarskey and Archstone for work completed in connection with the Author-Publisher Working

21 Group. Slarskey and Archstone's time has not, however, been included in Class Counsel's lodestar

22 calculation.

23   46.   Finally, the Class also benefited from the work of Professor Samuel Issacharoff. Plaintiffs

24 filed their notice of association of counsel identifying Professor Issacharoff on August 11, 2025. *See* Dkt.

25 298. Mr. Issacharoff provided critical assistance in this case based on his 40+ years of legal experience; that

26 assistance included commenting on and evaluating the settlement agreement; Counsel's extensive filings

27 regarding preliminary approval; the structure of the claims process; and the discussion of the default split

28 between rightsholders. Mr. Issacharoff's hourly rate is $1,600 and he spent 54.8 hours on the matter, for a

1   total contribution of $93,440 to the lodestar. That fee is amply reasonable given Mr. Issacharoff's legal

2   experience in the fields of civil procedure and class action law. Professor Issacharoff has also submitted a

3   declaration attesting to his contributions in this case, attached as Exhibit B. Professor Issacharoff's time has

4   been included in Class Counsel's lodestar calculation.

5   **B.**   **Unreimbursed Costs and Litigation Expenses**

6   47.   LCHB accumulated unreimbursed out-of-pocket costs and expenses from a joint litigation

7   cost fund, separate litigation expenses borne solely by LCHB, and future outlays for in-progress expenses.

8   48.   As set forth below, these include costs advanced in connection with customary litigation

9   expenses, such as testifying and consulting experts, mediation, legal research, filing fees, document hosting

10   services, copying and mailing, and other customary litigation expenses.

11   49.   The Cost Fund: Because of the substantial financial commitment required to prosecute a

12   class action of this size and scope, Class Counsel established and maintained a cost fund to jointly pay

13   significant litigation expenses. Both LCHB and Susman Godfrey regularly contributed identical amounts to

14   the cost of fund, totaling approximately $952,500 each and for a total of $1,905,000 between the two

15   firms.Class Counsel contributed these cost payments out of pocket on a contingent based and with no

16   guarantee or reimbursement. The Edelson firm later contributed an additional $250,000 after joining the

17   case.

18   50.   LCHB's maintained detailed records of the cost fund and each payment from it. LCHB's

19   business records document the following payments from the cost fund for required litigation expenses.

20   51.   The below chart summarizes the costs that already have been made out of the case cost fund:

COST TYPE	TOTAL
Court Reporters	$1,470.95
Deposition Services	$113,111.39
E-Discovery	$46,381.75
Experts	$1,018,833.65
Manual Filing Expenses	$113.16
Mediation Services	$149,400.74
Settlement Publication Services	$126,577.19
Special Master	$3,660.00
Trial Consultants	$34,614.92
Class List	$82,526.25

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Outside Legal Fees	$199,936.08
TOTAL	**$1,776,626.08**

52.   The requested case costs are reasonable, necessary, and proportionate to the needs of a novel, complex copyright action and should be reimbursed.

53.   LCHB-Specific Costs: In addition to the Cost Fund, LCHB expended a significant amount of out-of-pockets costs for litigation expenses. As with the Cost Fund, expenses were calculated from the firm's books and records and therefore represent an accurate recordation of costs and expenses. Especially given the risk of the litigation, LCHB expended only that which was reasonably necessary for the continued prosecution and resolution of this litigation. LCHB's business records document the following additional payments for required litigation expenses:

COST TYPE	TOTAL
Electronic Database Charges	$24,576.97
Travel (Air and Ground Transportation)	$21,758.19
Research Charges	$7,312.45
Process Service	$1,657.60
Messenger Delivery Service	$1,530.35
PHV Fees	$984.00
Copies	$546.00
Deposition Expenses Charges	$414.50
Filing Fees	$328.00
Postage	$57.54
Outside Copy Service	$55.50
TOTAL	**$59,221**

54.   LCHB has excluded internal printing costs and certain travel related expenses, including hotels and food.

55.   Future Payments: Class Counsel will continue to pay for additional costs and expenses to resolve this litigation. These future costs include (1) deferred payments for costs and expenses that have already been incurred, but not yet paid for, and (2) payment for contacted costs and expenses that are in the process of being performed.

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COST TYPE	TOTAL
Settlement Administrator	$15,000,000.00
Special Master	$1,000,000.00
Deferred Expert Expenses	$500,000.00
Deferred Works List Costs	$100,000.00
Deferred Outside Legal Fees	$430,000.00
TOTAL	**$17,030,000.00**

Class Counsel request a costs reserve of $17,030,000.00 for payment of these future costs.

56.   The Settlement Administrator. By far the largest pending expense is the estimated $15 million due to the Court-appointed Settlement Administrator, JND Legal. *See* Supplemental Declaration of Jennifer M. Keough Regarding Proposed Class Notice Plan (Dkt. 399), at ¶ 117. Class Counsel will be personally responsible for advancing settlement costs and expenses on behalf of Plaintiffs and Class Members. Specifically, the Court has ordered that Class Counsel are personally responsible for payment of all costs and expenses for the Court-appointed Settlement Administrator, subject to reimbursement from the Settlement Fund. *See* 9/25/2025 Hearing Tr., Dkt. 431, at 4:20-5:21. If the Settlement is not finally approved, Class Counsel (not Anthropic or anyone else) must pay those costs and expenses. *See id.* Thus, Class Counsel will pay all such costs and expenses *See* Dkt. 431, at 4:20-5:21.

57.   Testifying and Consulting Experts. The cost of experts—approximately $1,018,833.65— reflects the indispensable role of technical and industry experts in cutting-edge IP cases, among other things, here related to the creation of the Works List and related data work. The success of this litigation depended in part on the high-quality of work provided by the consulting and testifying experts that Class Counsel retained. In my professional opinion, the figures are unsurprising and reasonable. The consulting experts conferred with Class Counsel on the case strategy and development of the claims and pleadings. Once Plaintiffs started receiving documents, Class Counsel relied on these experts to translate highly technical documents, including lines of source code that Anthropic produced. Experts spent many hours reviewing Anthropic's technical document and productions, drafting in-depth and comprehensive analyses of Anthropic's LLMs. These experts also performed substantial work in preparation for class certification, summary judgment, and trial, including the analyses set forth in the reports filed with the Court. Thus,

1   unsurprisingly, given the complex and highly technical nature of this case, the vast majority of expenses

2   went to expert work.

3   58.   Trial Consultants. The success of this litigation depended in part on the high-quality of work

4   provided preparing for trial. Trial consultants worked closely with Class Counsel to develop appropriate

5   questions for potential jurors. This analysis was essential to understanding the benefits and risks of

6   continued litigation, and proved important to reaching a fair, reasonable, and adequate settlement.

7   59.   Mediators. An additional substantial expense was hiring two experienced and well-regarded

8   mediators to help facilitate discussions of a potential resolution. The skill and experience of these mediators

9   (the Honorable Vaughn R. Walker (ret.) and the Honorable Layn Phillips (ret.)) were instrumental in

10   assisting with the ultimate success of the mediation efforts.

11   60.   Other expenses. Each of the remaining out-of-pocket expenditures were necessary to

12   prosecute this matter efficiently and are of the type routinely approved as reasonable litigation expenses.

13   Travel expenses of $21,758.19 for air and ground transportation were reasonably incurred to attend

14   depositions, hearings, and meetings integral to case development and resolution. Research charges of

15    $7,312.45 were necessary to analyze legal issues, prepare motions, and respond to the Court, while

16    $1,657.60 in process service and $1,530.35 in messenger delivery services ensured timely and effective

17   service and filing of critical documents. The $984.00 in *pro hac vice* fees was required to appear in this

18   Court, and the modest copying costs ($546.00), outside copy services ($55.50), and postage ($57.54) reflect

19   routine case administration. In total, these itemized expenses of $59,221 were actually incurred, reasonable

20   in amount, directly tied to advancing the litigation, and proportionate to the complexity and results achieved.

21   The Court should therefore grant LCHB's request for reimbursement. Court reporters and deposition

22   services ($1,470.95 and $113,111.39) were foundational to obtaining, preserving, and presenting testimony;

23   e-discovery ($46,381.75) was essential to collect, process, and review electronically stored information at a

24   scale appropriate to the case; mediation services ($149,400.74) and the Special Master ($3,660.00)

25   contributed to efficient dispute resolution and ultimately resolving this complex matter; the class list

26   ($82,526.25) enabled the gathering and clear presentation and organization of class member contact

27   information; settlement publication services ($126,577.19) supported efficient communication of the

28   settlement; modest manual filing expenses ($113.16) were incidental and unavoidable; and outside legal

GEMAN DECLARATION ISO MOTION FOR ATTYS' FEES,
REIMBURSEMENT OF EXPENSES, AND SERVICE AWARDS
CASE NO. 3:24-CV-05417-WHA

1 fees ($199,936.08) reflect specialized counsel efforts necessary to prosecute the case efficiently. Each

2 category bears a direct nexus to the litigation's demands, was reasonably incurred to meet court schedules

3 and evidentiary standards, and falls within the range typically seen in high-stakes, expert-intensive IP

4 matters. In total, the requested $1,776,626.08 is proportional to the amount in controversy and the

5 complexity of the record, and the Court should approve these costs as reasonable case expenses.

6   61.   It is LCHB's policy and practice to prepare records from expense vouchers, check records,

7 credit card records, and other source materials. Based on my oversight of Lieff Cabraser's and other firms'

8 work in connection with this litigation and my review of these records, I believe them to constitute an

9 accurate record of the expenses actually incurred by the firms. Itemized expense reports are available for

10 review by the Court should the Court deem it appropriate.

11   62.   Especially given the risk of this litigation, Class Counsel made every effort to minimize

12 expenses—expending only that which was reasonably necessary to prosecute and resolve this litigation.

13   **C.**   **Service Award Payments to Plaintiffs**

14   63.   The Court has appointed Plaintiffs Andrea Bartz Inc., Charles Graeber, and MJ+ KJ Inc.as

15 Settlement Class Representatives for the Settlement Class. Dkt. 244; Dkt. 437.

16   64.   Class Counsel respectfully requests service awards of $50,000 for each of the three Plaintiffs

17 to compensate their efforts and sacrifices in service to the Class. The three Class Representatives made

18 exceptional contributions on behalf of the Settlement Class, absent personal benefit, and in fact, undertaking

19 considerable risk.

20   65.   Andrea Bartz Inc., Charles Graeber, and MJ+ KJ Inc. should each be recognized for their

21 active participation and contributions throughout this litigation, which are further described in their

22 declarations. True and correct copies of their declarations are submitted alongside Plaintiffs' Motion for

23 Attorneys' Fees, Reimbursement of Expenses, and Plaintiff Service Awards.

24

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

25   Executed New York, New York, this 3rd day of December, 2025.

26

27   */s/ Rachel Geman*
                                 Rachel Geman

28

EXHIBIT A

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP			

Report created on	12/02/2025 02:36:54 PM	From	Inception
		To	Present

Matter Number: 4392-0001   **ANTHROPIC - General Mattter**

PARTNER

NAME	HOURS	RATE	TOTAL
ELIZABETH CABRASER	39.90	1,740.00	69,426.00
JALLÉ DAFA	516.00	905.00	466,980.00
RACHEL GEMAN	1,152.70	1,260.00	1,452,402.00
DANIEL HUTCHINSON	1,266.40	1,115.00	1,412,036.00
ANNE SHAVER	43.70	985.00	43,044.50
REILLY STOLER	336.80	835.00	281,228.00
	3,355.50		**3,725,116.50**

ASSOCIATE

NAME	HOURS	RATE	TOTAL
DANNA ELMASRY	482.80	630.00	304,164.00
ANNA FREYMANN	48.40	690.00	33,396.00
AMELIA HASELKORN	416.80	655.00	273,004.00
JACOB MILLER	1,661.90	690.00	1,146,711.00
BETSY SUGAR	353.40	550.00	194,370.00
	2,963.30		**1,951,645.00**

STAFF ATTORNEY

NAME	HOURS	RATE	TOTAL
TANYA ASHUR	174.90	655.00	114,559.50
JOSE GARCIA	325.00	630.00	204,750.00
HANNAH LAZARZ	451.30	655.00	295,601.50
JAE PARK	670.60	630.00	422,478.00
KATHERINE POST	475.70	630.00	299,691.00
PETER ROOS	920.30	655.00	602,796.50
CAMERON SAUNDERS	117.00	630.00	73,710.00
JONATHAN ZAUL	287.10	630.00	180,873.00
	3,421.90		**2,194,459.50**

CONTRACT ATTORNEY

NAME	HOURS	RATE	TOTAL
AYODELE VASSALL	209.50	630.00	131,985.00
	209.50		**131,985.00**

PARALEGAL/CLERK

NAME	HOURS	RATE	TOTAL
SEGEV BERNER-KADISH	128.00	480.00	61,440.00

NAME	HOURS	RATE	TOTAL
DAJUNG CHUNG	78.10	480.00	37,488.00
CAHRON CROSS	457.50	480.00	219,600.00
ARIANA DELUCCHI	338.70	540.00	182,898.00
MADELEINE HARRISON	231.70	480.00	111,216.00
ELLA HUGHES	111.70	480.00	53,616.00
ELIZABETH KEENLEY	205.60	540.00	111,024.00
ERIK KRUGER	146.60	540.00	79,164.00
BENJAMIN LANG	205.70	540.00	111,078.00
JAMES MCCANN	98.10	480.00	47,088.00
GEMMA MEADOWS	99.10	480.00	47,568.00
THOMAS STORY	153.70	480.00	73,776.00
ARIK TALMON	122.60	515.00	63,139.00
MADELEINE TURNER	140.20	480.00	67,296.00
BRIANA VITO	145.90	540.00	78,786.00
	2,663.20		**1,345,177.00**

LITIGATION SUPPORT / RESEARCH

NAME	HOURS	RATE	TOTAL
MARGIE CALANGIAN	86.60	565.00	48,929.00
ANTHONY GRANT	88.70	565.00	50,115.50
MICHAEL MAZZARELLA	35.80	565.00	20,227.00
ELLY OXMAN	10.80	565.00	6,102.00
OZAN PAYDAK	45.90	565.00	25,933.50
FAWAD RAHIMI	86.30	565.00	48,759.50
JENNIFER SABBE	11.70	565.00	6,610.50
ELIZABETH SCHNEIDER	48.30	565.00	27,289.50
MUNA TEXIER	105.20	565.00	59,438.00
JENNIFER WILLIAMS	16.40	565.00	9,266.00
	535.70		**302,670.50**

MATTER TOTALS	**13,149.10**		**9,651,053.50**

EXHIBIT B

Samuel Issacharoff (*Pro Hac Vice*)
40 Washington Square South, Suite 411J
New York, NY 10012
(212) 998-6580
Fax: (212) 995-4590
Email: si13@nyu.edu

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANDREA BARTZ, ANDREA BARTZ, INC., CHARLES GRAEBER, KIRK WALLACE JOHNSON, and MJ + KJ, INC., individually and on behalf of others similarly situated, Plaintiffs, v. ANTHROPIC PBC, Defendant.	Case No.: 3:24-cv-05417-WHA **DECLARATION OF SAMUEL ISSACHAROFF IN SUPPORT OF PLAINTIFFS' MOTION FOR SETTLEMENT APROVAL, ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND PLAINTIFF SERVICE AWARDS**

I, Samuel Issacharoff declare:

1.   I am a member in good standing of the State Bar of Texas, and I am admitted *pro hac vice* before this Court. Dkt. No. 321. I respectfully submit this Declaration in support of Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Expenses, and Plaintiff Service Awards.

2.   I am the Bonnie and Richard Reiss Professor of Constitutional Law at the New York University School of Law and the reporter for the American Law Institute's Principles of Aggregate Litigation. I have also been involved as counsel, as an expert and as a consultant in a large number of SEcomplex cases, including dozens of class actions, on behalf of both plaintiffs and defendants; in addition, I have served as special master in a mass tort class action in the Eastern District of Texas. I have testified before the Advisory Committee on the Rules of Practice and Procedure of The Judicial Conference of the United States and the Third Circuit Task Force on the Selection of Class Counsel regarding proposed

1 amendments to the federal class action rule and other matters pertaining to the selection and compensation

2 of class counsel.

3   3.   From June 2025 through the present, I have provided Class Counsel with strategic guidance

4 on Rule 23 and settlement issues arising out of and relating to the Settlement. In performing that role, I

5 routinely conferred with Class Counsel and provided high-level legal research. I also traveled to San

6 Francisco to meet with Class Counsel in person and attend the September 8, 2025 preliminary approval

7 hearing in this matter.

8   4.   On August 11, Class Counsel filed a Notice of Association of Additional Counsel notifying

9 the Court that I was advising Class Counsel on class and procedural issues. Dkt. No. 298.

10   5.   My lodestar in this matter is $90,240 for 58.4 hours of work spent advising Class Counsel on

11 strategic Rule 23 and settlement issues. I expended this time on a contingent basis, without any guarantee of

12 receiving compensation if the litigation was not successful. I also have out of pocket carried expenses of

13 $3,037.93 which I have expended and which will be reimbursed only pursuant to court order..

14   6.   I currently charge $1,600 for non-contingent work. Courts routinely approve requests for my

15 attorney's fees in complex class action litigation. *See, e.g.*, *Ramirez v. Trans Union, LLC*, No. 12-CV-

16 00632-JSC, 2022 WL 17722395, at *9 (N.D. Cal. Dec. 15, 2022) (finding reasonable $1,200 rate and

17 granting motion for attorney's fees for work performed starting at 2020 rates).

18   7.   I will remain devoted to this matter through its conclusion and stand ready to advise Class

19 Counsel on any issues that arise.

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

21   Executed in New York, New York, this 3rd day of December, 2025.

22

23   */s/ Samuel Issacharoff*
                        Samuel Issacharoff

24

25

26

27

28

EDELSON PC
Jay Edelson (pro hac vice)
J. Eli Wade-Scott (pro hac vice)
350 North LaSalle, 14th Floor
Chicago, Illinois 60654
Tel: 312.589.6370
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OPPENHEIM & ZEBRAK, LLP
Matthew J. Oppenheim (pro hac vice)
Jeffrey M. Gould (pro hac vice)
4530 Wisconsin Avenue, NW, Fifth Floor
Washington, DC 20016
Tel: 202-480-2999

Publishers' Coordination Counsel

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANDREA BARTZ, ANDREA BARTZ, INC., CHARLES GRAEBER, KIRK WALLACE JOHNSON, AND MJ + KJ, INC., individually and on behalf of others similar situated,
 	
            Plaintiffs,
    v.
 	
ANTHROPIC PBC,
 	
            Defendants.
	Case No. 3:24-cv-05417-WHA
	
	Hon. William Alsup
	
	DECLARATION OF PUBLISHERS' COORDINATION COUNSEL JAY EDELSON AND MATTHEW J. OPPENHEIM IN SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS' FEES AND EXPENSES/CHARGES

1   Pursuant to 28 U.S.C. § 1746, Matthew J. Oppenheim and Jay Edelson jointly declare

2 and state as follows, except where specified:

3   1.   We are each partners at one of the firms named as Publishers' Coordination

4 Counsel ("PCC") in the above-captioned action. We make this declaration based on our personal

5 knowledge, as to each of our firms, and our review of the records our respective firms kept

6 during the pendency of this case.

7   2.   I, Jay Edelson, am an attorney admitted to practice in Illinois. I am the Founder

8 and CEO of Edelson PC ("Edelson"), which was retained as PCC in the above-captioned action,

9 for the purpose of representing Publishers. I am one of the attorneys who oversaw and conducted

10 the day-to-day activities as PCC in the above-entitled action (the "Litigation"). I am submitting

11 this declaration in support of Class Counsel's application for an award of attorneys' fees and

12 expenses in connection with the legal services rendered by Edelson in the Litigation.

13   3.   I, Matthew J. Oppenheim, am an attorney admitted to practice in the District of

14 Columbia, New York, and Maryland, among other U.S. Federal Courts. I am the co-founding

15 partner and managing partner of Oppenheim + Zebrak, LLP ("O+Z" and together with Edelson,

16 the "Firms), which was retained as PCC in the above-captioned action, for the purpose of

17 representing Publishers. I am one of the attorneys who oversaw and conducted the day-to-day

18 activities as PCC in the Litigation. I am submitting this declaration in support of Class Counsel's

19 application for an award of attorneys' fees and expenses in connection with the legal services

20 rendered by O+Z in the Litigation.

21   4.   **Background Regarding Edelson PC, by Mr. Edelson Only**

22   5.   I, Jay Edelson, am the Founder and CEO of Edelson PC, which has been engaged

23 as Publishers' Coordination Counsel in the above-captioned action. I am over the age of 18 and

24 fully competent to make this Declaration.

25   6.   I have personal knowledge of the facts set forth herein and if called upon to testify

26 as a witness, I could and would competently testify hereto.

27   7.   I have over two decades of experience representing plaintiff classes. I've been

1   named three times by Law360 as a "Titan of the Plaintiffs Bar," and by Forbes as one of

2   "America's Top 200 Lawyers." I was also named to Fast Company's "Most Creative People in

3   Business" list, where I was the first plaintiffs' attorney to ever receive that recognition.

4   8.   My firm has over 100 attorneys and staff across six offices, including Chicago

5   and San Francisco. The firm is structured around dedicated teams that allow our attorneys to

6   devote their full resources and attention to each stage of the case: a dedicated Investigations

7   team, Litigation team, and Appellate team (among others). Particularly relevant to our work in

8   technology cases, we have a unique-in-the-industry forensic investigations lab, staffed by non-

9   lawyer technologists and led by the firm's Chief Technologist, Shawn Davis.

10   9.   We have been named, in multiple years, a Consumer Protection Group of the

11   Year (2016, 2017, 2019, 2020), a Class Action Group of the Year (2019), a Plaintiff's Class

12   Action Powerhouse (2017, 2018, 2019), and a Cybersecurity and Privacy Group of the Year

13   (2017, 2018, 2019, 2020, 2022, 2023) by Law360. The National Law Journal also recognized us

14   as "Elite Trial Lawyers" in Consumer Protection (2020, 2021), Class Action (2021),

15   Privacy/Data Breach (2020), Mass Torts (2020), and Sports, Entertainment and Media Law

16   (2020). Just considering cases where we have served as lead counsel, our verdicts and

17   settlements exceed $5 billion.

18   10.   In cutting-edge technology cases, particularly, my firm's track record is

19   unparalleled. The *New York Times* called me "Tech's Least Friended Man" for my firm's

20   innovation and success in bringing technology-related class actions, and observed that our cases

21   "read like a time capsule of the last decade, charting how computers have been steadfastly

22   logging data about our searches, our friends, our bodies."[1]

23   11.   We filed the first-ever case under the Illinois Biometric Information Privacy Act

24   ("BIPA"), which resulted in the largest single-state privacy settlement ever at $650 million,

25   which was reached on the eve of trial. *See In re Facebook Biometric Information Privacy Litig.*,

26

27   _____
     [1]   Conor Dougherty, *Jay Edelson, the Class-Action Lawyer Who May Be Tech's Least Friended Man*, N. Y.
     TIMES (Apr.4,2015), https://www.nytimes.com/2015/04/05/technology/unpopular-in-silicon-valley.html.

DECLARATION OF JAY EDELSON AND MATTHEW   -3-
J. OPPENHEIM ISO APPLICATION FOR AWARD
OF ATTORNEYS' FEES AND EXPENSES/CHARGES

1   522 F. Supp. 3d 617 (N.D. Cal. 2021). In approving the settlement, Judge Donato of this District

2   noted the "landmark result" achieved for the Class, observing that Edelson and its co-counsel

3   had produced a "major win for consumers in the hotly contested area of digital privacy." 522 F.

4   Supp. 3d at 620-621.

5   12.   We've secured more than $700 million in settlements and verdicts against illegal

6   online casinos under Washington State's gambling laws after winning a watershed Ninth Circuit

7   victory for consumers against such companies in *Kater v. Churchill Downs Inc.*, 886 F.3d 784

8   (9th Cir. 2018). When assessing the fairness of one of those settlements for $415 million, Judge

9   Lasnik of the Western District of Washington described how my firm worked "in the Executive

10   branch, the legislative branch, and the Judicial branch" to secure an extraordinary result for its

11   clients in a "unique" case—describing the firm as "all in with high quality and very admirable

12   lawyering[.]" *Benson v. DoubleDown Interactive LLC*, No. 18-cv-00525, dkt. 550 (W.D. Wash.

13   June 22, 2023).

14   13.   The firm was lead counsel in *Spokeo v. Robins*, in which the Supreme Court held

15   that "intangible harm" could satisfy Article III standing requirements. *See* 136 S. Ct. 1540

16   (2016). Commentators called the case "the most important privacy class action and consumer

17   case of the decade."[2]

18   14.   We also have deep experience in AI cases, where we have been at the forefront of

19   AI issues since the advent of this industry. We represent governments in first-of-their-kind

20   enforcement actions tackling harm to teens from social media AIs. We also represent families

21   individually against AI companies for encouraging self-harm and suicide in both teenagers and

22   adults, as well as catastrophic third-party injuries. And we secured a consent decree from

23   Clearview AI—in what's been called a "milestone for civil rights"—that bans Clearview's AI-

24   powered face recognition from the private market. *American Civil Liberties Union v. Clearview*

25

26   _____

     [2]   *See John K. Higgins, Supreme Court to Hear 'Non-Injury' Privacy Class Action*, E-COMMERCE TIMES
     (May 6, 2015), https://www.ecommercetimes.com/story/supreme-court-to-hear-non-injury-privacy-class-action-
27   82015.html.

     DECLARATION OF JAY EDELSON AND MATTHEW
     J. OPPENHEIM ISO APPLICATION FOR AWARD   -4-
     OF ATTORNEYS' FEES AND EXPENSES/CHARGES

1   *AI, Inc.*, No. 20 CH 4353 (Cir. Ct. Cook Cty.).[3]

2   15.   Our firm has had particular success in trying class action cases, where we've

3   prevailed in four class action trials in recent years. The largest single damages verdict was a

4    $925 million verdict in a privacy case, *Wakefield v. ViSalus, Inc.*, No. 3:15-cv-1857-SI (D. Or.

5   June 24, 2019).[4] In a case on behalf of a class of wildfire survivors in Oregon against the local

6   utility, PacifiCorp, the jury found PacifiCorp liable to the entire class—finding that it recklessly

7   caused the Labor Day 2020 wildfires—and awarding punitive damages classwide. The jury also

8   awarded more than $90 million to the 17 plaintiffs. Subsequent damages trials have resulted in

9   nearly $600 million in verdicts to date, with thousands of people in the class to go—paving the

10   way to billions in liability.

11   16.   Finally, my firm is one of the most outspoken voices in reforming the Plaintiffs'

12   bar. As just one example, we exposed attorney Tom Girardi's decades-long client Ponzi scheme

13   that stole more than $100 million from clients and others. I have long advocated for higher

14   claims rates—an issue on which we lead the industry in routinely securing 20%+ claims rates,

15   including in the *Facebook* settlement mentioned above.

16   **Background Regarding Oppenheim + Zebrak, LLP ("O+Z"), by Mr. Oppenheim Only**

17   17.   I, Matthew J. Oppenheim, am the Co-Founder and Managing Partner of O+Z,

18   which has been engaged as Publishers' Coordination Counsel in the above-captioned action. I am

19   over the age of 18 and fully competent to make this Declaration.

20   18.   I have personal knowledge of the facts set forth herein and if called upon to testify

21   as a witness, I could and would competently testify hereto.

22   19.   I have over 30 years' experience representing content owners, including education

23   and trade book publishers, in their content protection efforts, including in several of the most

---

[3]   *See S.T.O.P. Welcomes Clearview AI, ACLU Settlement, Calls For National Ban*, SURVEILLANCE
TECHNOLOGY OVERSIGHT (May 9, 2022),https://www.stopspying.org/latest-news/2022/5/9/stop-welcomes-
clearview-ai-aclu-settlement-calls-for-national-ban.
[4]   The verdict was later vacated, with the Ninth Circuit holding that the lower court had to consider whether
the damages awarded by the jury potentially violated due process. *Wakefield v. ViSalus, Inc.*, 51 F.4th 1109, 1125
(9th Cir. 2022).

DECLARATION OF JAY EDELSON AND MATTHEW
J. OPPENHEIM ISO APPLICATION FOR AWARD   -5-
OF ATTORNEYS' FEES AND EXPENSES/CHARGES

1   preeminent and influential copyright infringement cases of our time. I have been honored with

2   recognitions by many different groups. *Chambers USA* has ranked me multiple times as a

3   leading intellectual property litigation lawyer and *Super Lawyers* has identified me multiple

4   times as a "Top Rated Intellectual Property Litigation Attorney in Washington, DC." I have been

5   repeatedly named to the *Best Lawyers in America*® list for Copyright Law, and by *Law360* as a

6   "Titan of the Plaintiffs Bar." *Legal 500* described me "as a premier litigator regarding complex

7   disputes for technology, copyright, and trademark cases." *Billboard* magazine regularly names

8   me to its distinguished "Top Music Lawyers" list, which honors lawyers on the front lines of the

9   music industry's legal battles and deals.

10   20.   O+Z, which I co-founded in 2011, has 35 attorneys and staff across two offices,

11   including Washington, D.C. and New York. Our firm is comprised of lawyers dedicated to

12   helping clients with adversarial matters involving copyright and trademark infringement,

13   artificial intelligence, piracy, counterfeiting, royalty disputes, and other commercial disputes.

14   O+Z prides itself on being the go-to copyright litigation firm for many of the biggest content

15   companies in the world, including numerous book publishers. O+Z has a proven track record of

16   successfully litigating in court, negotiating private resolutions, and providing thoughtful

17   guidance on copyright and trademark issues.

18   21.   O+Z has been recognized, multiple times, by *Chambers USA*, *Super Lawyers,* and

19   *Managing IP* as leaders in intellectual property and copyright law. Chambers has reported that

20   O+Z is "very aggressive and very creative in pursuing theories to protect trademark and copy

21   owners' rights" and "is utterly fearless in taking on the biggest companies and very

22   knowledgeable about copyright technology cases." *Managing IP* selected O+Z as the Copyright

23   Firm of the Year for the Eastern half of the United States in 2021. Several of my partners and I

24   have also been recognized multiple times by *Billboard* magazine as the "Top Music Lawyers"

25   and by *Legal 500* as a "Leading Firm." In addition to calling O+Z "among the best of the best

26   copyright litigation firms," *Legal 500* testimonials also described O+Z as having the "highest

27   level of expertise in copyright litigation" and a "deep bench" of "experienced and polished trial

DECLARATION OF JAY EDELSON AND MATTHEW
J. OPPENHEIM ISO APPLICATION FOR AWARD   -6-
OF ATTORNEYS' FEES AND EXPENSES/CHARGES

1 lawyers," who are "both smart and strategic."

2   22.   O+Z is a litigation boutique. Prior to this matter, we had never served as counsel

3 in a class action. While we have been involved in many very large copyright cases, they have all

4 been mass enforcement cases where we represent individual plaintiffs asserting claims on their

5 own behalf.

6   23.   O+Z has litigated numerous BitTorrent copyright infringement cases, including

7 against several internet service providers. *See Cox Commc'ns v. Sony Music Entertainment et al.*,

8 No. 24-171 (U.S.) (on appeal to the U.S. Supreme Court after $1 billion jury verdict finding Cox

9 liable for contributory and vicarious copyright infringement of more than 10,000 sound

10 recordings and musical compositions); *Warner Records Inc et al.*, *v. Charter Commc'ns, Inc.*,

11 1:19-cv-00874 (D. Colo.) & *UMG Recordings, Inc. et al.*, *v. Charter Commc'ns, Inc.*, 1:21-cv-

12 02020 (D. Colo.) (settled parallel peer-to-peer copyright infringement cases involving more than

13 13,800 sound recordings and musical compositions)); *UMG Recordings, Inc. et al., v. Bright*

14 *House Networks, LLC.*, 8:19-cv-00710 (M.D. Fla.) (settled peer-to-peer copyright infringement

15 case involving more than 7,500 sound recordings and musical compositions); *In re Frontier*

16 *Comm'ns Corp.*, 20-22476 (Bankr. S.D.N.Y.) & *UMG Recordings, Inc. et al.*, *v. Frontier*

17 *Comm'ns Corp.*, 1:21-cv-05050 (S.D.N.Y.) (settled parallel peer-to-peer copyright infringement

18 cases involving more than 12,000 sound recordings); *Warner Records Inc. et al v. Altice USA,*

19 *Inc.*, 2:23-cv-00576 (E.D. Tex) (similar pending case involving more than 10,000 sound

20 recordings and musical compositions); *UMG Recordings, Inc. et al v. Verizon Commc'ns Inc.*,

21 1:24-cv-05285 (S.D.N.Y.) (similar pending case involving more than 17,300 sound recordings));

22 and *Grande Commc'ns Networks LLC v. UMG Recordings, Inc. et al.* (No. 24-967) (U.S.)

23 (certiorari petition filed by Grande to U.S. Supreme Court after $47 million jury verdict in favor

24 of music companies).

25   24.   O+Z has also litigated a copyright infringement case on behalf of four education

26 publishers against one of the shadow pirate libraries at issue in this case, Library Genesis (aka

27 LibGen). *See Cengage Learning, Inc. et al. v. Does 1-50 d/b/a Library Genesis*, Case No. 23-cv-

DECLARATION OF JAY EDELSON AND MATTHEW
J. OPPENHEIM ISO APPLICATION FOR AWARD   -7-
OF ATTORNEYS' FEES AND EXPENSES/CHARGES

1 08136-CM (S.D.N.Y. Sept. 24, 2024) ($30 million default judgment and permanent injunction

2 prohibiting infringement of plaintiffs' works or facilitation of such infringement, and transfer of

3 Libgen domain names to plaintiffs).

4   25.   As a trial lawyer, I have served as lead counsel in obtaining many of the largest

5 copyright and trademark verdicts in history. This includes a $1 billion jury verdict for the music

6 industry against Cox Communications for its illegal downloading, copying and distributing of

7 copyrighted music through BitTorrent. This verdict was reportedly the 5th largest jury verdict in

8 the United States in 2019, and one of the largest copyright statutory damages awards ever. (*Sony*

9 *Music Entertainment et al.*, *v. Cox Comm'ns, Inc. et al.*, Case No. 1:18-cv-950-LO-JFA

10 (E.D.VA)).[5]

11   26.   Over the years, O+Z has served as the primary counsel to the publishing industry

12 dealing with the problem of mass counterfeiting of physical books. In this vein, we have brought

13 claims against numerous distributors of illegal counterfeit books. *See John Wiley & Sons, Inc. et*

14 *al.*, *v. Rivadeneyra*, 2:2013-cv-01085 (D.N.J.); *The McGraw-Hill Companies, Inc., et al.*, *v.*

15 *Chuck Jones, et al.*, 5:14-cv-0042-TBR-LLK (W.D. Ken.); *Cengage Learning, Inc. et al., v.*

16 *Follett Corp. et al.*, 1:17-cv-04672-PKC (S.D.N.Y.); *Cengage Learning, Inc. et al. v. Appalacian*

17 *Inc. et al.*, Civil Action No. 17-cv-1009 (MCA) (LDW); *Pearson Educ., Inc. et al.*, *v. Rentu.com,*

18 *LLC*, 2:18-CV-0040 (DLB)(CJS) (E.D. Ky.); *Pearson Educ., Inc. et al.*, *v. C&N Logistics, Inc.*,

19 Case No. 3:18-cv-00438 (M.D. Tenn.); *Cengage Learning, Inc. et al.*, *v. Morena for Int'l*

20 *Trading*, 19-cv-1727 (N.D. Ill.); *McGraw Hill LLC et al.*, *v. Radius Int'l, Inc.*, 1:21-cv-04325

21 (N.D. Ill.); *Pearson Educ., Inc. et al.*, *v. Bookholders LLC*, PX-21-cv-0594 (D. Md.);

22 *Pearson Educ., Inc. et al.*, *v. Hasan, et al.*, No. 1:23-cv-07284-PAC (S.D.N.Y.).

23   27.   Also, among the counterfeiting cases we handled was a case against a commercial

24 book distributor who served as the back end of Amazon's book rental program. There, I served

25

26 [5] The verdict was later vacated, with the Fourth Circuit affirming willful contributory liability for over 10,000
copyrights but reversing the jury's vicarious liability finding and remanding for retrial on damages. The case is

27 currently before the U.S. Supreme Court with a ruling expected in mid-2026.

1   as lead trial counsel in obtaining a large jury verdict against a U.S. commercial book distributor

2   for willful copyright and trademark and infringement, in which the jury awarded copyright

3   statutory damages of $100,000 per work, and maximum trademark damages of $2 million per

4   mark, along with a fee award and a permanent injunction against any further infringement,

5   arising from the defendant's import and sale of counterfeits. The verdict was upheld by U.S.

6   District Judge William H. Pauley III. This trial was fundamental to the book publishing

7   industry's fight to ensure distributors adequately safeguard against counterfeits. (*John Wiley &*

8   *Sons, Inc. v. Book Dog Books, LLC*, 327 F. Supp. 3d 606 (S.D.N.Y. 2018)).

9   28.   As part of our efforts to address the systemic counterfeiting problem, O+Z

10 worked with the publishing industry and with the book distributors to develop Best Practices for

11 distributors. Those Best Practices have been widely adopted and stopped a significant amount of

12 the counterfeiting that was plaguing the industry. *See* https://stopcounterfeitbooks.com/;

13 https://stopcounterfeitbooks.com/barnes-noble-education-major-educational-content-providers-

14 commit-to-fight-counterfeit-textbooks/.

15   29.   I have also been counsel in numerous high profile and important copyright cases

16 over the last several decades, including: *A&M Records, Inc. v. Napster, Inc.,* 239 F.3d 1004 (9th

17 Cir. 2001) (enjoining Napster from using its peer-to-peer service, in effect, shutting down the

18 company); *In re: Aimster Copyright Litigation*, 02-4125 (7th Cir. 2003) (upholding preliminary

19 injunction shutting down peer-to-peer file-sharing service); *MGM v. Grokster*, 545 U.S. 913

20 (2005) (finding Grokster, a company that distributed and promoted software to infringe

21 copyrights, liable for resulting acts of infringement); *Sony BMG Music Entertainment, et al.*, *v.*

22 *Tenenbaum*, No. 12-2146 (1st Cir. 2013) (upholding judgment in favor of record companies for

23 willful copyright infringement); *Capitol Records, Inc. v. Thomas-Rasset*, No. 11-2820 (8th Cir.

24 2012) (upholding judgment in favor of record companies for willful copyright infringement);

25 *Hachette Book Group, Inc. v. Internet Archive*, No. 23-1260 (2d Cir. 2024) (affirming ruling that

26 Internet Archive's system of scanning physical books to convert into e-books was not fair use). I

27 was personally involved in these prominent cases, securing wins for the content owners.

1   30.   O+Z also has deep experience in AI cases including in the book publishing and

2   music industries. Our lawyers are regularly called upon to speak at CLE events and provide

3   background information for members of Congress. We are representing several music publishers

4   in a case similar to this one against Anthropic, which we filed in 2023. (*Concord v. Anthropic*,

5   Case No. 5:24-cv-03811 (N.D. Cal.)). O+Z is also representing several news publishers

6   including Condé Nast, The Atlantic, and Vox in a copyright and trademark infringement action

7   against Cohere, an artificial intelligence company, for its unauthorized use and copying of the

8   publishers' news and magazine articles and brand names. (*Advance v. Cohere*, 1:25-cv-01305

9   (S.D.N.Y)). O+Z also began counseling a group of education publishers on AI issues in 2024.

10   **Our Firms' Work as Publishers' Coordination Counsel, by Mr. Edelson & Mr. Oppenheim**

11   31.   On August 11, 2025, Class Counsel filed a Notice of Association of Additional

12   Counsel, informing the Court that Edelson PC and O+Z—would serve as "Publishers'

13   Coordination Counsel" ("PCC"). However, our work in this matter began weeks earlier.

14   32.   After the Court issued its July 17, 2025, Order on Class Certification,

15   representatives from certain publishers began engaging with Class Counsel and sought additional

16   counsel to assist in representing the interests of publishers in the common goal of maximizing

17   the per-work recovery for the Class. Indeed, Class Counsel invited the active participation of

18   publisher class members through the PCC, based on their deep knowledge in copyright law and

19   the publishing industry, value they could bring to the class as a whole, and because the class as

20   originally proposed consisted of authors only.

21   33.   I, Jay Edelson, along with other attorneys at my firm, began speaking with

22   publishers regarding this matter on July 26, 2025 (a Saturday). I spoke with individual publishers

23   and as a group repeatedly in the ensuing days.

24   34.   I, Matthew Oppenheim, along with other attorneys at my firm, began speaking

25   with publishers regarding this matter on approximately July 16, 2025, after the summary

26   judgment decision was issued. Those discussions continued on July 18 immediately after the

27   Class Certification Order was issued. I spoke with individual publishers and as a group

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1 repeatedly in the ensuing days.

2   35.   Edelson and O+Z spoke jointly to the publishers on July 31. Since that initial July

3 31 meeting, our firms have engaged in near-daily (and often many-times-daily) meetings with

4 legal teams from AAP, the Publishers Association of the UK (PA), the Association of University

5 Presses, as well as numerous major trade, education, and independent publishers. These

6 organizations and businesses dedicated their highest-level in-house counsel to this case for

7 months at no cost to the class.

8   36.   Through these meetings, the PCC identified executive-level witnesses from the

9 publishers who volunteered to testify about how their industry works, the creative, educational

10 and scientific importance of books, as well as their efforts to fight piracy and the harm that

11 comes from that piracy. The PCC then worked with those witnesses to gather documents for

12 expedited production in advance of trial and provide for their depositions.

13   37.   Meanwhile, the PCC joined Class Counsel in developing trial strategy and

14 contributing to expert reports, witness planning and the overall trial plan.

15   38.   The PCC engaged in an all-out effort to assist Class Counsel in compiling the

16 Works List, committing a team of lawyers with extensive knowledge, understanding and

17 experience with clearing works for inclusion in copyright cases, Copyright Office registration

18 issues, commercially available databases of registered works, nuances of the ISBN system,

19 works with multiple editions, foreign works, litigation experience against shadow libraries, and

20 many years working closely with publishers on all these issues. The PCC's attorneys worked

21 full-time for weeks with Class Counsel's team of lawyers, staff, and experts to refine the

22 technical analysis to assess works for satisfaction of the class criteria, including by searching

23 copyright office databases, identifying ISBNs, and matching works to the criteria for class

24 inclusion. The PCC team reviewed tens of thousands of files downloaded by Anthropic, engaged

25 with dozens of publishers and provided feedback to improve the expert technical analysis

26 through systematic improvements, all aimed at ensuring the Works List was accurate and as

27 thorough as possible.

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1   39.   With that assistance from the PCC, Class Counsel was able to refine these

2 matching processes and identify works which otherwise may not have been included. These

3 efforts resulted in a Works List at least 20% larger than otherwise. Through the extensive efforts

4 of the publishers and PCC, we were able to help the Class submit the Works List on the Court's

5 schedule.

6   40.   The PCC participated in the settlement negotiations for the benefit of the entire

7 class. The publishers' bargaining power and the Firms' own experience negotiating large

8 settlements of this kind played a critical role in this settlement's outcome. Based on the Firms'

9 extensive background in these matters, we believe the $1.5 billion settlement, and preliminary

10 approval of such settlement, would not exist but for the contributions of the publishers and the

11 PCC. In addition to its role in negotiating the settlement, the PCC helped draft both the term

12 sheet and the settlement agreement, lending its class action expertise to reduce a complicated

13 deal into an actionable agreement. In doing so, the PCC leveraged its knowledge of both the

14 publishing industry and the administration of large-scale settlements to ensure the agreement

15 effectively serves the interests of the Class.

16   41.   The PCC also participated extensively in the Working Group process on a short

17 timeline, ensuring the creation of an allocation process that treats both authors and publishers

18 fairly. Indeed, the PCC proposed the incredibly claimant-friendly distribution process—which

19 we believe to be the most claimant-friendly ever designed—including the multiple opportunities

20 for claimants to receive payment, automatic checks if claimants do not file a claim, and 18

21 months to come forward to collect their distribution.

22   42.   Since the Court granted preliminary approval, Dkt. 427, the PCC has continued its

23 active role in advancing the Class's interests. For example, in the weeks following the Court's

24 September 25, 2025, hearing, the PCC responded to a wave of publisher class member interest

25 by holding town halls with publisher trade organizations and their members, both at home and

26 abroad—including the AAP, UK Publishers' Association, International Publishing Association,

27 Association of University Presses, Independent Publishers Guild, and Publishers' Licensing

1   Services. Collectively, approximately 800 publisher representatives attended these sessions. The

2   PCC also met or communicated with nearly 200 publisher class members individually, many of

3   them multiple times.

4   43.   The publishers, directed by the PCC, also agreed to undertake a massive effort in

5   gathering information for Notice. Dkt. 401 at 14. Over the course of six weeks, publishers

6   worked tirelessly to gather contact information for more than 750,000 authors or other potential

7   rightsholders associated with nearly 320,000 works in the Settlement, ensuring that the Notice

8   has the broadest possible reach to authors and other potential rightsholders. PCC worked hand-

9   in-hand with the publishers to coordinate this effort and gather information for the benefit of the

10   entire Class. The PCC supported publishers every step of the way ensuring notice information

11   was clear and in an easily consumable format for JND, mitigating delays in JND sending notice

12   out broadly and quickly within the court ordered timeframe.

13   44.   The PCC has continued to hold weekly meetings with publishers to assist with the

14   information-gathering to facilitate the notice and claims process. The PCC has met or conferred

15   dozens of times with JND and/or Class Counsel to clarify and resolve questions that the

16   publishers raised, ensuring efficient administration of the settlement and a high claims rate.

17   Given the significant role that publishers play in providing the information necessary for this

18   case—and the unprecedented size and complexity of the settlement—the PCC has undertaken

19   substantial efforts to ensure that publishers have the answers, guidance, and resources they need

20   to understand their options under the settlement, including the option to opt out, submit a claim,

21   and file an objection.

22   45.   The PCC has been present at every critical juncture of this settlement,

23   coordinating the resources and expertise of the publishers to help secure the settlement's

24   exceptional monetary value and to assemble the information necessary for its effective

25   administration. Throughout the PCC's involvement, the PCC firms devoted multiple attorneys

26   full-time—including mornings, nights, and weekends—to meet the Court's deadlines and

27   prepare to conduct a trial that included new publisher witnesses, and then to work towards the

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1 settlement that has been negotiated and notice and claims process approved by the Court.

2 **The PCC Firms' Financial Risk and Work on the Case, by Mr. Edelson & Mr. Oppenheim**

3   46.   None of the publishers have paid the PCC anything and the PCC has disclaimed

4 payments outside of the class action. The publishers are not paying our costs, and the PCC has

5 disclaimed reimbursement of costs outside the class action process. Nor did we ask for fees or

6 costs directly from the publishers: our role is representing publishers' interests as a whole.

7   47.   The PCC undertook this case on a purely contingent basis, which bore significant

8 risks with no guarantee of success. Any number of things could have derailed this case before

9 trial—the possibility that this Court could decertify the class; a Rule 23(f) petition; an emergency

10 motion to stay in the Ninth Circuit; forthcoming Daubert motions; and a motion to certify an

11 interlocutory appeal, among others. There is also always the risk of a reversal on appeal,

12 particularly where a fair use defense is in play. Given these significant uncertainties, the PCC

13 committed considerable resources with no guarantee that any fee would ever be realized.

14   48.   Despite these substantial risks, the PCC advanced costs and were prepared to

15 further dedicate significant resources to prosecute this case, including through trial and any

16 appeals. When the PCC agreed to become engaged in this case, they understood that they would

17 need to forego other potentially profitable work in order to litigate this case to a successful

18 conclusion.

19   49.   As noted above, the time and effort devoted by the PCC to this case was

20 significant. In total, the PCC collectively recorded over 3,411 hours of work and a collective

21 lodestar of $3,090,956.50. The time spent by the Firms, by timekeeper and their respective

22 lodestars is attached as **Exhibit A**. Set forth as **Exhibit B** are the number of hours the Firms

23 spent on various categories of activities related to the action by each biller.

24   50.   The PCC's lodestar represents the work that we have undertaken since our

25 involvement in the case and does not include the additional work that will be required through

26 final approval. The PCC's lodestar likewise does not include any time spent preparing this Fee

27 Petition or the supporting documents for the same.

1   **Edelson PC's Rates, Expenses and Review, by Mr. Edelson Only**

2   51.   The rates set forth in **Exhibit A** for Edelson timekeepers are the usual and

3   customary rates set by Edelson and are the same rates the Firm charges its hourly paying clients.[6]

4   52.   It is my Firm's policy that each attorney is responsible for keeping track of his or

5   her billable time by, at least, the tenth of an hour in centralized software known as "Freshbooks."

6   53.   Edelson contributed substantially to the common costs fund maintained by Class

7   Counsel in the amount of $250,000.00 (in assessments over time) since becoming involved as

8   PCC.

9   54.   All of the information regarding Edelson's time and expenses is taken from time

10   and expense reports and supporting documentation prepared and/or maintained by the Firm in

11   the ordinary course of business. These reports (and backup documentation where necessary or

12   appropriate) were reviewed by me and under my direction, in connection with the preparation of

13   this Declaration. The purpose of this review was to confirm both the accuracy of the entries, as

14   well as the necessity for, and reasonableness of, the time and expenses committed to the

15   Litigation. As a result of this review, reductions were made to time in the exercise of billing

16   judgment, including other attorneys who contributed to the case but had less than ten hours of

17   time. Based on this review and the adjustments made, I believe that the time reflected in the

18   Edelson's lodestar calculation is reasonable and was necessary for the effective and efficient

19   prosecution and resolution of the Litigation.

20   55.   The Edelson team expects to devote additional time to this matter in the months

21   following this filing. In particular, we anticipate performing work to support publishers during

22   the claims process, assist Class Counsel and the Settlement Administrator with publisher-related

23   issues, and prepare for the final approval briefing and hearing. I estimate these tasks will require

24   an additional 422.5 hours of Edelson time expenditure at a lodestar of $565,775.00. These

25   estimates are informed by the volume and complexity of analogous tasks already completed in

26

27   ---
     [6]   The sole exception is Mr. Edelson's rate, which is currently $3,000 per hour for matters in which the Firm
     serves as lead counsel. Mr. Edelson is using a reduced rate here to reflect that he is serving in a non-lead capacity.

1   this case post-settlement and by our assessment of the work that will reasonably be required as

2   the settlement and claims process proceeds. A per-person, per-month overview of these

3   projections is available at the Court's request. These projections do not include time likely to be

4   spent in the event of appeals.

5   **O+Z's Rates, Expenses and Review, by Mr. Oppenheim Only**

6   56.   O+Z generally does not agree to handle matters strictly on an hourly basis.

7   Rather, in the ordinary course, we negotiate alternative billing arrangements that generally

8   involve a mix of both hourly rates and success fees. Those alternative billing arrangements are

9   customized for the particular matter, taking into consideration a variety of factors, including

10 claims and likely defenses, the risk involved, and the potential for recovery, among other factors.

11 In virtually all instances, the alternative billing arrangement model results in lower monthly fees

12 for the clients and higher revenue for O+Z. For purposes of this petition, we have used our

13 baseline hourly rates that are intentionally set at below-market levels to provide extra value to

14 our clients and allow for alternative billing arrangements, but we have not included any success

15 fee or success fee-multipliers in the exhibits setting forth O+Z's rates and lodestar. The rates set

16 forth in **Exhibit A** for O+Z timekeepers are the usual and customary rates that O+Z charges its

17 hourly paying clients in 2025 in the absence of an alternative billing arrangement.

18   57.   It is my Firm's policy that each attorney and billable timekeeper is responsible for

19 keeping track of his or her billable time by, at least, the tenth of an hour in centralized software

20 known as "eBillity."

21   58.   O+Z seeks an award of $14,002.09 in expenses in connection with the

22 prosecution of the Litigation. These expenses fall into the following two categories:

23   a.   Transportation: $8,679.99. In connection with the prosecution and

24 settlement of this case, O+Z has paid for work-related transportation expenses related to

25 attending court hearings, publisher-class member meetings, and the mediation. The date,

26 destination and purpose of each trip is set forth in the attached **Exhibit C**. O+Z is not seeking

27 reimbursement for hotel or meal expenses incurred during travel.

1   b.   e-Discovery Review Platform: $5,322.10. Relativity One is an eDiscovery

2 Review Platform that the Firm used to securely house and review documents and other

3 electronically stored information in connection with third-party subpoenas issued to absent class

4 member publishers. The vendor that was paid for these services and the breakdown of these

5 charges by date are set forth in **Exhibit D**.

6   59.   O+Z's expenses pertaining to this case are reflected in the books and records of

7 the Firm. These books and records are prepared from receipts, credit card statements, and other

8 documents and are an accurate record of the expenses

9   60.   The information in this declaration regarding O+Z's time and expenses is taken

10 from time and expense reports and supporting documentation prepared and/or maintained by

11 O+Z in the ordinary course of business. These reports (and backup documentation where

12 necessary or appropriate) were reviewed by me and under my direction, in connection with the

13 preparation of this Declaration. The purpose of this review was to confirm both the accuracy of

14 the entries, as well as the necessity for, and reasonableness of, the time and expenses committed

15 to the Litigation. As a result of this review, reductions were made to both time and expenses in

16 the exercise of billing judgment, including other attorneys who contributed to the case but had

17 less than ten hours of time and all time spent on this matter prior to August 1, 2025. Based on

18 this review and the adjustments made, I believe that the time reflected in O+Z's lodestar

19 calculation and the expenses for which reimbursement is sought herein are reasonable and were

20 necessary for the effective and efficient prosecution and resolution of the Litigation. In addition,

21 I believe that the expenses are all of a type that would normally be charged to a fee-paying client

22 in the private legal marketplace.

23   61.   The O+Z team expects to devote additional time to this matter in the months

24 following this filing. In particular, we anticipate performing work to support publishers during

25 the claims process, assist Class Counsel and the Settlement Administrator with publisher-related

26 issues, and prepare for the final approval briefing and hearing. I estimate these tasks will require

27 an additional 1,663 hours of O+Z time expenditure at a lodestar of $1,106,850.00 (combined

1   with Edelson's projections, the PCC collectively projects 2,085.5 hours with a combined lodestar

2   of $1,672,625.00.). These estimates are informed by the volume and complexity of analogous

3   tasks already completed in this case post-settlement and by our assessment of the work that will

4   reasonably be required as the settlement and claims process proceeds. Since preliminary

5   approval alone, O+Z has spent hundreds of hours assisting publishers with the claims process

6   and anticipates this will continue. A per-person, per-month overview of these projections is

7   available at the Court's request. These projections do not include time likely to be spent in the

8   event of appeals.

9

10   We declare under penalty of perjury that the foregoing statements (where made by the

11   respective signer) are true and correct.

12

13   Executed on this 3rd day of December, 2025 at Boca Raton, Florida.

14

15   */s/ Jay Edelson*

16   Jay Edelson

17   Executed on this 3rd day of December, 2025 by Matthew Oppenheim at Washington,

18   D.C.

19   */s/ Matthew J. Oppenheim*

20   Matthew J. Oppenheim

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EXHIBIT A

Exhibit A
PCC Fees By Timekeeper

Edelson PC	Title	Hours	Rate	Subtotal
Jay Edelson	Partner	301	$2,000.00	$602,000.00
Eli Wade-Scott	Partner	402.6	$1,400.00	$563,640.00
Ryan Andrews	Partner	131	$1,600.00	$209,600.00
Max Hantel	Associate	46.6	$700.00	$32,620.00
Melissa Muller	Associate	89.3	$575.00	$51,347.50
Seth Mayer	Associate	14.5	$700.00	$10,150.00
Hannah Hilligoss	Associate	22	$800.00	$17,600.00
EDELSON TOTAL		**1007**		**$ 1,486,957.50**

O+Z		Hours	Rate		Subtotal	
Matthew Oppenheim	Partner	247.8	$	900.00	$	223,020.00
Jeffrey Gould	Partner	427.8	$	900.00	$	385,020.00
Corey Miller	Partner	60.3	$	855.00	$	51,556.50
Katheryn Enters	Partner	551.9	$	755.00	$	416,684.50
Keith Howell	Associate	245.7	$	725.00	$	178,132.50
Carly Kessler Rothman	Associate	163.2	$	700.00	$	114,240.00
Lauren Bergelson	Associate	17.7	$	605.00	$	10,708.50
Bret Matera	Associate	14.4	$	565.00	$	8,136.00
Eddie Crouse	Associate	22.6	$	555.00	$	12,543.00
Michelle Gomez-Reichman	Associate	15.2	$	555.00	$	8,436.00
Maureen Garry	Program Director	453.2	$	330.00	$	149,556.00
Derek Keimel	Paralegal	39.4	$	265.00	$	10,441.00
Ahmin Thornhill	Paralegal	25.5	$	245.00	$	6,247.50
Brandon Agraviador	Paralegal	46.5	$	245.00	$	11,392.50
Drew Perez	Paralegal	30.9	$	245.00	$	7,570.50
Karla Rodriguez	Paralegal	29.7	$	245.00	$	7,276.50
Mel Lamma	Paralegal	12.4	$	245.00	$	3,038.00
O+Z TOTAL		**2404.2**			**$**	**1,603,999.00**

PCC TOTAL		**3411.2**		**$ 3,090,956.50**

EXHIBIT B

Exhibit B
PCC Fees By Category & Timekeeper

Edelson Timekeeper	1	2	3	4	5	6	7	8	9	10	11	Total Sum of Hours	Current Rate	Lodestar at Current Rate
Jay Edelson (P)	1.6	0	63.1	20.5	1.2	64.4	0	10	6	0	134.2	301.0	$2,000.00	$602,000.00
Eli Wade-Scott (P)	1.6	0	108.4	11.9	3.2	111	0	11.1	11.6	0	143.8	402.6	$1,400.00	$563,640.00
Ryan Andrews (P)	0	0.8	35.5	0	2.7	8.1	0	1.8	1.4	0	80.7	131.0	$1,600.00	$209,600.00
Max Hantel (A)	0	0	8.2	0	0	26.7	0	1.5	0	0	10.2	46.6	$700.00	$32,620.00
Melissa Muller (A)	0	0	22.5	0	0	34.2	0	0	0	0	32.6	89.3	$575.00	$51,347.50
Seth Mayer (A)	0	0	4.4	0	0	10.1	0	0	0	0	0	14.5	$700.00	$10,150.00
Hannah Hilligoss (A)	0	0	13.7	0	0	2.5	0	0	5.8	0	0	22.0	$800.00	$17,600.00
Edelson Total:	3.2	0.8	255.8	32.4	7.1	257	0	24.4	24.8	0	401.5	1007		$1,486,957.50

O+Z Timekeeper	1	2	3	4	5	6	7	8	9	10	11	Total Sum of Hours	Current Rate	Lodestar at Current Rate
Matthew Oppenheim (P)			15.6	34.4		89.8	4	26.3			77.7	247.8	$900.00	$223,020.00
Jeffrey Gould (P)		1.7	55.7	73.6		132.9	9.5	37.5	1.9	0.5	114.5	427.8	$900.00	$385,020.00
Corey Miller (P)		1.5	6.8	11.2		10.5	27.5		2.2	0.6		60.3	$855.00	$51,556.50
Katheryn Enters (P)		14.1	12.1	231.2		246.5	1.3				46.7	551.9	$755.00	$416,684.50
Keith Howell (A)		8.3	8.6	172.4		38.3		5.1	8.3		4.7	245.7	$725.00	$178,132.50
Carly Kessler Rothman (A)		1	50.6	9.7		31	50.8	0.6	1.6		17.9	163.2	$700.00	$114,240.00
Lauren Bergelson (A)			3.6				14.1					17.7	$605.00	$10,708.50
Bret Matera (A)			2.5						1.2	10.7		14.4	$565.00	$8,136.00
Eddie Crouse (A)			16			0.6	6					22.6	$555.00	$12,543.00
Michelle Gomez-Reichman (A)			0.2	1.1					13.9			15.2	$555.00	$8,436.00
Maureen Garry (PD)		20.6	1.5	176.2		238					16.9	453.2	$330.00	$149,556.00
Derek Keimel (PL)	5.3		6.2	2.7		0.4	24.8					39.4	$265.00	$10,441.00
Ahmin Thornhill (PL)				24						1.5		25.5	$245.00	$6,247.50
Brandon Agraviador (PL)				46.5								46.5	$245.00	$11,392.50
Drew Perez (PL)			0.9	30								30.9	$245.00	$7,570.50
Karla Rodriguez (PL)				29.7								29.7	$245.00	$7,276.50
Mel Lamma (PL)				12.1						0.3		12.4	$245.00	$3,038.00
O+Z Total:	5.3	47.2	180.3	854.6	0	788	138	63.8	8.8	38.7	279.3	2404.2		$1,603,999.00

(1) Administrative
(2) Expert Consultants (including expert depositions)
(3) Pleading/briefing/legal analysis
(4) Case management
(5) Offensive discovery
(6) Client communication and defensive discovery
(7) Third-party discovery
(8) Court appearances/preparation
(9) Investigation and document analysis
(10) Depositions
(11) Settlement

(P) Partner
(A) Associate
(PD) Program Director
(PL) Paralegal

EXHIBIT C

Exhibit C

O+Z Transportation: $8,679.99

Name	Date	Destination	Purpose
Oppenheim, M.	8/13/25	New York, NY	Publisher meetings
Oppenheim, M.	8/18/25 - 8/19/25	New York, NY	Mediation
Gould, J.	8/18/25 - 8/19/25	New York, NY	Mediation
Oppenheim, M.	9/7/25 - 9/9/25	San Francisco, CA	Preliminary Approval Hearing
Gould, J.	9/7/25 - 9/9/25	San Francisco, CA	Preliminary Approval Hearing
Oppenheim, M.	9/24/25 - 9/26/25	San Francisco, CA	Preliminary Approval Hearing
Gould, J.	9/24/25 - 9/26/25	San Francisco, CA	Preliminary Approval Hearing

EXHIBIT D

Exhibit D

eDiscovery Review Platform: $5,322.10

Date	Vendor	Purpose
9/23/25	Cimplifi	eDiscovery security and review platform for securely storing and review documents
10/16/25	Cimplifi	eDiscovery security and review platform for securely storing and review documents
11/18/25	Cimplifi	eDiscovery security and review platform for securely storing and review documents

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANDREA BARTZ, ANDREA BARTZ, INC., CHARLES GRAEBER, KIRK WALLACE JOHNSON, and MJ + KJ, INC., individually and on behalf of others similarly situated,
 	
         Plaintiffs,
 	
 v.
 	
 ANTHROPIC PBC,
 	
         Defendants.
	Case No. 3:24-cv-05417-WHA
	
	 DECLARATION OF NANCY E. WOLFF IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND PLAINTIFF SERVICE AWARDS

<u>**DECLARATION OF NANCY E. WOLFF**</u>

Pursuant to 28 U.S.C. § 1746, I, NANCY E. WOLFF, declare and state as follows:

1.   My name is Nancy E. Wolff. I am over twenty-one (21) years of age and am fully competent to testify about the matters contained herein. The following statements are made within my personal knowledge and are true and correct.

2.   I am a partner with the law firm Cowan, DeBaets, Abrahams & Sheppard LLP ("CDAS") and serve as additional counsel in the above-captioned class action. I am a member in good standing of the bar of the states of California, New Jersey, New York, and Pennsylvania. I make these statements based on personal knowledge and would so testify if called as a witness.

    I.   <u>**Background and Experience**</u>

3.   CDAS is a boutique law firm with offices in New York, New York and Beverly Hills, California, with a wealth of expertise in entertainment, media, and IP law, as well as technology and publishing, having long represented authors, agents, and publishers, among other

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clients. CDAS lawyers, who are recognized thought leaders on cutting-edge copyright issues, include former general counsel at major publishing houses, as well as established authors and their estates. In recent years, the firm has continued to handle some of the highest stakes and precedent-setting litigation in copyright relating to generative AI and the ingestion of copyrighted content into large language models. CDAS lawyers have held leadership roles as officers and trustees of the Copyright Society of the USA, have been asked to speak on copyright-related issues throughout the world and engage in advocacy work on behalf of bar associations and trade associations in furtherance of copyright reform. CDAS and its lawyers are regularly recognized for their contribution and wealth of experience in the arena of entertainment, media, and IP, including by Best Lawyers, The Hollywood Reporter, Super Lawyers, and Chambers, with Tier 1 National Rankings from Best Law Firms in copyright, entertainment, media, and trademark law.

4.   Within CDAS, I serve as a partner and co-chair of the firm's Litigation Department, handling copyright, trademark, and rights of publicity matters. I represent a diverse variety of creative professionals and creative industries including photographers, authors, artists, collectors, museums, galleries, and publishers in all transactional issues. I am a past president of the Copyright Society of the USA and member of the ABA IP Section Task Force on Copyright Reform. I frequently speak and write on copyright issues and have been published by Allworth Press, ABA Landslide Journal, and am co-editor of the Companion to Copyright and Creativity in the 21st Century, by Focal Press as well as a frequent contributor to and ranked attorney in Chambers and Partners USA for Intellectual Property: Trademark & Copyright (New York).

5.   Scott J. Sholder serves as a partner, as well as co-chair of the firm's Litigation Department, focusing his practice on litigation, counseling, and dispute resolution in connection with entertainment, media, art, and intellectual property matters. Mr. Sholder represents and

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advises clients across various industries in copyright, trademark, trade secrets, right-of-publicity, unfair competition, domain name, and commercial and business disputes, as well as defamation defense. He has appeared in federal and state courts around the country as well as administrative and arbitral tribunals and has handled cases from pre-suit negotiations through trial, post-trial procedures, and appeals. Mr. Sholder frequently speaks and writes on issues relating to copyright and trademark in the entertainment and digital media space, with a focus on generative AI. Mr. Sholder has been actively involved in pending copyright class action litigation regarding generative AI copyright infringement, and further chairs the Copyright & Literary Property Committee's AI Subcommittee, addressing current developments pertaining to copyright law and generative AI.

6.   CeCe M. Cole is a former senior associate with the firm's Litigation Department and Trademark Practice Group. Throughout her tenure with the firm, Ms. Cole represented clients in copyright, trademark, and commercial litigation matters in both federal and state courts and regularly counseled clients on copyright and trademark matters, including copyright enforcement and trademark review and clearance. Ms. Cole additionally focused her practice on issues of copyright at the intersection of generative AI, and was actively involved in pending copyright class action litigation regarding generative AI copyright infringement.

7.   Austen A. Parker is an associate with the firm's Entertainment and Corporate Practice Groups. Mr. Parker represents clients on copyright and trademark matters, including copyright enforcement and trademark review and clearance. He is also experienced in a wide range of business matters, including entity formation, corporate governance, private financing, mergers and acquisitions, and joint ventures.

8.   Elizabeth Safran is a staff attorney with the firm's Litigation Department and Trademark Practice Group. Ms. Safran represents clients in copyright, trademark, and commercial litigation matters in both federal and state courts and additionally oversees the Litigation Department's docketing and administration, including preparing filings, calendaring, and organizing the Litigation Department's case files.

II.   Overview of CDAS's Efforts in this Action

9.   CDAS has served as additional counsel in this case from the beginning (*see* Dkt. No. 1 at 20), advising the appointed Class Counsel firms on copyright law at all stages of the case, including reviewing certain pleadings, assisting with defensive discovery responses, addressing relevant copyright law issues, and gathering information and communication related to the Plan of Allocation & Distribution. CDAS assisted with the Class List, on the Plan of Distribution, Claim Form, and Class Notice, as well as with stakeholders on the Class List, including soliciting input from these stakeholders. Mr. Sholder and Ms. Cole specifically also participated in weekly calls focused on addressing and strategizing regarding the copyright issues raised by this case. CDAS submits this declaration in support of Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Expenses, and Plaintiff Service Awards.

10.   In connection with the settlement Plan of Distribution, specifically, we were asked by Class Counsel to serve as Authors' Coordination Counsel ("ACC"). At the same time, Class Counsel requested that additional counsel join the case to serve as Publishers' Coordination Counsel ("PCC").

11.   In our additional role as ACC, we advised and assisted Class Counsel with the compilation of the Works List, including by improving the methods by which works were assessed for satisfaction of the class criteria. For example, we assisted Class Counsel with developing a

method to ensure that works published immediately prior to the introduction of ISBNs and the full digitization of copyright records—*i.e.*, from the 1964-1977 period—were included on the Works List despite the significant challenges associated with their inclusion (*e.g.*, the fragmentary nature of the records regarding these works).

12.   We additionally aided Class Counsel in determining which renewal registrations satisfied the class criteria.

13.   Because much of this work involved manual review and because of the specialized nature of these reviews, we assigned CDAS attorneys and staff members to work under Class Counsel's supervision. As a result of our efforts, Class Counsel was able to verify tens of thousands of additional works for inclusion on the Works List.

14.   Finally, with respect to notice, we facilitated the connection of Class Counsel to author groups and to the major literary agencies.

15.   We have similarly aimed to ensure the highest possible understanding of the Settlement, so that Class Members could make informed decisions about the Settlement, and will continue to advise Class Members throughout the claims process, ensuring they are fully appraised of their rights.

16.   We reviewed all versions the proposed Plan of Distribution, Claim Form, and Class Notice, as well as all other information, for compliance with relevant copyright laws. We also focused on ensuring that each document described the Settlement—and the requirements to submit a claim, opt out, or object—in a way that would be familiar and understandable to both authors and publishers. We aimed to ensure the highest possible understanding of the Settlement, so that class members could make informed decisions about the Settlement.

17.   Above all else, we endeavored to ensure that all terms of the Settlement including

the Plan of Distribution, Claim Form, and Class Notice, are fair adequate and reasonable for authors

in the Class.

18.   To this end, I worked to make claims forms understandable for authors and

publishers, took calls with authors and publishers, and worked on Q&As to ensure authors

understood the claims process. Along with Class Counsel and PCC, we continue to devote

substantial resources and rigorous oversight to ensure the Settlement is administered fairly,

efficiently, and in the best interests of the Class. Since preliminary approval, we have, along with

Class Counsel and PCC, maintained active coordination with the Settlement Administrator to

monitor claim processing. We anticipate fees for the period from now through February 2027 to

be approximately $75,000, corresponding to 110 hours of billed time, as we will be actively

assisting class counsel in responding to class member questions and other author/publishing issues

that may come up during this period. We have agreed to divide any fees awarded by the Court with

Class Counsel and PCC accordingly: Lieff Cabraser Heimann & Bernstein, LLP and Susman

Godfrey L.L.P. with 37.5% each, CDAS with 5%, Oppenheim + Zebrak, LLP with 12.5%, and

Edelson PC with 7.5%.

III.   CDAS Lodestar and Hourly Rates

19.   CDAS attorneys have dedicated a total of 231.00 hours to this case from their first

involvement, dating to August 20, 2024, through the present, and billed $156,784.00.[1]

20.   Each attorney assigned to the matter billed as follows between August 20, 2024 and

November 22, 2025:

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[1] We are amenable to providing an itemized list of time billed organized by entry per the Court's
request.

August 20, 2024 – November 22, 2025				
Attorney	**Hours Billed**	**Hourly Rate**	**Total Fees**	**Time Period**
Nancy E. Wolff (NEW)	107.8	$750.00	$80,850.00	8/27/25 – 11/12/25
Scott J. Sholder (SJS)	52.7	$830.00	$43,741.00	10/10/24 – 11/22/25
CeCe M. Cole (CMC)	45.8	$510.00	$23,358.00	8/26/24 – 9/24/25
Austen A. Parker (AAP)	11.4	$320.00	$3,648.00	9/11/25 – 9/13/25
Elizabeth Safran (née Altman) (EA)	13.3	$390.00	$5,187.00	8/20/24 – 10/31/25
Total Hours	**231**		**$156,784.00**	

21.   I believe the 231 hours expended on this matter were appropriate given the numerous phases needed to arrive at settlement and complexity of the novel legal issues involved.

22.   CDAS attorneys, moreover, remained cognizant of the risk of the novel, high-risk claims associated with the litigation, accordingly expending only the time and dedicated hours that were reasonably necessary for their role in the ongoing prosecution and resolution of this case.

23.   CDAS attorneys dedicated time to various billing codes associated with their roles in this case, specifically, Code 00002 pertaining to "Settlement," Code 00003 pertaining to "Admin," Code 00004 pertaining to "Experts/Consultants," Code 00005 pertaining to "Case Management," Code 00006 pertaining to "Offensive discovery," Code 00007 pertaining to "Client comm/defensive discovery," Code 00009 pertaining to "Court Appearance," Code 00010 pertaining to "Investigation and doc analysis," and Code 0012 pertaining to "Pleadings/Briefings/Analysis."

24.   Further expenses associated with my travel relating to my time dedicated to Code 00009 pertaining to "Court Appearance" totaled $2,285.90:

Expense Type	Total
Air Travel	$2,119.90
Ground Travel	$166.00
Total	$2,285.90

25.   The hourly rates used to represent the lodestar represent our firm's current, customary professional rates effective for the year 2025, during which our firm's attorneys billed time to this case. The billing rates of the team members who contributed to this case range from $750–$830 for partners, $320–$510 for associates, and $390 for staff attorneys.

26.   CDAS attorneys' billing rates are based upon a combination of the title and the specific years of experience for each employee, as well as periodic analyses of internal costs, rates used by lawyers with similar experience in copyright and other IP matters. Different timekeepers within the same employment category (*e.g.*, partners, associates, staff attorneys) may have different rates based on a variety of factors, including years of practice and the rates of similarly experienced peers at CDAS and/or other plaintiff or defense firms.

27.   Based on my forty years of experience in litigation, and predominantly copyright litigation, these rates are consistent with, if not lower than, prevailing market rates for copyright counsel.

28.   In calculating attorneys' fees, Second Circuit courts determine a "presumptively reasonable fee" by multiplying a reasonable hourly rate by the reasonable number of hours expended on the case, often referred to as the "lodestar method." *Arbor Hill Concerned Citizens Neighborhood Ass'n v. Cnty. of Albany & Albany Cnty. Bd. Of Elections*, 522 F.3d 182, 189-90 (2d Cir. 2008); *Crescent Publ'g Grp., Inc. v. Playboy Enters., Inc.*, 246 F.3d 142, 151 (2d Cir.

2001); see also *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). To determine a reasonable rate, courts consider "the prevailing rates in the community 'for similar services by lawyers of reasonably comparable skill, experience, and reputation.'" *U.S. Media Corp. v. Edde Ent., Inc.*, 1999 WL 498216, at *2 (S.D.N.Y. July 14, 1999). However, "[t]he actual billing arrangement certainly provides a strong indication of what private parties believe is the 'reasonable' fee to be awarded." *Crescent Publ'g*, 246 F.3d at 151.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct to the best of my knowledge, belief, and recollection.

Executed in New York, New York on December 3, 2025

/s/ Nancy E. Wolff
Nancy E. Wolff

Samuel Issacharoff (*Pro Hac Vice*)
40 Washington Square South, Suite 411J
New York, NY 10012
(212) 998-6580
Fax: (212) 995-4590
Email: si13@nyu.edu

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANDREA BARTZ, ANDREA BARTZ, INC., CHARLES GRAEBER, KIRK WALLACE JOHNSON, and MJ + KJ, INC., individually and on behalf of others similarly situated, Plaintiffs, v. ANTHROPIC PBC, Defendant.	Case No.: 3:24-cv-05417-WHA **DECLARATION OF SAMUEL ISSACHAROFF IN SUPPORT OF PLAINTIFFS' MOTION FOR SETTLEMENT APROVAL, ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND PLAINTIFF SERVICE AWARDS**

I, Samuel Issacharoff declare:

1.   I am a member in good standing of the State Bar of Texas, and I am admitted *pro hac vice* before this Court. Dkt. No. 321. I respectfully submit this Declaration in support of Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Expenses, and Plaintiff Service Awards.

2.   I am the Bonnie and Richard Reiss Professor of Constitutional Law at the New York University School of Law and the reporter for the American Law Institute's Principles of Aggregate Litigation. I have also been involved as counsel, as an expert and as a consultant in a large number of SEcomplex cases, including dozens of class actions, on behalf of both plaintiffs and defendants; in addition, I have served as special master in a mass tort class action in the Eastern District of Texas. I have testified before the Advisory Committee on the Rules of Practice and Procedure of The Judicial Conference of the United States and the Third Circuit Task Force on the Selection of Class Counsel regarding proposed

amendments to the federal class action rule and other matters pertaining to the selection and compensation of class counsel.

3.   From June 2025 through the present, I have provided Class Counsel with strategic guidance on Rule 23 and settlement issues arising out of and relating to the Settlement. In performing that role, I routinely conferred with Class Counsel and provided high-level legal research. I also traveled to San Francisco to meet with Class Counsel in person and attend the September 8, 2025 preliminary approval hearing in this matter.

4.   On August 11, Class Counsel filed a Notice of Association of Additional Counsel notifying the Court that I was advising Class Counsel on class and procedural issues. Dkt. No. 298.

5.   My lodestar in this matter is $90,240 for 58.4 hours of work spent advising Class Counsel on strategic Rule 23 and settlement issues. I expended this time on a contingent basis, without any guarantee of receiving compensation if the litigation was not successful. I also have out of pocket carried expenses of $3,037.93 which I have expended and which will be reimbursed only pursuant to Court order.

6.   I currently charge $1,600 for non-contingent work. Courts routinely approve requests for my attorney's fees in complex class action litigation. *See, e.g.*, *Ramirez v. Trans Union, LLC*, No. 12-CV-00632-JSC, 2022 WL 17722395, at *9 (N.D. Cal. Dec. 15, 2022) (finding reasonable $1,200 rate and granting motion for attorney's fees for work performed starting at 2020 rates).

7.   I will remain devoted to this matter through its conclusion and stand ready to advise Class Counsel on any issues that arise.

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

Executed in New York, New York, this 3rd day of December, 2025.

/s/ Samuel Issacharoff
Samuel Issacharoff

EXHIBIT A

SAMUEL ISSACHAROFF

New York University School of Law
Phone: (212) 998-6580, Fax: (212) 995-4590
Email: si13@nyu.edu

ACADEMIC EXPERIENCE

New York University School of Law

- Bonnie and Richard Reiss Professor of Constitutional Law (2005 - present)
- Visiting Professor (2004-2005)

Harvard Law School

- Samuel Williston Visiting Professor (Fall 2008)

Columbia Law School

- Harold R. Medina Professor in Procedural Jurisprudence (2001 - 2005)
- Professor (1999 - 2001)
- Visiting Professor (1998-1999)

Oxford University

- Astor Visiting Lecturer (June 2005)

Tel Aviv University

- Visiting Professor (May-June 2006)

University of Texas School of Law

- Joseph D. Jamail Centennial Chair in Law (1998-1999)
- Charles Tilford McCormick Professor in Law (1994-1998)
- Professor and Preston Shirley Faculty Fellow (1993-94)
- Assistant Professor (1989-1993)

University of Pennsylvania Law School

- Lecturer in Law (1986-1989)

Gerzensee Center for Law and Economics, Switzerland

- Visiting Lecturer on Constitutional Law (May 2008)

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University of Toronto School of Law

- Full Professor Status Only (2011- 2014) (Dissertation reviewer)

University of Melbourne School of Law

- Senior Fellow (2011)

Courses Taught: Civil Procedure, Employment Law, Law of Democracy, Constitutional Law, Comparative Constitutional Law, Complex Litigation, Legal Process**,** Profession of Law

EDUCATION

Yale Law School, *J.D. 1983*
- Editor, Yale Law Journal.

Graduate Center, City University of New York
- Graduate studies in Labor History (1976-77); University Fellowship.

Universite de Paris, *1975-76*

State University of New York at Binghamton, *B.A. 1975*
- Major in History.

PROFESSIONAL EXPERIENCE

- ***Guerrieri, Edmond & James***, *Washington, D.C.* (1988-1989)
Of counsel, handling special litigation for labor law firm.

- ***Lawyers' Committee for Civil Rights Under Law,*** *Washington, D.C.* (l985-1988)
Staff attorney with Voting Rights Project (served as Acting Director of Voting Rights Project, 1985-86). Conducted voting rights litigation and other civil rights case work throughout the U.S.

- ***Kirschner, Walters, Willig, Weinberg & Dempsey,*** *Associate, Phila., PA.* (l985)
Union labor law practice representing public and private employees in court, arbitration
and administrative proceedings.

- ***Lawyers' Committee for International Human Rights*** (l984)
Received J. Roderick MacArthur Fellowship to represent Lawyers' Committee in Argentina and Uruguay. Worked with Centro de Estudios Legales y Sociales in Buenos Aires on issues concerning transition from dictatorship to civilian government and prosecutions of former military rulers.

- ***United States Court of Appeals for the Third Circuit*** (l983-84)
    Law Clerk to Honorable Arlin M. Adams.

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PUBLICATIONS

Articles

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- *Special Interests After* Citizens United: *Access, Replacement, and Interest Group Response to Legal   Change,* 9 ANNUAL REV. L. & SOC. SCIENCE 185 (2013) (with Jeremy Peterman).

- *Federalized America: Reflections on* Erie v. Tompkins *and State-Based Regulation,* 10 J. ECON. LAW   & POL'Y 199 (2013).

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- *Fairness in Aggregation,* 9 U.S.-CHINA L. REV. 477 (2012).

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- *Pragmatic Originalism?,* 5 N.Y.U. J. OF LAW & LIBERTY 517 (2010)

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- *Settled Expectations in a World of Unsettled Law,* 106 COLUM. L. REV. 1839 (2006).

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- *Law, Rules and Presidential Selection,* 120 POLITICAL SCIENCE QUARTERLY 113(2005).

- *Collateral Damage: The Endangered Center in American Politics,* 46 WILLIAM & MARY L. REV. 415 (2004).

- *The American Law of Repose,* 23 CIVIL JUSTICE QUARTERLY 324 (2004).

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- *The Elusive Search for Constitutional Integrity: A Memorial for John Hart Ely,* 57 STAN. L. REV.727 (2004).

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- *Race and Campaign Finance Reform,* 79 N. CAR. L. REV. 1523 (2001).

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- *Discrimination with a Difference: Can Employment Discrimination Law Accommodate the Americans with Disabilities Act?,* 79 NORTH CAROLINA L. REV. 307 (2001)(with Justin Nelson).

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- *Governing through Intermediaries,* 85 VIRGINIA L. REV. 1627 (1999) (with Daniel Ortiz).

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- *Not By Election Law Alone,* 32 LOYOLA L. REV. 1173 (1999) (with Richard Pildes).

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- *Contracting For Employment: The Limited Return of the Common Law*, 74 TEXAS LAW

REVIEW 1783 (1996).

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- *Women and the Workplace: Accommodating the Demands of Pregnancy*, 95 COL. L. REV. 2154 (1994) (with Elyse Rosenblum).

- *Race and Redistricting: Drawing Constitutional Lines after <u>Shaw v. Reno</u>*, 92 MICHIGAN LAW REVIEW 588 (1993) (with T. Alexander Aleinikoff).

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Lichtman).

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Books

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- CIVIL PROCEDURE (Foundation Press, 2d. edition, 2008).

- CIVIL PROCEDURE (Foundation Press, 3d. edition, 2011).

- CIVIL PROCEDURE (Foundation Press, 4th edition, 2017).

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- THE LAW OF DEMOCRACY: LEGAL STRUCTURE OF THE POLITICAL PROCESS (with Pamela Karlan and Richard Pildes*)(Foundation Press, 1998).

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- *Courts As Guarantors of Democracy*, in CONSTITUTIONALISM: OLD DILEMMAS, NEW INSIGHTS 123 (2021, Oxford Univ. Press) (Alejandro Linares-Cantillo, ed).

- *Judicial Review of Presidential Re-election Amendments in Colombia*, in MAX PLANK ENCYCLOPEDIA OF COMPARATIVE CONSTITUTIONAL LAW (2020, Oxford Univ. Press)(with Santiago Garcia-Jaramillo and Vicente F. Benítez-R.).

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IMPERIO DE RONALD DWORKIN: ENSAYOS DE FILOSOFÍA MORAL, POLÍTICA y JURÍDICA 291 (2019, EUDEBA, Buenos Aires)(Marcelo Alegre & Juan Nascimbene, eds).

- *Democracy=s Deficits,* in NEW POLITICS OF DECISIONISM, (Violeta Besirevic, ed., Eleven International Publishing, The Hague, 2019).

- *Populism versus Democratic Governance,* in CONSTITUTIONAL DEMOCRACY IN CRISIS? 445, (Mark Graber, Sanford Levinson and Mark Tushnet, eds., Oxford University Press 2018).

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- *Comparative Constitutional Law as a Window on Democratic Institutions,* in MODERN COMPARATIVE CONSTITUTIONAL LAW 60 (Rosalind Dixon & Erin F. Delaney, eds., 2018).

- *Due Process in Law,* in INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL & BEHAVIORAL SCIENCES, 2nd ed. 696 (James D. Wright, ed., Oxford: Elsevier, 2015).

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- *Drones and the Dilemma of Modern Warfare*, in DRONES AND THE PROMISE OF LAW: HOW ADVANCES IN MILITARY TECHNOLOGY ARE TRANSFORMING ARMED CONFLICT AND CHALLENGING POLICY AND PRACTICE (P. Bergen & D. Rothenberg, eds) (Cambridge Univ. Press, 2014) (with Richard H. Pildes).

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- *Fairness in Aggregation,* in PROCESOS COLECTIVOS/CLASS ACTIONS: PROCEEDINGS OF 1ST INTERNATIONAL CONFERENCE ON PROCEDURAL LAW 31 (2012).

- *The Majoritarian Threat to Democracy: Constitutional Courts and the Democratic Pact*, in MAJORITY POLITICS 236 (S. Novak & J. Elster, eds) (2014).

- *Will Aggregate Litigation Come to Europe?,* in THE LAW AND ECONOMICS OF CLASS ACTIONS IN EUROPE: LESSONS FROM AMERICA 37 (J. Backhaus, A Cassone & G. Ramello eds) (2012) (with Geoffrey Miller).

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- *Facts, Investigation and the Role of Discovery,* in LITIGATION IN ENGLAND AND GERMANY: LEGAL PROFESSIONAL SERVICES, KEY FEATURES AND FUNDING 39 (P. Gottwald, ed) (2010).

- *Aggregating Private Claims,* in LITIGATION IN ENGLAND AND GERMANY: LEGAL PROFESSIONAL SERVICES, KEY FEATURES AND FUNDING 63 (P. Gottwald, ed) (2010).

- *The Institutional Dimension of Consumer Protection,* in NEW FRONTIERS OF CONSUMER PROTECTION: COMBINING PRIVATE AND PUBLIC ENFORCEMENT (F. Cafaggi & H.-W. Micklitz, eds) (2009) (with Ian Samuel).

- *Democracy and Electoral Processes,* in RESEARCH HANDBOOK ON LAW AND PUBLIC CHOICE 173 (D. Farber & A. J. O'Connell, eds) (2010) (with Laura E. Miller).

- *A Cosmopolitan Judge for a Cosmopolitan Era: An Essay in Honor of Carl Baudenbacher,* in ECONOMIC LAW AND JUSTICE IN TIMES OF GLOBALIZATION: FESTSCHRIFT FOR CARL BAUDENBACHER 131 (M. Monti, N. Liechtenstein, B. Vesterdorf, J. Westbrook, L. Wildhaber, eds) (2007).

- *Supreme Court Preemption: The Contested Middle Ground of Products Liability*, in FEDERAL PREEMPTION: STATES' POWERS, NATIONAL INTEREST 194 (Richard A. Epstein & Michael S. Greve, eds.) (2007) (with Catherine Sharkey).

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- *Legal Regulation of Conflict of Interest*, in CONFLICTS OF INTEREST: PROBLEMS AND SOLUTIONS IN LAW, MEDICINE, AND ORGANIZATIONAL SETTINGS (M. Bazerman, G. Loewenstein, & D. Moore, eds., Cambridge Univ. Press, 2005).

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- *Bargaining Impediments and Settlement Behavior* (with Charles Silver and Kent Syverud), in DISPUTE RESOLUTION: BRIDGING THE SETTLEMENT GAP, Anderson, ed., JAI Press, 1996).

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Reports, Other Publications, and Current Manuscripts

- Democracy Undone: Populism and the Corruption of Popular Sovereignty. Book manuscript under submission, 2021.

- Fair Elections and a Strong Economy: Both are at Risk,@ THE HILL (September 2, 2011) (with Robert Rubin) https://thehill.com/opinion/campaign/570535-fair-elections-and-a-strong-economy-both-are-at-risk#bottom-story-socials

- Judges Doing What Judges Do: A Unified Theory of the 2020 Election Season,@ Just Security, January 5, 2021

- The Demise of Government: The Grim Task of Undoing Trump=s Damage, https://www.justsecurity.org/71092/the-demise-of-government-the-grim-task-of-undoing-trumps-damage/, July 1, 2020 (with Adam Littlestone-Luria).

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- Safeguarding Democratic Instituttions, Verfassungsblog Debated on Constitutional Courts and Populism, http://verfassungsblog.de/safeguarding-democratic-institutions/ April 28, 2017.

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- Keep Shining the Light on Dark Money, POLITICO (April 12, 2015) (with Robert F. Bauer)

- The Future of Voting Rights 17 N.Y.U. J. LEGIS. & PUB.POL'Y (2014) (symposium contribution).

- Where Parties Get Their Money From, The Indian Express, June 7, 2013.

- Iraq and Afghanistan, Who Is an Enemy Combatant?, Los Angeles Times, June 4, 2010.

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- Party Funding and Campaign Finance Law in the United States, Report for the Venice Commission of the Council of Europe (2009).

- The Impact of Politics and Constitutional Law on Mass Litigation: The Evolution of Civil Liability in the U.S. and Beyond, 12th International Liability Forum 14 (Munich Re Group) (2008).

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- Create a National Voter Registration List, BOSTON REVIEW, Vol. 31, No. 5, Sept-Oct. 2006, at 21.

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- In Real Elections, There Ought to Be Competition, NEW YORK TIMES, Feb. 16, 2002, at A19.

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- Due Process, INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL AND BEHAVIORAL SCIENCES (2000).

- ≅Political Fairness and Judicial Review, ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998).

- The Census and the Constitution, ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998).

- Electoral Districting, Fairness and Judicial Review, ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998).

- Age Discrimination, ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (1998)(with E. Harris).

- The Destruction of Public Funding, TEXAS LAWYER, May 12, 1997, at 20 (with David Horan).

- All for One, THE NEW REPUBLIC, Nov. 18, 1996, at 10 (with Richard Pildes).

- No Place for Political Gerrymandering, TEXAS LAWYER, Aug. 5, 1996 (with Richard Pildes).

- Should There Be Rules of Procedure?, Leiden University, Institute of Anglo-American Law, Clifford Chance Distinguished Lecture Series (Feb. 1995).

- Conference: The Supreme Court, Racial Politics, and the Right to Vote: *Shaw v. Reno* and the Future of the Voting Rights Act, 44 AMERICAN UNIV. L. REV. 1 (1994).

- A Highly Visible Bloodletting, AUSTIN AMERICAN STATESMAN, Oct. 2, 1994.

- Race and Redistricting, 2 RECONSTRUCTION, No. 3 (1994).

- The State of Voting Rights Law, 3 ISSUES IN NATIONAL AFFAIRS No. 1 (1993) (Paper prepared for the American Jewish Committee).

- Remedial Options for the Selection of the Texas Judiciary, Report prepared for settlement negotiations in *LULAC/Houston Lawyers' Association v. State of Texas*, Jan. 14, 1993,

- Adjusting Census Data For Reapportionment: An Independent Role for the States, TEXAS LAWYER, March 18, 1991 (with A. Lichtman).

- The 37.5 Percent Solution: 'Limited Voting' Could Rescue Judiciary, TEXAS LAWYER, March 5, 1990.

- The Texas Judiciary and the Voting Rights Act: Background and Options, Report prepared for the Texas Policy Research Forum (1989).

- The Generals Give Back Uruguay, Human Rights Report of the Lawyers' Committee for International Human Rights (1985) (with C. Estlund).

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AMERICAN LAW INSTITUTE

- Reporter, Principles of the Law: Aggregate Litigation (2010)

SELECTED LECTURES

- UNIVERSITY OF HOUSTON SCHOOL OF LAW, THE FRANKEL ENDOWED LECTURE, November 4, 2016: *Outsourcing Politics: The Hostile Takeover of Our Hollowed-Out Political Parties*

- INDIANA UNIVERSITY SCHOOL OF LAW, THE JEROME HALL ENDOWED LECTURE, February 18, 2016: *The Emerging Rule of Reason in Voting Rights Law*

- DUKE UNIVERSITY SCHOOL OF LAW, THE BRAINERD CURRIE MEMORIAL LECTURE, February 19, 2014: *Ballot Bedlam*

- UNIVERSITY OF HOUSTON LAW CENTER, THE JOHN R. BROWN MEMORIAL LECTURE, March 1, 2010: *Judging in the Time of the Extraordinary*

- BROWN UNIVERSITY, THE JANUS LECTURE, September 17, 2008: *Was the New Deal A Good Deal? New Deal Constitutionalism Reexamined*

- OXFORD UNIVERSITY, THE HART MEMORIAL LECTURE, May 6, 2008: *Democracy in Times of War*

- LEWIS & CLARK LAW SCHOOL, HIGGINS LECTURE, March 19, 2008: *Meriwether Lewis, the Air Force, and the Surge: The Problem of Constitutional Settlement*

- DRAKE LAW CENTER CONSTITUTIONAL LAW DISTINGUISHED LECTURE, November 8, 2007: *Democracy at War*

- JULIUS ROSENTHAL FOUNDATION SERIES LECTURES, Northwestern University School of Law, March 28 and 29, 2007: *Fragile Democracies,* and *Contested Visions of Democracy*

- ASTOR VISITING LECTURE, Oxford University, June 8, 2005: *When Rights Break Down: U.S. Constitutional Responses in Times of National Security Crisis.*

- JAMES GOULD CUTLER LECTURE, William and Mary University School of Law, Feb. 19, 2004: *The Endangered Center in American Politics.*

- SIBLEY LECTURE, University of Georgia School of Law, March 16, 2000: *Political Parties, the Constitution and Democratic Competition*.

- MASON LADD LECTURE, Florida State University School of Law, March 15, 2000: *Why Do Cases Get Litigated?*

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SELECTED PROFESSIONAL ACTIVITIES

- SENIOR LEGAL COUNSEL, Obama for America Campaign, 2008, 2012.

- FELLOW, American Academy of Arts and Sciences.

- COUNCIL, American Law Institute (2015-present).

- FELLOW, American Academy of Appellate Lawyers.

- REPORTER, Principles of Aggregate Litigation, American Law Institute.

- MEMBER, Editorial Board, Foundation Press.

- MEMBER, Advisory Committee Anxiety of Democracy Program, Social Science Research Council.

- CO-CHAIR, Working Group on Security, Anxiety of Democracy Program, Social Science Research Council, 2015-2019.

- BOARD OF DIRECTORS, Brennan Center for Justice at NYU School of Law, 2006-2011.

- INTERNATIONAL ADVISORY BOARD, CIPPEC B Centro de Implementación de Políticas Públicas para la Equidad y el Crecimiento, Buenos Aires, Argentina, 2012-present.

- FUTURE CLAIMS REPRESENTATIVE, Bankruptcy Trust of TH Agriculture and Nutrition, Inc, Representative for future asbestos claimants in $900 million bankruptcy trust.

- ADVISOR, Restatement Third Employment Law, American Law Institute.

- MEMBER, Judicial Selection Task Force of the Texas Commission on Judicial Efficiency (1995-1997).

- LEGAL CONSULTANT, National Research Council, Panel on Census Requirements in the Year 2000 and Beyond (1993-1995).

- COUNSEL, *Travelers v. Bailey,* U.S. Supreme Court, 2009; *TransUnion v. Ramirez*, U.S. Supreme Court, 2021. Argued for Respondents.

- CONSULTANT, State of Florida, *Johnson v. DeGrandy*, (1994) (Florida legislative redistricting litigation).

- COUNSEL to State of Texas for 1992 Redistricting in *Richards v. Terrazas*, No. 91-1270 (U.S. Supreme Court), and *Texas v. United States*, No. 91-2383 (D.D.C.). (1992-1993).

19

- SPECIAL MASTER TASKFORCE for Eastern District of Texas Asbestos Litigation, *Cimino v. Raymark Industries, Inc.*, 751 F.Supp. 649 (E.D. Tex. 1990). (1989-1990).

- BOARD OF DIRECTORS, Lawyers' Committee for Civil Rights Under Law of Texas. (1991-1995); Executive Committee of the Board of Directors (1993-1995).

- COUNSEL to State of Texas and University of Texas Law School in *Hopwood v. State of Texas and Regents of the University of Texas System*, No. 92 CA 563 (W.D. Texas, 1992)(challenge to School of Law affirmative action admissions practices)(1992-2001).

AWARDS

- *Roscoe Pound Institute Appellate Advocacy Award* 2015 (Inaugural Selection)

- *Podell Distinguished Teaching Award,* New York University School of Law 2009
    Annual student-selected award to four faculty members

- *Willis L. M. Reese Prize for Teaching,* Columbia Law School 2004
    Annual student-selected award to one faculty member

- *Texas Excellence Teaching Award in the School of Law,* Univ. of Texas School of Law, 1994
    Annual student-selected award to one faculty member
James W. Vick Texas Excellence Awards in Academic Advising, Univ. of Texas, 1994
        University-Wide Award

- *Open Door Award,* Univ. of Texas School of Law 1992
    Law School Student Award

PERSONAL

- *Born:* Sept. 15, 1954, Buenos Aires, Argentina

- *Married* to Prof. Cynthia Estlund, New York University School of Law

- *Children:* Jessica, Lucas

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Bartz et al. v. Anthropic PBC
No. 3:24-cv-05417

DECLARATION OF BRIAN T. FITZPATRICK

BACKGROUND AND QUALIFICATIONS

1.   I am the Milton R. Underwood Chair in Free Enterprise and Professor of Law at

Vanderbilt University in Nashville, Tennessee. I joined the Vanderbilt law faculty in 2007, after

serving as the John M. Olin Fellow at New York University School of Law in 2005 and 2006. I

graduated from the University of Notre Dame in 1997 and Harvard Law School in 2000. After

law school, I served as a law clerk to The Honorable Diarmuid O'Scannlain on the United States

Court of Appeals for the Ninth Circuit and to The Honorable Antonin Scalia on the United States

Supreme Court. I also practiced law for several years in Washington, D.C., at Sidley Austin LLP.

My C.V. is attached as Exhibit 1. I speak only for myself and not for Vanderbilt.

2.   My teaching and research at Vanderbilt have focused on class action litigation. I

teach the Civil Procedure, Federal Courts, and Complex Litigation courses. In addition, I have

published a number of articles on class action litigation in such journals as the University of

Pennsylvania Law Review, the Journal of Empirical Legal Studies, the Vanderbilt Law Review,

the Fordham Law Review, the NYU Journal of Law & Business, and the University of Arizona

Law Review. My work has been cited by numerous courts, scholars, and media outlets such as

the New York Times, USA Today, and Wall Street Journal. I have also been invited to speak at

symposia and other events about class action litigation, such as the ABA National Institutes on

Class Actions in 2011, 2015, 2016, 2017, 2019, 2023, and 2024; and the ABA Annual Meeting in

2012. Since 2010, I have also served on the Executive Committee of the Litigation Practice Group of the Federalist Society for Law & Public Policy Studies. In 2015, I was elected to the membership of the American Law Institute. In 2021, I became the co-editor of THE CAMBRIDGE HANDBOOK OF CLASS ACTIONS: AN INTERNATIONAL SURVEY (with Randall Thomas).

3.   In December 2010, I published an article in the Journal of Empirical Legal Studies entitled *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical L. Stud. 811 (2010) (hereinafter "Empirical Study"). This article is still what I believe to be the most comprehensive examination of federal class action settlements and attorneys' fees that has ever been published. Unlike other studies of class actions, which have been confined to one subject matter or have been based on samples of cases that were not intended to be representative of the whole (such as settlements approved in published opinions), my study attempted to examine *every* class action settlement approved by a federal court over a two-year period (2006-2007). *See id*. at 812-13. As such, not only is my study an unbiased sample of settlements, but the number of settlements included in my study is also several times the number of settlements per year that has been identified in any other empirical study of class action settlements: over this two-year period, I found 688 settlements, including 169 from the Ninth Circuit alone. *See id*. at 817. I presented the findings of my study at the Conference on Empirical Legal Studies at the University of Southern California School of Law in 2009, at the Meeting of the Midwestern Law and Economics Association at the University of Notre Dame in 2009, and before the faculties of many law schools in 2009 and 2010. Since then, this study has been relied upon regularly by a number of courts, scholars, and testifying experts.[1] I will draw upon this study and I attach it as Exhibit 2.

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[1] *See, e.g.*, *In re Stericycle Sec. Litig.*, 35 F.4th 555, 561 (7th Cir. 2022) (relying on article to assess fees); *Silverman v. Motorola Solutions, Inc.*, 739 F.3d 956, 958 (7th Cir. 2013) (same); *In re Ranbaxy Generic Drug Application Antitrust Litig.*, 630 F. Supp. 3d 241, 245 (D. Mass., Sep. 19, 2022) (same); *de la Cruz v. Manhattan*

4.   In addition to my empirical works, I have also published many law-and-economics

papers on the incentives of attorneys and others in class action litigation. *See*, *e.g.*, Brian T.

Fitzpatrick, *A Fiduciary Judge's Guide to Awarding Fees in Class Actions*, 89 Fordham L. Rev.

Parking Group, No. 20-CV-977 (BCM), 2022 WL 3155399, at *4 (S.D.N.Y., Aug. 8, 2022) (same); *Kukorinis v. Walmart*, No. 19-20592-CV, 2021 WL 8892812, at *4 (S.D. Fla., Sep. 21, 2021) (same); *Kuhr v. Mayo Clinic Jacksonville*, No. 3:19-cv-453-MMH-MCR, 2021 WL 1207878, at *12-13 (M.D. Fla. Mar. 30, 2021) (same); *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 MD 2262 (NRB), 2020 WL 6891417, at *3 (S.D.N.Y. Nov. 24, 2020) (same); *Shah v. Zimmer Biomet Holdings, Inc.*, No. 3:16-cv-815-PPS-MGG, 2020 WL 5627171, at *10 (N.D. Ind. Sept. 18, 2020) (same); *In re GSE Bonds Antitrust Litig.*, No. 19-cv-1704 (JSR), 2020 WL 3250593, at *5 (S.D.N.Y. June 16, 2020) (same); *In re Wells Fargo & Co. S'holder Derivative Litig.*, No. 16-cv-05541-JST, 2020 WL 1786159, at *11 (N.D. Cal. Apr. 7, 2020) (same); *Arkansas Teacher Ret. Sys. v. State St. Bank & Trust Co.*, 512 F. Supp. 3d 196, 250 (D. Mass. Feb. 27, 2020), *appeal dismissed sub nom. Arkansas Tchr. Ret. Sys. v. State St. Corp.*, No. 20-1365, 2020 WL 5793216 (1st Cir. Sept. 3, 2020) (same); *In re Equifax Inc. Customer Data Sec. Breach Litig.*, No. 1:17-MD-2800-TWT, 2020 WL 256132, at *34 (N.D. Ga. Jan. 13, 2020) (same); *In re Transpacific Passenger Air Transp. Antitrust Litig.*, No. 3:07-cv-05634-CRB, 2019 WL 6327363, at *4-5 (N.D. Cal. Nov. 26, 2019) (same); *Espinal v. Victor's Cafe 52nd St., Inc.*, No. 16-CV-8057 (VEC), 2019 WL 5425475, at *2 (S.D.N.Y. Oct. 23, 2019) (same); *James v. China Grill Mgmt., Inc.*, No. 18 Civ. 455 (LGS), 2019 WL 1915298, at *2 (S.D.N.Y. Apr. 30, 2019) (same); *Grice v. Pepsi Beverages Co.*, 363 F. Supp. 3d 401, 407 (S.D.N.Y. 2019) (same); *Alaska Elec. Pension Fund v. Bank of Am. Corp.*, No. 14-CV-7126 (JMF), 2018 WL 6250657, at *2 (S.D.N.Y. Nov. 29, 2018) (same); *Rodman v. Safeway Inc.*, No. 11-cv-03003-JST, 2018 WL 4030558, at *5 (N.D. Cal. Aug. 23, 2018) (same); *Little v. Washington Metro. Area Transit Auth.*, 313 F. Supp. 3d 27, 38 (D.D.C. 2018) (same); *Hillson v. Kelly Servs. Inc.*, No. 2:15-cv-10803, 2017 WL 3446596, at *4 (E.D. Mich. Aug. 11, 2017) (same); *Good v. W. Virginia-Am. Water Co.*, No. 14-1374, 2017 WL 2884535, at *23, *27 (S.D.W. Va. July 6, 2017) (same); *McGreevy v. Life Alert Emergency Response, Inc.*, 258 F. Supp. 3d 380, 385 (S.D.N.Y. 2017) (same); *Brown v. Rita's Water Ice Franchise Co. LLC*, No. 15–3509, 2017 WL 1021025, at *9 (E.D. Pa. Mar. 16, 2017) (same); *In re Credit Default Swaps Antitrust Litig.*, No. 13MD2476 (DLC), 2016 WL 2731524, at *17 (S.D.N.Y. Apr. 26, 2016) (same); *Gehrich v. Chase Bank USA, N.A.*, 316 F.R.D. 215, 236 (N.D. Ill. 2016); *Ramah Navajo Chapter v. Jewell*, 167 F. Supp 3d 1217, 1246 (D.N.M. 2016); *In re: Cathode Ray Tube (Crt) Antitrust Litig.*, No. 3:07-cv-5944 JST, 2016 WL 721680, at *42 (N.D. Cal. Jan. 28, 2016) (same); *In re Pool Products Distribution Mkt. Antitrust Litig.*, MDL No. 2328, 2015 WL 4528880, at *19-20 (E.D. La. July 27, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, No. 11–cv–4462, 2015 WL 2147679, at *2-4 (N.D. Ill. May 6, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, No. 11–cv–4462, 2015 WL 1399367, at *3-5 (N.D. Ill. Mar. 23, 2015) (same); *In re Capital One Tel. Consumer Prot. Act Litig.*, 80 F. Supp. 3d 781, 797 (N.D. Ill. 2015) (same); *In re Neurontin Marketing and Sales Practices Litig.*, 58 F.Supp.3d 167, 172 (D. Mass. 2014) (same); *Tennille v. W. Union Co.*, No. 09–cv–00938–JLK–KMT, 2014 WL 5394624, at *4 (D. Colo. Oct. 15, 2014) (same); *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 349-51 (S.D.N.Y. 2014) (same); *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig.*, 991 F. Supp. 2d 437, 444-46 & n.8 (E.D.N.Y. 2014) (same); *In re Fed. Nat'l Mortg. Association Sec., Derivative, and "ERISA" Litig.*, 4 F. Supp. 3d 94, 111-12 (D.D.C. 2013) (same); *In re Vioxx Prod. Liab. Litig.*, No. 11–1546, 2013 WL 5295707, at *3-4 (E.D. La. Sep. 18, 2013) (same); *In re Black Farmers Discrimination Litig.*, 953 F. Supp. 2d 82, 98-99 (D.D.C. 2013) (same); *In re Se. Milk Antitrust Litig.*, No. 2:07–CV 208, 2013 WL 2155387, at *2 (E.D. Tenn. May 17, 2013) (same); *In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig.*, 851 F. Supp. 2d 1040, 1081 (S.D. Tex. 2012) (same); *Pavlik v. FDIC*, No. 10 C 816, 2011 WL 5184445, at *4 (N.D. Ill. Nov. 1, 2011) (same); *In re Black Farmers Discrimination Litig.*, 856 F. Supp. 2d 1, 40 (D.D.C. 2011) (same); *In re AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 792 F. Supp. 2d 1028, 1033 (N.D. Ill. 2011) (same); *In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 359 (E.D.N.Y. 2010) (same).

1151 (2021) (hereinafter "Fiduciary Judge"); Brian T. Fitzpatrick, *Do Class Action Lawyers Make*

Too Little, 158 U. Pa. L. Rev. 2043 (2010) (hereinafter "Class Action Lawyers"); Brian T.

Fitzpatrick, *The End of Objector Blackmail?*, 62 Vand. L. Rev. 1623 (2009). Much of this work

was discussed in a book I published with the University of Chicago Press entitled THE

CONSERVATIVE CASE FOR CLASS ACTIONS (2019). The thesis of the book is that the so-called

"private attorney general" is superior to the public attorney general in the enforcement of the rules

that free markets need in order to operate effectively, and that courts should provide proper

incentives to encourage such private attorney general behavior. This work, too, has been relied

upon by courts and scholars.[2] I will also draw upon this work.

SUMMARY OF OPINIONS

5.   I have been asked by class counsel to opine on whether the attorneys' fees they

have requested here are reasonable in light of the empirical studies and research on economic

incentives in class action litigation. In order to formulate my opinion, I reviewed a number of

documents provided to me by class counsel; I have attached a list of these documents in Exhibit 3.

As I explain, based on my study of settlements across the country and in the Ninth Circuit in

particular in light of the empirical and economic research on class actions, my opinions are as

follows:

- The court should use the percentage method rather than the lodestar method.

- The percentage requested here is reasonable because it is right at the Ninth Circuit's

    benchmark and consistent with the other Ninth Circuit factors.

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[2] *See, e.g.*, *Briseño v. Henderson*, 998 F.3d 1014, 1025, 1029 (9th Cir. 2021); *Muransky v. Godiva Chocolatier, Inc.*, 979 F.3d 917, 960 (11th Cir. 2020) (Jordan, J., dissenting); *Neese et al. v. Becerra*, No. 2:21-CV-163-Z, 2022 WL 9497214, at *2 n.1 (N.D. Tex., Oct. 14, 2022); *Tershakovec v. Ford Motor Co.*, No. 17-21087-CIV, 2021 WL 2700347, at *18 (S.D. Fla. July 1, 2021); *Vita Nuova, Inc. v. Azar*, No. 4:19-cv-00532-O, 2020 WL 8271942, at *3 n.5 (N.D. Tex. Dec. 2, 2020).

- The court is not required to "crosscheck" the percentage method with class counsel's lodestar and should not do so for the same reasons it should not use the lodestar method, but, even if it does, the lodestar multiplier that would result here would be within the bounds of previous cases.

CASE BACKGROUND

6.   As the court is well aware, this is the culmination of a historic copyright class action suit on behalf of authors, publishers, and other copyright holders whose books were downloaded without payment by the defendant. Not only is this the first such successful suit against a provider of artificial intelligence but it is also the most lucrative copyright settlement in American history. Remarkably, the lawsuit settled months before trial was set to begin even though it was filed in August 2024. In that short time, class counsel: (1) litigated almost all the way through discovery, including document review, depositions, third-party discovery, and nearly-completed expert discovery; (2) litigated class certification, including a still-pending Rule 23(f) motion; and (3) even litigated summary judgment motions, with the most critical motion already decided. Very few class actions get this far before settlement let alone do so within a year. And they call the Eastern District of Virginia the rocket docket.

7.   The settlement covers the class certified earlier by the court, but with slight clarifications in the class definition: "All beneficial or legal copyright owners of the exclusive right to reproduce copies of any book in the versions of LibGen or PiLiMi downloaded by Anthropic as contained on the Works List." Preliminary Approval Order 2. Under the settlement, the defendant will pay the class $1.5 billion in cash, or approximately $3000 per pirated work. *See* Settlement Agreement § 1.34. After deducting attorneys' fees, administrative expenses, and service awards to the class representatives, the money will be distributed equally per work to class members who

file claims, and, for works with multiple copyright holders, shared among them according to preexisting agreements. *See id.* at § 1.35; Dkt. 401-1. None of the money can revert to the defendant. *See id.* at §§ 1.34; 2.1.g. In addition, the defendant has agreed to destroy the books it downloaded and any copies, subject to its legal preservation obligations. *See id.* at § 2.2. In exchange, the class will release only claims for past infringements; it will not release claims for future infringement of the same works, any infringements past or future based on the output generated by the defendant's products, nor any infringements of other works the class members may hold copyrights on. *See id.* at § 1.29.

8.   The court preliminarily approved the settlement on September 25, 2025, followed by an order and opinion on October 17, 2025. Class counsel are now seeking attorneys' fees equal to 20% of the settlement fund plus accrued interest.

ASSESSMENT OF THE REQUEST FOR ATTORNEYS' FEES

9.   This settlement is a so-called "common fund" settlement where attorneys for the plaintiffs have created a settlement fund for the benefit of class members. When fee-shifting is inapplicable in such cases (as it is here), courts award fees from class members' proceeds pursuant to the common law of unjust enrichment. This is sometimes called the "common fund" or "common benefit" doctrine.

Percentage versus Lodestar Method

10.   At one time, courts that awarded fees in such cases did so using the familiar lodestar approach. *See* Fitzpatrick, *Class Action Lawyers*, *supra*, at 2051. Under this approach, courts awarded counsel a fee equal to the number of hours they worked on the case (to the extent the hours were reasonable), multiplied by a reasonable hourly rate as well as by a discretionary multiplier that courts often based on the risk of non-recovery and other factors. *See id.* Over time,

however, the lodestar approach fell out of favor, largely for two reasons. First, courts came to

dislike the lodestar method because it was difficult to calculate; courts had to review and analyze

voluminous time records and related materials. Second—and more importantly—courts came to

dislike the lodestar method because it did not align the interests of counsel with the interests of

their clients: counsel's recovery did not depend on how much was recovered, but rather on how

many hours were spent on the case. *See id.* at 2051-52. According to my empirical study, the

lodestar method is now used to award fees in only a small percentage of class actions, usually

those where fees are paid pursuant to a fee-shifting statute or those where the relief is injunctive

in nature and the value of the injunction cannot be reliably calculated. *See* Fitzpatrick, *Empirical*

Study, *supra*, at 832 (finding the lodestar method used in only 12% of settlements). The other

large-scale academic studies of fees agree. *See, e.g.,* Theodore Eisenberg et al., *Attorneys' Fees*

in Class Actions: 2009-2013, 92 N.Y.U. Law Review 937, 945 (2017) (hereinafter "Eisenberg-

Miller 2017") (finding the lodestar method used only 6.29% of the time from 2009-2013, down

from 13.6% from 1993-2002 and 9.6% from 2003-2008).

      11.   The more widely utilized method of calculating attorneys' fees today is known as

the "percentage" method. Under this approach, courts select a percentage that they believe is fair

to counsel, multiply the settlement amount by that percentage, and then award counsel the resulting

amount. The percentage approach became popular precisely because it corrected the deficiencies

of the lodestar method: it is less cumbersome to calculate, and—again more importantly—it aligns

the interests of counsel with the interests of their clients because the greater the recovery, the more

counsel receives. *See* Fitzpatrick, *Class Action Lawyers, supra,* at 2052.

      12.   In the Ninth Circuit, district courts have the discretion to use either the lodestar

method or the percentage method. *See, e.g., In re Hyundai & Kia Fuel Economy Litig.,* 926 F.3d

539, 570 (9th Cir. 2019) (en banc) ("[N]o presumption in favor of either the percentage or the lodestar method encumbers the district court's discretion to choose one or the other.") In light of the well-recognized disadvantages of the lodestar method and the well-recognized advantages of the percentage method, however, it is my opinion that courts should generally use the percentage method when enough of the value of the settlement can be reliably calculated. It is my opinion that courts should use the lodestar method only where the value of the settlement cannot be reliably calculated (and the percentage method is therefore not feasible) or a fee-shifting statute requiring the lodestar method is applicable. This is not just my opinion. It is the consensus opinion of class action scholars. *See* American Law Institute, Principles of the Law of Aggregate Litigation § 3.13(b) (2010) ("[A] percentage-of-the-fund approach should be the method utilized in most common-fund cases."). In this case, the settlement consists principally of cash and can be easily valued. Thus, in my opinion, the Court should use the percentage method, and I will proceed under that method here.

Percentage Method

13.   Under the percentage method, courts must (1) calculate the value of the benefits conferred by the litigation, and then (2) select a percentage of that value to award to counsel.

14.   When calculating the value of the benefits, most courts include any benefits conferred by the litigation, whether cash relief, non-cash relief, attorneys' fees and expenses, or administrative expenses. Although some of these things do not go directly to the class, they facilitate compensation to the class (e.g., notice and administration expenses), provide future savings to the class, or deter defendants from future misconduct by making defendants pay more when they cause harm. Thus, in my opinion, it is appropriate to include them all in the denominator of the percentage method. *See also* Principles of the Law of Aggregate Litigation, *supra*, § 3.13(b)

("[A] percentage of the fund approach should be the method utilized in most common-fund cases, with the percentage being based on both the monetary and nonmonetary value of the judgment or settlement.").

15.   When selecting the percentage, the Ninth Circuit instructs district courts to start with 25% as a presumptively reasonable "benchmark" percentage, *see, e.g.*, *Staton v. Boeing Co.*, 327 F.3d 938, 968 (9th Cir. 2003), and then to adjust it upward or downward using at least eight different factors:

1) the percentages in standard contingency-fee agreements in similar individual cases, *see Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1049 (9th Cir. 2002);

2) the percentages awarded in other class action cases, *see Vizcaino*, 290 F.3d at 1050;

3) the results achieved by counsel, *see Six Mexican Workers v. Arizona Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990); *Vizcaino,* 290 F.3d at 1048;

4) the complexity of the case, *see Six Mexican Workers*, 904 F.2d at 1311; *In re Pacific Enters. Securities Litig.*, 47 F.3d 373, 379 (9th Cir. 1995);

5) the risks the case involved, *see In re Pacific Enters. Securities Litig.*, 47 F.3d at 379; *Vizcaino*, 290 F.3d at 1048-49;

6) the length the case has transpired, *see Six Mexican Workers*, 904 F.2d at 1311; *Vizcaino*, 290 F.3d at 1050;

7) any non-monetary benefits obtained by counsel, *see In re Pacific Enters. Securities Litig.*, 47 F.3d at 379; *Vizcaino*, 290 F.3d at 1049; *Staton*, 327 F.3d at 946; and

8) counsel's lodestar, *see Vizcaino*, 290 F.3d at 1050-51.

Valuation of the Settlements

16.   As I noted above, the settlement here consists principally of cash and therefore is easy to value: $1.5 billion, plus interest. The settlement also requires the defendant to destroy the

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illegally downloaded works, though class counsel has not sought to value this relief. Thus, I will

leave it out of the denominator and consider this a $1.5 billion settlement. But that does not mean

this relief is irrelevant: as I noted above, one of the factors the Ninth Circuit asks courts to examine

in setting the percentage is whether there is non-monetary relief of exactly this type. I address this

in more detail below.

Selecting the Percentage

17.   The 20% fee request here is below the Ninth Circuit's 25% benchmark. As I

explain now, in my opinion, this percentage is more than justified under the Ninth Circuit's factors

in light of the empirical research and research on economic incentives in class action litigation.

Sophisticated Class Members

18.   Consider the first factor (1): the percentages in standard contingency-fee

agreements in similar individual cases. The fee request is well below these percentages. As far as

I have been able to determine, even when sophisticated businesses hire counsel on contingency,

they often use one-third-or-more percentages. *See, e.g.*, Fitzpatrick, *Fiduciary Judge*, *supra*, at

1159-63 (canvassing the empirical studies); *The Rise of Contingent Fee Representation in Patent

Litigation*, 64 Ala. L. Rev. 335, 360 (2012) (finding that corporations in patent cases either agree

to flat rates of, on average, 38.6% or graduated rates that start, on average, at 28% and accelerate,

on average, to 40.2%). The reason for this is likely because lower percentages cause divergence

in the interests of attorneys and their clients and clients who hire lawyers on contingency do not

wish to incur the monitoring costs necessary to prevent such shirking; they want to incentivize

their attorneys to obtain as much as they can for them. In any event, the important point is that, in

my opinion, this factor strongly supports the fee request.

Awards in Other Cases

19.   Consider next factor (2): the awards in other class action cases. According to my empirical study, the most common percentages awarded by all federal courts using the percentage method were 25%, 30%, and 33%, with nearly two-thirds of awards between 25% and 35%, and with a mean award of 25.4% and a median award of 25%. *See* Fitzpatrick, *Empirical Study, supra,* at 833-34, 838. The numbers for the 111 settlements in the Ninth Circuit in my study where the percentage method was used were quite similar: the mean was 23.9% and the median 25%. This is unsurprising given that 25% is the benchmark percentage in the Ninth Circuit. My numbers agree with the other large-scale academic studies of class action fee awards. *See* Theodore Eisenberg & Geoffrey P. Miller, *Attorneys' Fees and Expenses in Class Action Settlements: 1993-2008*, 7 J. Empirical L. Stud. 248, 260 (2010) (hereinafter "Eisenberg-Miller 2010") (finding mean and median of 24% and 25% nationwide, and 25% in Ninth Circuit); Eisenberg-Miller 2017, *supra*, at 951 (finding mean and median of 27% and 29% nationwide, and 26% and 25% in the Ninth Circuit). Given that the fee request here is below both the nationwide and Ninth Circuit mean and median, it is my opinion that this factor also supports the requested fee.

20.   To visualize the fee request here, I graphed the distribution of the Ninth Circuit's percentage awards from my study in Figure 1, below. The figure shows what fraction of settlements (y-axis) had fee awards within each five-point range of fee percentages (x-axis). I have marked which column the 20% request here would fall into with a red arrow. As the arrow shows, the vast majority of fee awards in this Circuit are greater than the request here.

Figure 1: Percentage-method fee awards in the Ninth Circuit, Fitzpatrick (2010)

21.   Of course, this is not your typical class action settlement—it is better. As I noted above, it is the largest copyright settlement in American history and among the largest class action settlements, too. This is notable because some courts analyze this factor in reference solely to settlements of a similar size. For this reason, my empirical study and the other large-scale academic studies show that settlement size has a statistically significant but inverse relationship with fee percentages—*i.e.*, that some courts award lower percentages in cases where settlements were larger. *See* Fitzpatrick, *Empirical Study, supra,* at 838, 842-44; Eisenberg-Miller 2010, *supra*, at 263-65; Eisenberg-Miller 2017, *supra*, at 947-48. This is sometimes called the "megafund" rule. In particular, my study found that in settlements above $1 billion, the average and median fee percentages were 13.7% and 9.5%, respectively. *See* Fitzpatrick, *Empirical Study, supra*, at 839.

22.   Because the Eisenberg-Miller studies did not separately report numbers for very large settlements and I wish to give the court as much additional data as possible, in Table 1, below, I set forth all of the billion-dollar settlements in federal court of which I am aware from any year. Of the 34 courts that used the percent method, the average and median in Table 1 is very similar to what I found in the two years of my study: 12.53% and 9.64%, respectively (if the cash values of the two settlements indicated are used). This means that, although the fee request is below the Ninth Circuit's benchmark, it is above average compared to other billion-dollar settlements.

Table 1: All Federal Class Action Settlements Greater Than or Equal to $1 Billion

Case	Settlement Amount	Fee Method	Lodestar Multiplier	Fee Percentage
BP Gulf Oil Spill (2012)[3]	$13 billion	Percent	2.3	4.3%
3M PFAS (2024)[4]	$10.5-$12.5 billion	Percent	3.0	8%
Volkswagen Diesel Engine (Consumer) (2017)[5]	$10 billion	Percent	2.6	1.7%
Enron Securities Fraud (2008)[6]	$7.2 billion	Percent	5.2	9.52%
Diet Drugs Products Liability (2008)[7]	$6.4 billion	Percent	2.6+	6.75%
WorldCom Securities (2005)[8]	$6.1 billion	Percent	4.0	5.5%
Payment Card Interchange Fees Antitrust (2019)[9]	$5.62 billion	Percent	2.4	9.31%
Visa Antitrust (2003)[10]	$3.4 billion	Percent	3.5	6.5%
Indian Trust (2011)[11]	$3.4 billion	Not specified	Not calculated	2.9%

[3] *In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, MDL No. 2179, 2016 WL 6215974 (E.D. La. Oct. 25, 2016). This settlement was uncapped and I estimated the settlement benefits to total $13 billion at the time fees were awarded.

[4] *In re Aqueous Film-Forming Foams Prods. Liab. Litig.*, MDL No. 2:18-mn-2873-RMG, 2024 WL 4868615 (D.S.C. Nov. 22, 2024).

[5] *In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prod. Liab. Litig.*, MDL No. 2672, 2017 WL 1047834 (N.D. Cal. Mar. 17, 2017). This settlement was uncapped and I estimated the settlement benefits to total $10 billion at the time fees were awarded.

[6] *In re Enron Corp. Sec., Derivative & ERISA Litig.*, 586 F. Supp. 2d 732 (S.D. Tex. 2008).

[7] *In re Diet Drugs (Phentermine, Fenfluramine, Dexfenfluramine) Products Liab. Litig.*, 553 F. Supp. 2d 442 (E.D. Pa. 2008).

[8] *In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319 (S.D.N.Y. 2005).

[9] *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, No. 05-MD-1720 (MKB) (JO), 2019 WL 6888488 (E.D.N.Y. Dec. 16, 2019).

[10] *In re Visa Check/Mastermoney Antitrust Litig.*, 297 F. Supp. 2d 503 (E.D.N.Y. 2003).

[11] *Cobell v. Salazar*, No. 96-cv-01285, 2011 WL 10676927 (D.D.C. Jul. 27, 2011).

Case	Settlement Amount	Fee Method	Lodestar Multiplier	Fee Percentage
Tyco Securities (2007)[12]	$3.3 billion	Percent	2.7	14.5%
Cendant Securities (2003)[13]	$3.2 billion	Percent	Not calculated	1.73%
Petrobras Securities (2018)[14]	$3 billion	Lodestar	1.8	6.2%
Blue Cross Blue Shield Antitrust (2022)[15]	$2.67 billion	Percent	3.23	23.47%
AOL Securities (2006)[16]	$2.65 billion	Percent	3.7	5.9%
Bank of America Securities (2013)[17]	$2.4 billion	Not specified	Not calculated	6.5%
Foreign Exchange Antitrust (2018)[18]	$2.31 billion	Percent	1.72	13%
Toshiba Diskette (2000)[19]	$2.1 billion (total) $1 billion (cash)	Both	Not calculated	7.1% (total) 15% (cash)
NCAA Antitrust (2025)[20]	$1.98 billion	Percent	Not calculated	20%
Toyota Unintended Acceleration (2013)[21]	$1.6 billion (est. total) $757 million (cash)	Percent	2.9	12.3% (total) 26.4% (cash)
Credit Default Swaps Antitrust (2016)[22]	$1.87 billion	Percent	6.2	13.6%
Prudential Insurance (2000)[23]	$1.8 billion	Percent	2.1	4.8%
Household Securities (2016)[24]	$1.58 billion	Percent	Not calculated	24.7%
Syngenta Corn (2018)[25]	$1.51 billion	Percent	1.4	33.33%

[12] *In re Tyco Int'l, Ltd. Multidistrict Litig.*, 535 F. Supp. 2d 249 (D.N.H. 2007).

[13] *In re Cendant Corp. Litig.*, 243 F. Supp. 2d 166 (D.N.J. 2003).

[14] *In re Petrobras Sec. Litig.*, No. 14-9662, Dkt. 834 (S.D.N.Y. Jun. 25, 2018).

[15] *In re Blue Cross Blue Shield Antitrust Litig.*, MDL No. 2406, 2022 WL 4587617 (N.D. Ala. Aug. 9, 2022).

[16] *In re AOL Time Warner, Inc. Sec.*, MDL No. 1500, 2006 WL 3057232 (S.D.N.Y. Oct. 25, 2006).

[17] *In re Bank of America Corp. Sec., Derivative, and ERISA Litig.*, No. 09-md-2058, Dkt. 862 (S.D.N.Y. Apr. 8, 2013).

[18] *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-7789, Dkt. 1140 (S.D.N.Y. Nov. 8, 2018).

[19] *Shaw v. Toshiba Am. Info. Sys., Inc.*, 91 F. Supp. 2d 942 (E.D. Tex. 2000).

[20] *In re College Athlete NIL Litigation*, No. 20-cv-03919, 2025 WL 3171376 (N.D. Cal., Jul. 11, 2025).

[21] *In re Toyota Motor. Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liab. Litig.*, No. 10-ml-2151, Dkt. 3802 (C.D. Cal., June 17, 2013).

[22] *In re Credit Default Swaps Antitrust Litig.*, No. 13-md-2476 (DLC), 2016 WL 2731524 (S.D.N.Y. Apr. 26, 2016).

[23] *In re Prudential Ins. Co. of Am. Sales Practice Litig.*, 106 F. Supp. 2d 721, 736 (D.N.J. 2000).

[24] *Lawrence E. Jaffe Pension Plan v. Household Int'l, Inc.*, No. 2-cv-05893, Dkt. 2265 (N.D. Ill. Nov. 10, 2016).

[25] *In re Syngenta AG MIR 162 Corn Litigation*, 357 F.Supp.3d 1094 (D. Kan. 2018).

Case	Settlement Amount	Fee Method	Lodestar Multiplier	Fee Percentage
Valeant Securities (2021)[26]	$1.21 billion	Percent	3.6	13%
Volkswagen Diesel Engine (Dealer) (2017)[27]	$1.2 billion	Lodestar	2.0	0.25%
Black Farmers Discrimination (2013)[28]	$1.2 billion	Percent	<2.0	7.4%
Tobacco Antitrust (2003)[29]	$1.2 billion	Lodestar	4.5	5.9%
DuPont PFAS (2023)[30]	$1.19 billion	Percent	<1.0	8%
Chinese Drywall (2018)[31]	$1.12 billion	Both	1.0	9.18%
TFT-LCD Antitrust (2013)[32]	$1.1 billion	Percent	≈2.5	28.6%
Nortel Securities I (2006)[33]	$1.1 billion	Percent	2.1	3%
Nortel Securities II (2006)[34]	$1.1 billion	Percent	Not calculated	8%
Royal Ahold Securities (2006)[35]	$1.1 billion	Percent	2.6	12%
Allapattah Contract (2006)[36]	$1.1 billion	Percent	Not calculated	31.33%
ARCP Securities (2020)[37]	$1.03 billion	Both	1.5	9.76%
Sulzer Hip (2003)[38]	>$1 billion	Both	2.4	4.8%
Wells Fargo Securities (2023)[39]	$1 billion	Percent	Not calculated	18%
Nasdaq Antitrust (1998)[40]	$1 billion	Percent	4.0	14%
NFL Concussion (2018)[41]	≈ $1 billion	Both	3.0	10.8%

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[26] *In re Valeant Pharms. Int'l, Inc. Sec. Litig.*, No. 15-7658, 2021 WL 358611 (D.N.J. Feb. 1, 2021).

[27] *In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prod. Liab. Litig.*, MDL No. 2672, 2017 WL 1352859 (N.D. Cal. Apr. 12, 2017).

[28] *In re Black Farmers Discrimination Litig.*, 953 F. Supp. 2d 82 (D.D.C. 2013) (incurred rather than awarded expenses).

[29] *DeLoach v. Phillip Morris Cos.*, No. 1:00CV01235, 2003 WL 23094907 (M.D.N.C. Dec. 19, 2003).

[30] *In re Aqueous Film-Forming Foams Prods. Liab. Litig.*, MDL No. 2:18-mn-2873-RMG, 2024 WL 1739709 (D.S.C. Apr. 23, 2024).

[31] *In re Chinese Manufactured-Drywall Products Liab. Litig.*, MDL No. 2047, Dkt. 21168 (E.D. La. Jan. 31, 2018).

[32] *In re TFT-LCD (Flat Panel) Antitrust Litig.*, MDL No. 1827, 2013 WL 1365900 (N.D. Cal. Apr. 3, 2013).

[33] *In re Nortel Networks Corp. Sec. Litig.*, No. 01-cv-1855, Dkt. 194 (S.D.N.Y. Jan. 29, 2007).

[34] *In re Nortel Networks Corp. Sec. Litig.*, No. 04-cv-2115, Dkt. 177(S.D.N.Y. Dec. 26, 2006).

[35] *In re Royal Ahold N.V. Sec. & ERISA Litig.*, 461 F. Supp. 2d 383 (D. Md. 2006).

[36] *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185 (S.D. Fla. 2006); *Allapattah Servs., Inc. v. Exxon Corp.*, No. 91-cv-986, Dkt. 3780 (S.D. Fla. Apr. 16, 2007).

[37] *In re American Realty Capital Properties Litig.*, No. 15-mc-00040, Dkt. 1312 (S.D.N.Y. Jan. 23, 2020).

[38] *In re Sulzer Hip Prosthesis & Knee Prosthesis Liab. Litig.*, 268 F. Supp. 2d 907, 939 (N.D. Ohio 2003).

[39] *In re Wells Fargo & Co. Securities Litig.*, No. 20-cv-04494, Dkt. 206 (S.D.N.Y. Sep. 8, 2023).

[40] *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 489 (S.D.N.Y. 1998).

[41] *In re Nat'l Football League Players' Concussion Injury Litig.*, MDL No. 2323, 2018 WL 1635648 (E.D. Pa. Apr. 5, 2018). This settlement was uncapped and the settlement benefits were estimated to total $1 billion at the time fees were awarded.

23.   Nonetheless, the billion-dollar average does not change my opinion that this factor supports the fee request for the following reasons:

24.   First, Ninth Circuit law does not require the Court to look only to similarly-sized settlements when analyzing this factor. In fact, in *Vizcaino*, the Ninth Circuit directly confronted the argument that a district court erred because it "fail[ed] to take into account that this is a megafund case to which it should have applied . . . the increase-decrease rule." 290 F.3d at 1047. The Ninth Circuit rejected the argument, holding that it had "not adopt[ed] this . . . principle governing fee awards." *Id*. The Ninth Circuit recently reaffirmed this holding in *In re Optical Disk Drive Products Antitrust Litigation:* "we have already declined to adopt a bright-line rule requiring the use of sliding-scale fee awards for class counsel in megafund cases, and we are bound by circuit precedent." 959 F.3d 922, 933 (9th Cir. 2020).

25.   Second, in my opinion, when courts have discretion to look beyond similarly-sized settlements when assessing this factor, as they do in the Ninth Circuit, they should do so. The reason is because a bigger-recovery-smaller-fee-percentage rule hurts class members by giving their lawyers bad incentives. *See, e.g.*, Fitzpatrick, *Fiduciary Judge, supra*, at 1169; *see also Allapattah Servs. Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1213 (S.D. Fla. 2006) ("By not rewarding Class Counsel for the additional work necessary to achieve a better outcome for the class, the sliding scale approach creates the perverse incentive for Class Counsel to settle too early for too little"); *In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1367 (S.D. Fla. 2011) (quoting *Allapattah*). As one court in this Circuit put it, "[t]he Court . . . agrees with . . . other courts . . . which have found that decreasing a fee percentage based only on the size of the fund would provide a perverse disincentive to counsel to maximize recovery for the class." *In re*

Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation, No. 10-ml-02151, Dkt. 3802 at 17 n.16 (C.D. Cal. Jun. 17, 2013)).

26.   Consider the following example: if courts award attorneys 10% of settlements if they are over $1 billion but 25% of settlements if they are under $1 billion, then rational attorneys will prefer to settle cases for $800 million (*i.e.*, a $200 million fee award) rather than $1.5 billion (*i.e.*, a $150 million fee award)! Such incentives are obviously perverse. Indeed, cutting fee percentages when lawyers recover more money has been deemed so irrational—at least when not done only on the margin—that it has been banned in the Seventh Circuit on the ground that "[p]rivate parties would never contract for such an arrangement . . . ." *In re Synthroid I*, 264 F.3d 712, 718 (7th Cir. 2001). This is also why studies of sophisticated corporate clients do not report any such practice among them when they hire lawyers on a contingent fee basis, even in cases with the biggest financial stakes like patent litigation. *See, e.g.,* Schwartz, *supra,* at 360 (finding that corporations either agree to flat rates of, on average, 38.6% or graduated rates that start, on average, at 28% and accelerate, on average, to 40.2%); Fitzpatrick, *Fiduciary Judge*, *supra*, at 1159-63. If class members would not contract for such an arrangement on their own, why should courts force it upon them in class actions? Given that courts are supposed to act as "fiduciaries" for absent class members, the answer is clear: they should not. *See, e.g.*, Fitzpatrick, *Fiduciary Judge*, *supra*, at 1154-55; Fitzpatrick, THE CONSERVATIVE CASE FOR CLASS ACTIONS 93-95.

27.   Third, no matter what the average might be for billion-dollar settlements, there is a large range around the mean. For example, the standard deviation in my study for settlements above $1 billion was 11%. *See* Fitzpatrick, *Empirical Study, supra,* at 839. In Table 1, the standard deviation of the 34 awards that used the percent method is only somewhat smaller at 8.54% (if the cash values of the two settlements indicated are used). This means that the request here falls within

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one standard deviation of the mean in both my study and Table 1—*i.e.*, that the request is well within the "statistical mainstream." It is therefore unsurprisingly that there are numerous examples in Table 1 of courts awarding 20% (or more) in billion-dollar settlements. Of course, this variation occurs because the "percentage in other cases" is only one of the factors that courts consider when they award fees and courts are not hesitant to award above-average percentages if the other factors point in that direction. As I started to explain above and will continue to explain below, it is my opinion that all the other factors point in favor of granting class counsel's fee request.

The Risks Versus the Recovery

28.   Consider next factors (3), (4), and (5): the results achieved by counsel compared to the risks and complexities counsel faced. These factors reward or punish class counsel based on what they accomplished for the class: did they over or underperform with the hand they were dealt? To a large extent, the percentage method is supposed to address this by automatically rewarding class counsel if they recover more for the class, but the percentage method does not perfectly incentivize class counsel, *see* Fitzpatrick, *Fiduciary Judge*, *supra*, at 1154-55; Fitzpatrick, THE CONSERVATIVE CASE FOR CLASS ACTIONS 93-95, so it is good to double check class counsel's performance with these factors.

29.   In my opinion, these factors strongly support the fee request. The possible statutory damages here ranged from $200 to $150,000 per work, depending on the defendant's state of mind during the infringement. The $3000 recovery per work is a significant discount from the high end of the range but it is not likely that the class could have recovered damages at that end of the range—that would have summed to nearly $75 billion! Defendants can advance due process arguments in class actions that seek statutory damages wildly disproportionate to the actual harm caused. *See, e.g.*, A Practitioner's Guide to Class Actions 3d 519 (Greer & Nassihi, eds.) ("After

the court renders final judgment, the defendant can argue that the award is unconstitutionally excessive because it is disproportionate to the harm plaintiffs actually suffered and ask the court to lower the award to comport with due process."). In my opinion, compared to the plausible statutory damages that could have been awarded here, the $3000 recovery per work is very high. Although I have not seen any empirical studies of per-work recoveries in copyright class actions, there is a good study of per-work recoveries in individual actions and the recovery here beats them. *See* Benjamin Brady et al., *Statutory Damages Under the Copyright Act: An Empirical Study*, 2022.5 Mich. St. L. Rev. 39, 66 (reporting median recovery of $1,214 per work in printed-materials cases). Although larger awards are possible, *see id.* (reporting awards up to $150,000 and an average of $30,038 for printed materials), the authors noted that "the amount awarded per work tended to decrease as the number of works at issue increased," *id.* 64. That doesn't bode well for a copyright class action with hundreds of thousands of works.[42]

30.   Strong recoveries must also be measured against the risks class counsel faced. And the risks in this case were exceptional. Consider the following hurdles that class counsel had to surmount in these cases:

- First, it was unclear whether Anthropic's piracy constituted fair use. Although this court concluded it was not in its summary judgment order, other judges appear to have disagreed and the Ninth Circuit could have as well.

- Second, even if Anthropic's conduct was not fair use, Plaintiffs would also have to prove Anthropic's state of mind when it downloaded the class's books. If a jury

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[42] The case with the largest number of works in the study involved over 10,000 works. *See id.* at 63. Although the jury awarded almost $100,000 per work, the award was vacated on appeal and the plaintiffs' petition for certiorari was denied (while the defendant's petition seeking to eliminate even liability was granted). *See Sony Music Ent. v. Cox Commc'ns, Inc.*, 93 F.4th 222, 229 (4th Cir. 2024), *cert. granted*, 145 S. Ct. 2841 (2025), and *cert. denied*, 145 S. Ct. 2844 (2025).

found an innocent state of mind, they might have awarded only $200 per book, a small fraction of the settlement amount.

- Third, Anthropic surely would have attempted to exclude class counsel's experts before trial. An adverse decision on this question could have sunk the class's entire case.

- Fourth, the Court concluded that it was fair use for Anthropic to buy a book, take it apart, scan it, and then to store and use the scanned copies. The Court likewise observed that the cost of such scanning would be $10 or lower per book, suggesting an extremely low per-work award if the case went to trial, at least on the many works that Anthropic had scanned.

If the court multiplies all of these risks against one another, it is easy to conclude that the settlement here is better than the expected value of the class's plausible statutory damages recovery. Indeed, the court has already said as much. *See* Transcript at 54 ("In my mind, there was only a narrow path to a home run in this case, and that home run is well represented by the $3,000."). Thus, in my opinion, these factors strongly weigh in favor of the fee request.

Other Factors

31.   Consider next factor (6): the length the litigation has transpired. This factor is important because the longer class counsel must wait to get paid for their work, the lower their "effective" fee becomes. This is the "time value of money": a dollar today is worth more than a dollar several years from now. Given the accelerated pace of these proceedings, as ordered by the Court, class counsel has admittedly not litigated this case as long as the typical class action before reaching final settlement approval, *see* Fitzpatrick, *Empirical Study, supra*, at 820 (finding mean and median times to final approval of around three years). On the other hand, class counsel have

accomplished more in the last year than most class action lawyers do in many more years. According to a forthcoming empirical study I am authoring of nearly 3,000 non-securities class actions in federal court, only 10% of settlements occur after class certification and only 15% after a summary judgment motion has been decided. *See* Brian T. Fitzpatrick, *A New Source of Data on Class Action Settlements: The Department of Justice's Class Action Fairness Act Log*, J. Empirical Legal Stud. (forthcoming 2026). Reducing the size of the award would only punish class counsel for adhering to the Court's schedule, for being efficient in litigating this case, and for doing more in less time than other lawyers. Moreover, the fees requested will not even be paid now; they will be paid over multiple years as the defendant funds the settlement. For all these reasons, it is my opinion that this factor, too, supports the fee request.

32.   Consider next factor (7): the non-monetary benefits conferred by the litigation. Courts use this factor to reward class counsel for injunctive relief they secure for the class when the value of such relief has not been calculated and class counsel cannot thereby be paid a percentage of that value. *See Staton*, 327 F.3d at 974 ("[W]here the value to individual class members of benefits deriving from injunctive relief can be accurately ascertained[,] courts [may] include such relief as part of the value of a common fund for purposes of applying the percentage method of determining fees. When this is not the case, courts should consider the value of the injunctive relief obtained as a 'relevant circumstance' in determining what percentage of the common fund class counsel should receive as attorneys' fees . . . .").

33.   Courts consider non-monetary relief because it is important to find some way to compensate class counsel for securing injunctive relief; otherwise class counsel would be disincentivized to go after it, even when it would be of great benefit to the class. Here, the injunctive relief has not been valued by class counsel. As a result, it is important that the court

reward class counsel for securing injunctive relief in another way: by increasing the percentage it awards from the cash class counsel secured. Indeed, only one quarter of class action settlements include non-monetary benefits like what class counsel secured here. *See* Fitzpatrick, *Empirical Study, supra*, at 824. Thus, this factor, too, weighs in favor of the fee request in my opinion.

Lodestar Crosscheck

34.   Finally, consider factor (8): counsel's lodestar. The crosscheck is not required in the Ninth Circuit. *See*, *e.g.*, *Farrell v. Bank of Am. Corp., N.A.*, 827 F. App'x 628, 630 (9th Cir. 2020) ("This Court has consistently refused to adopt a crosscheck requirement, and we do so once more."). Moreover, half of courts nationwide do not perform the crosscheck with the percentage method. *See* Fitzpatrick, *supra*, at 833 (finding that only 49% of courts consider lodestar when awarding fees with the percentage method); Eisenberg-Miller 2017, *supra*, at 945 (finding percent method with lodestar crosscheck used 38% of the time versus 54% for percent method without lodestar crosscheck). In my opinion, the majority approach is the better one: courts that entertain the lodestar crosscheck ultimately hurt class members by creating bad incentives for their lawyers. *See, e.g.*, Fitzpatrick, *Fiduciary Judge*, *supra*, at 1167. In particular, it brings through the backdoor all of the bad things the lodestar method used to bring through the front door: not only does the court have to concern itself again with class counsel's timesheets, but, more importantly, it reintroduces the very same misaligned incentives that the percentage method was designed to correct in the first place. *See, e.g.*, Fitzpatrick, *Fiduciary Judge*, *supra*, at 1157-58.

35.   This is why the lodestar crosscheck is all but unheard of when real clients hire lawyers on contingency in real marketplaces. Professor Schwartz, *supra*, did not report any crosscheck agreements in his study of patent litigation. Professor Herbert Kritzer, perhaps the most famous scholar of contingency fees, has never reported any in his studies. *See, e.g.*,

Fitzpatrick, *Fiduciary Judge*, *supra*, at 1159-60, 1167. The Seventh Circuit thinks it is so irrational

it has all but banned the practice for the same reason it banned the bigger-begets-smaller practice

I discussed above. *See Williams v. Rohm & Haas Pension Plan*, 658 F.3d 629, 636 (7th Cir. 2011)

(holding that "a lodestar check is not . . . required methodology" because "[t]he . . . argument . . .

that any percentage fee award exceeding a certain lodestar multiplier is excessive . . . echoes the

'megafund' cap we rejected in *Synthroid*"). Indeed, it is hard to see how the lodestar crosscheck

does not conflict with the Ninth Circuit's factor (1): the percentages in standard contingency-fee

agreements in similar individual cases; as I said, standard contingency-fee agreements do not

include crosschecks. For all these reasons, it is my opinion that courts should not do it.

36.   But class counsel have nonetheless asked me to address their lodestar, and I will do

so now.   The lodestar multiplier that would result here—9.32—would be high, but hardly

unprecedented.[43] While multipliers across all class action settlements tend to average less than 2,

see Fitzpatrick, *Empirical Study*, *supra*, at 834 (and, in the largest settlements, less than 4, *see*

Eisenberg-Miller 2017, *supra*, at 274 (finding mean and median multipliers of 3.18 and 2.60,

respectively, in settlements above $175.5 million); Table 1), there are many, many examples of

fee awards that resulted in multipliers at least as high as would result here. For example, in only

the two years covered by my empirical study, the highest lodestar crosscheck multiplier was 10.3.

See Fitzpatrick, *Empirical Study, supra*, at 834. Across other years, there are many more. *See,*

e.g., *Vizcaino*, 290 F.3d at 1051 n.6 (noting multipliers of up to 19.6); *see also, e.g., Americas*

Mining Corp. v. Theriault, 51 A.3d 1213, 1252 (Del. 2012) (awarding fees of 15% of $2 billion,

resulting in 66 multiplier); *Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.*, No.

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[43] Class counsel have represented to me that their present lodestar is $22,304,844 while their additional expected lodestar through February 2027 to continue assisting Class Members, to prepare for final approval, and to conduct other case tasks related to the settlement is $9,866,925. I am using the combined present and future lodestar—$32,171,769—for purposes of my multiplier calculation.

Civ.A. 03-4578, 2005 WL 1213926, at *18 (E.D. Pa. May 19, 2005) (awarding fee with 15.6 multiplier); *Lloyd v. Navy Fed. Credit Union*, No. 17-cv-1280, 2019 WL 2269958, at *13 (S.D. Cal. May 28, 2019) (approving 25% fee award even though "[t]he Court is aware that a lodestar cross-check would likely result in a multiplier of around 10.96"); *In re Doral Financial Corp. Securities Litigation*, No. 05-cv-04014-RO (S.D.N.Y. Jul. 17, 2007) (awarding fee with 10.26 multiplier); *Bais Yaakov of Spring Valley v. Peterson's Nelnet, LLC*, No. 11-cv-00011, Dkt. 121 (D.N.J. Jan. 26, 2015) (awarding fee with 8.91 multiplier); *Raetsch v. Lucent Tech., Inc.*, No. 05-cv-05134, Dkt. 164 (D.N.J. Nov. 8., 2010) (same with 8.77 multiplier); *In re Rite Aid Corp. Sec. Litig.*, 146 F. Supp. 2d 706, 736 n.44 (E.D. Pa. 2001) (awarding 25% of $193 million even though it resulted in the "handsome [but] unquestionably reasonable" multiplier of 4.5-8.5); *Thacker v. Chesapeake Appalachia, L.L.C.*, No. 07-cv-00026, Dkt. 132 (E.D. Ky. Mar. 3, 2010) (same with 8.47 multiplier); *New England Carpenters Health Benefits Fund v. First Databank, Inc.*, No. 05-11148-PBS, 2009 WL 2408560, at *2 (D. Mass. Aug. 3, 2009) (awarding fee with 8.3 multiplier); *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 481 (S.D.N.Y. 2013) ("Courts regularly award lodestar multipliers of up to eight times the lodestar, and in some cases, even higher multipliers.").

37.   For all these reasons, I believe the fee request here is within the range of reasonable awards in light of the empirical and research on economic incentives in class action litigation.

38.   My compensation in this matter was a flat fee in no way dependent on the outcome of class counsel's fee petition.

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Nashville, TN

December 3, 2025

Brian T. Fitzpatrick

EXHIBIT 1

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ACADEMIC APPOINTMENTS

VANDERBILT UNIVERSITY LAW SCHOOL, *Milton R. Underwood Chair in Free Enterprise*, 2020 to present
- *FedEx Research Professor*, 2014-2015
- *Professor of Law*, 2012 to present
- *Associate Professor*, 2010-2012; *Assistant Professor*, 2007-2010
- Classes: Civil Procedure, Complex Litigation, Federal Courts, Litigation Finance, Textualism & Originalism
- Hall-Hartman Outstanding Professor Award, 2008-2009 & 2023-2024
- Vanderbilt's Association of American Law Schools Teacher of the Year, 2009

HARVARD LAW SCHOOL, *Visiting Professor*, Fall 2018
- Classes: Civil Procedure, Litigation Finance

FORDHAM LAW SCHOOL, *Visiting Professor*, Fall 2010
- Classes: Civil Procedure

EDUCATION

HARVARD LAW SCHOOL, J.D., *magna cum laude*, 2000
- Fay Diploma (for graduating first in the class)
- Sears Prize, 1999 (for highest grades in the second year)
- *Harvard Law Review*, Articles Committee, 1999-2000; Editor, 1998-1999
- *Harvard Journal of Law & Public Policy*, Senior Editor, 1999-2000; Editor, 1998-1999
- Research Assistant, David Shapiro, 1999; Steven Shavell, 1999

UNIVERSITY OF NOTRE DAME, B.S., Chemical Engineering, *summa cum laude*, 1997
- First runner-up to Valedictorian (GPA: 3.97/4.0)
- Steiner Prize, 1997 (for overall achievement in the College of Engineering)

CLERKSHIPS

HON. ANTONIN SCALIA, Supreme Court of the United States, 2001-2002

HON. DIARMUID O'SCANNLAIN, U.S. Court of Appeals for the Ninth Circuit, 2000-2001

EXPERIENCE

NEW YORK UNIVERSITY SCHOOL OF LAW, Feb. 2006 to June 2007
John M. Olin Fellow

HON. JOHN CORNYN, United States Senate, July 2005 to Jan. 2006
Special Counsel for Supreme Court Nominations

SIDLEY AUSTIN LLP, Washington, DC, 2002 to 2005
Litigation Associate

BOOKS

THE CAMBRIDGE HANDBOOK OF CLASS ACTIONS: AN INTERNATIONAL SURVEY (Cambridge University Press 2021) (ed., with Randall Thomas)

THE CONSERVATIVE CASE FOR CLASS ACTIONS (University of Chicago Press 2019) (winner of the Pound Institute's 2022 Civil Justice Scholarship Award)

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Deregulation and Private Enforcement, 24 LEWIS & CLARK L. REV. 685 (2020)

The Indian Securities Fraud Class Action: Is Class Arbitration the Answer?, 40 NW. J. INT'L L. & BUS. 203 (2020) (with Randall Thomas)

Can the Class Action be Made Business Friendly?, 24 N.Z. BUS. L. & Q. 169 (2018)

Can and Should the New Third-Party Litigation Financing Come to Class Actions?, 19 THEORETICAL INQUIRIES IN LAW 109 (2018)

Scalia in the Casebooks, 84 U. CHI. L. REV. 2231 (2017)

The Ideological Consequences of Judicial Selection, 70 VAND. L. REV. 1729 (2017)

Judicial Selection and Ideology, 42 OKLAHOMA CITY UNIV. L. REV. 53 (2017) (reprinted in THE ROMANIAN JUDGES' FORUM REVIEW, no. 2 (2023))

Justice Scalia and Class Actions: A Loving Critique, 92 NOTRE DAME L. REV. 1977 (2017)

A Tribute to Justice Scalia: Why Bad Cases Make Bad Methodology, 69 VAND. L. REV. 991 (2016)

The Hidden Question in Fisher, 10 NYU J. L. & LIBERTY 168 (2016)

An Empirical Look at Compensation in Consumer Class Actions, 11 NYU J. L. & BUS. 767 (2015) (with Robert Gilbert)

The End of Class Actions?, 57 ARIZ. L. REV. 161 (2015)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, 98 VA. L. REV. 839 (2012)

Twombly *and* Iqbal *Reconsidered*, 87 NOTRE DAME L. REV. 1621 (2012)

Originalism and Natural Law, 79 FORD. L. REV. 1541 (2011)

An Empirical Study of Class Action Settlements and their Fee Awards, 7 J. EMPIRICAL L. STUD. 811 (2010) (selected for the 2009 Conference on Empirical Legal Studies)

Do Class Action Lawyers Make Too Little?, 158 U. PA. L. REV. 2043 (2010)

Originalism and Summary Judgment, 71 OHIO ST. L.J. 919 (2010)

The End of Objector Blackmail?, 62 VAND. L. REV. 1623 (2009) (selected for the 2009 Stanford-Yale Junior Faculty Forum)

The Politics of Merit Selection, 74 MISSOURI L. REV. 675 (2009)

Errors, Omissions, and the Tennessee Plan, 39 U. MEMPHIS L. REV. 85 (2008)

Election by Appointment: The Tennessee Plan Reconsidered, 75 TENN. L. REV. 473 (2008)

Can Michigan Universities Use Proxies for Race After the Ban on Racial Preferences?, 13 MICH. J. RACE & LAW 277 (2007)

Strict Scrutiny of Facially Race-Neutral State Action and the Texas Ten Percent Plan, 53 Baylor L. Rev. 289 (2001)

ACADEMIC PRESENTATIONS

Non-Securities Class Actions in the United States, Asia-Pacific Law Institute, Seoul National University, Seoul, South Korea (June 16, 2025)

Seminar on Collective Actions: Bringing Efficiency into the Administration of Justice, University of Valladolid, Valladolid, Spain (May 22, 2025)

Collective Actions in Spain: The View from Abroad, FIDE, Madrid, Spain (May 21, 2025)

Global Trends in Class Action Litigation, Perfect Law, London, United Kingdom (April 24, 2025) (panelist)

Originalism: A Debate, Clark Symposium on Constitutional Interpretation, University of California Law School, Berkeley, CA (March 17, 2025)

Is Originalism Really Worse Than Nothing? A Debate, Vanderbilt Law School, Nashville, TN (February 6, 2025)

Theories of Mass Litigation, McGovern Symposium on Civil Litigation, Duke Law School, Durham, NC (December 12, 2024) (panelist)

The Conservative Case for Private Antitrust Enforcement, American Antitrust Institute Annual Private Enforcement Conference, National Press Club, Washington, DC (October 30, 2024) (panelist)

Hot Topics in Class Action Settlement Approval, National Institute on Class Actions, American Bar Association, Nashville, TN (October 24, 2024) (panelist)

Non-Securities Class Action Settlements Since CAFA, University of Missouri Law School, Columbia, MO (September 20, 2024)

Do Representative Payments Matter? An Empirical Study, University of Missouri Law School, Columbia, MO (September 20, 2024)

Non-Securities Class Action Settlements Since CAFA, University of California at Berkeley Law School, Berkeley, CA (September 18, 2024)

Do Representative Payments Matter? An Empirical Study, University of California at Berkeley Law School, Berkeley, CA (September 18, 2024)

Non-Securities Class Action Settlements in CAFA's First Eleven Years, Conference of the European Society for Empirical Legal Studies, Universidad Miguel Hernandez, Elche, Spain (June 21, 2024)

Litigation Financing, Contemporary Issues in Complex Litigation Conference, Northwestern Law School, Chicago, IL (Mar. 7, 2024) (panelist)

Non-Securities Class Action Settlements in CAFA's First Eleven Years, George Mason Law School, Arlington, VA (Feb. 6, 2024)

Agency Costs in Third Party Litigation Finance Reconsidered, Third Party Litigation Funding: The Past, The Present, and The Future Conference, Tel Aviv University Buchmann Faculty of Law, Tel Aviv, Israel (June 14, 2023)

Non-Securities Class Action Settlements in CAFA's First Eleven Years, University of Florida Law School, Gainesville, FL (Feb. 6, 2023)

Entrapment of the Little Guy: Resisting the Erosion of Investor, Employee and Consumer Protections, Institute for Law and Economic Policy, San Diego, CA (Jan. 27, 2023) (panelist)

A New Source of Data for Non-Securities Class Actions, William & Mary Law School, Williamsburg, VA (Nov. 10, 2022)

Can Courts Avoid Politicization in a Polarized America?, American Bar Association Annual Meeting, Chicago, IL (Aug. 5, 2022) (panelist)

A New Source of Data for Non-Securities Class Actions, Seventh Annual Civil Procedure Workshop, Cardozo Law School, New York, NY (May 20, 2022)

Resolution Issues in Class Actions and Mass Torts, Miami Law Class Action & Complex Litigation Forum, University of Miami School of Law, Miami, FL (Mar. 11, 2022) (panelist)

Developments in Discovery Reform, George Mason Law & Economics Center Fifteenth Annual Judicial Symposium on Civil Justice Issues, Charleston, SC (Nov. 16, 2021) (panelist)

Locality Litigation and Public Entity Incentives to File Lawsuits: Public Interest, Politics, Public Finance or Financial Gain?, George Mason Law & Economics Center Symposium on Novel Liability Theories and the Incentives Driving Them, Nashville, TN (Oct. 25, 2021) (panelist)

A Fiduciary Judge's Guide to Awarding Fees in Class Actions, University of California Hastings College of the Law, San Francisco, CA (Nov. 3, 2020)

A Fiduciary Judge's Guide to Awarding Fees in Class Actions, The Judicial Role in Professional Regulation, Stein Colloquium, Fordham Law School, New York, NY (Oct. 9, 2020)

Objector Blackmail Update: What Have the 2018 Amendments Done?, Institute for Law and Economic Policy, Fordham Law School, New York, NY (Feb. 28, 2020)

Keynote Debate: The Conservative Case for Class Actions, Miami Law Class Action & Complex Litigation Forum, University of Miami School of Law, Miami, FL (Jan. 24, 2020)

The Future of Class Actions, National Consumer Law Center Class Action Symposium, Boston, MA (Nov. 16, 2019) (panelist)

The Conservative Case for Class Actions, Center for Civil Justice, NYU Law School, New York, NY (Nov.11, 2019)

Deregulation and Private Enforcement, Class Actions, Mass Torts, and MDLs: The Next 50 Years, Pound Institute Academic Symposium, Lewis & Clark Law School, Portland, OR (Nov. 2, 2019)

Class Actions and Accountability in Finance, Investors and the Rule of Law Conference, Institute for Investor Protection, Loyola University Chicago Law School, Chicago, IL (Oct. 25, 2019) (panelist)

Incentivizing Lawyers as Teams, University of Texas at Austin Law School, Austin, TX (Oct. 22, 2019)

"Dueling Pianos": A Debate on the Continuing Need for Class Actions, National Institute on Class Actions, American Bar Association, Nashville, TN (Oct. 18, 2019) (panelist)

A Debate on the Utility of Class Actions, Contemporary Issues in Complex Litigation Conference, Northwestern Law School, Chicago, IL (Oct.16, 2019) (panelist)

Litigation Funding, Forty Seventh Annual Meeting, Intellectual Property Owners Association, Washington, DC (Sep. 26, 2019) (panelist)

The Indian Securities Fraud Class Action: Is Class Arbitration the Answer?, International Class Actions Conference, Vanderbilt Law School, Nashville, TN (Aug. 24, 2019)

A New Source of Class Action Data, Corporate Accountability Conference, Institute for Law and Economic Policy, San Juan, Puerto Rico (April 12, 2019)

The Indian Securities Fraud Class Action: Is Class Arbitration the Answer?, Ninth Annual Emerging Markets Finance Conference, Mumbai, India (Dec. 14, 2018)

MDL: Uniform Rules v. Best Practices, Miami Law Class Action & Complex Litigation Forum, University of Miami Law School, Miami, FL (Dec. 7, 2018) (panelist)

Third Party Finance of Attorneys in Traditional and Complex Litigation, George Washington Law School, Washington, D.C. (Nov. 2, 2018) (panelist)

MDL at 50 - The 50th Anniversary of Multidistrict Litigation, New York University Law School, New York, New York (Oct. 10, 2018) (panelist)

The Discovery Tax, Law & Economics Seminar, Harvard Law School, Cambridge, Massachusetts (Sep. 11, 2018)

Empirical Research on Class Actions, Civil Justice Research Initiative, University of California at Berkeley, Berkeley, California (Apr. 9, 2018)

A Political Future for Class Actions in the United States?, The Future of Class Actions Symposium, University of Auckland Law School, Auckland, New Zealand (Mar. 15, 2018)

The Indian Class Actions: How Effective Will They Be?, Eighth Annual Emerging Markets Finance Conference, Mumbai, India (Dec. 19, 2017)

Hot Topics in Class Action and MDL Litigation, University of Miami School of Law, Miami, Florida (Dec. 8, 2017) (panelist)

Critical Issues in Complex Litigation, Contemporary Issues in Complex Litigation, Northwestern Law School (Nov. 29, 2017) (panelist)

The Conservative Case for Class Actions, Consumer Class Action Symposium, National Consumer Law Center, Washington, DC (Nov. 19, 2017)

The Conservative Case for Class Actions—A Monumental Debate, National Institute on Class Actions, American Bar Association, Washington, DC (Oct. 26, 2017) (panelist)

One-Way Fee Shifting after Summary Judgment, 2017 Meeting of the Midwestern Law and Economics Association, Marquette Law School, Milwaukee, WI (Oct. 20, 2017)

The Conservative Case for Class Actions, Pepperdine Law School Malibu, CA (Oct. 17, 2017)

One-Way Fee Shifting after Summary Judgment, Vanderbilt Law Review Symposium on The Future of Discovery, Vanderbilt Law School, Nashville, TN (Oct. 13, 2017)

The Constitution Revision Commission and Florida's Judiciary, 2017 Annual Florida Bar Convention, Boca Raton, FL (June 22, 2017)

Class Actions After Spokeo v. Robins*: Supreme Court Jurisprudence, Article III Standing, and Practical Implications for the Bench and Practitioners*, Northern District of California Judicial Conference, Napa, CA (Apr. 29, 2017) (panelist)

The Ironic History of Rule 23, Conference on Secrecy, Institute for Law & Economic Policy, Naples, FL (Apr. 21, 2017)

Justice Scalia and Class Actions: A Loving Critique, University of Notre Dame Law School, South Bend, Indiana (Feb. 3, 2017)

Should Third-Party Litigation Financing Be Permitted in Class Actions?, Fifty Years of Class Actions—A Global Perspective, Tel Aviv University, Tel Aviv, Israel (Jan. 4, 2017)

Hot Topics in Class Action and MDL Litigation, University of Miami School of Law, Miami, Florida (Dec. 2, 2016) (panelist)

The Ideological Consequences of Judicial Selection, William J. Brennan Lecture, Oklahoma City University School of Law, Oklahoma, City, Oklahoma (Nov. 10, 2016)

After Fifty Years, What's Class Action's Future, ABA National Institute on Class Actions, Las Vegas, Nevada (Oct. 20, 2016) (panelist)

Where Will Justice Scalia Rank Among the Most Influential Justices, State University of New York at Stony Brook, Long Island, New York (Sep. 17, 2016)

The Ironic History of Rule 23, University of Washington Law School, Seattle, WA (July 14, 2016)

A Respected Judiciary—Balancing Independence and Accountability, 2016 Annual Florida Bar Convention, Orlando, FL (June 16, 2016) (panelist)

What Will and Should Happen to Affirmative Action After Fisher v. Texas, American Association of Law Schools Annual Meeting, New York, NY (January 7, 2016) (panelist)

Litigation Funding: The Basics and Beyond, NYU Center on Civil Justice, NYU Law School, New York, NY (Nov. 20, 2015) (panelist)

Do Class Actions Offer Meaningful Compensation to Class Members, or Do They Simply Rip Off Consumers Twice?, ABA National Institute on Class Actions, New Orleans, LA (Oct. 22, 2015) (panelist)

Arbitration and the End of Class Actions?, Quinnipiac-Yale Dispute Resolution Workshop, Yale Law School, New Haven, CT (Sep. 8, 2015) (panelist)

The Next Steps for Discovery Reform: Requester Pays, Lawyers for Civil Justice Membership Meeting, Washington, DC (May 5, 2015)

Private Attorney General: Good or Bad?, 17th Annual Federalist Society Faculty Conference, Washington, DC (Jan. 3, 2015)

Liberty, Judicial Independence, and Judicial Power, Liberty Fund Conference, Santa Fe, NM (Nov. 13-16, 2014) (participant)

The Economics of Objecting for All the Right Reasons, 14th Annual Consumer Class Action Symposium, Tampa, FL (Nov. 9, 2014)

Compensation in Consumer Class Actions: Data and Reform, Conference on The Future of Class Action Litigation: A View from the Consumer Class, NYU Law School, New York, NY (Nov. 7, 2014)

The Future of Federal Class Actions: Can the Promise of Rule 23 Still Be Achieved?, Northern District of California Judicial Conference, Napa, CA (Apr. 13, 2014) (panelist)

The End of Class Actions?, Conference on Business Litigation and Regulatory Agency Review in the Era of Roberts Court, Institute for Law & Economic Policy, Boca Raton, FL (Apr. 4, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, University of Missouri School of Law, Columbia, MO (Mar. 7, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, George Mason Law School, Arlington, VA (Mar. 6, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, Roundtable for Third-Party Funding Scholars, Washington & Lee University School of Law, Lexington, VA (Nov. 7-8, 2013)

Is the Future of Affirmative Action Race Neutral?, Conference on A Nation of Widening Opportunities: The Civil Rights Act at 50, University of Michigan Law School, Ann Arbor, MI (Oct. 11, 2013)

The Mass Tort Bankruptcy: A Pre-History, The Public Life of the Private Law: A Conference in Honor of Richard A. Nagareda, Vanderbilt Law School, Nashville, TN (Sep. 28, 2013) (panelist)

Rights & Obligations in Alternative Litigation Financing and Fee Awards in Securities Class Actions, Conference on the Economics of Aggregate Litigation, Institute for Law & Economic Policy, Naples, FL (Apr. 12, 2013) (panelist)

The End of Class Actions?, Symposium on Class Action Reform, University of Michigan Law School, Ann Arbor, MI (Mar. 16, 2013)

Toward a More Lawyer-Centric Class Action?, Symposium on Lawyering for Groups, Stein Center for Law & Ethics, Fordham Law School, New York, NY (Nov. 30, 2012)

The Problem: AT & T as It Is Unfolding, Conference on *AT & T Mobility v. Concepcion*, Cardozo Law School, New York, NY (Apr. 26, 2012) (panelist)

Standing under the Statements and Accounts Clause, Conference on Representation without Accountability*,* Fordham Law School Corporate Law Center, New York, NY (Jan. 23, 2012)

The End of Class Actions?, Washington University Law School, St. Louis, MO (Dec. 9, 2011)

Book Preview Roundtable: Accelerating Democracy: Matching Social Governance to Technological Change, Searle Center on Law, Regulation, and Economic Growth, Northwestern University School of Law, Chicago, IL (Sep. 15-16, 2011) (participant)

Is Summary Judgment Unconstitutional? Some Thoughts About Originalism, Stanford Law School, Palo Alto, CA (Mar. 3, 2011)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, Northwestern Law School, Chicago, IL (Feb. 25, 2011)

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The New Politics of Iowa Judicial Retention Elections: Examining the 2010 Campaign and Vote, University of Iowa Law School, Iowa City, IA (Feb. 3, 2011) (panelist)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, Washington University Law School, St. Louis, MO (Oct. 1, 2010)

Twombly *and* Iqbal *Reconsidered,* Symposium on Business Law and Regulation in the Roberts Court, Case Western Reserve Law School, Cleveland, OH (Sep. 17, 2010)

Do Class Action Lawyers Make Too Little?, Institute for Law & Economic Policy, Providenciales, Turks & Caicos (Apr. 23, 2010)

Originalism and Summary Judgment, Georgetown Law School, Washington, DC (Apr. 5, 2010)

Theorizing Fee Awards in Class Action Litigation, Washington University Law School, St. Louis, MO (Dec. 11, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, 2009 Conference on Empirical Legal Studies, University of Southern California Law School, Los Angeles, CA (Nov. 20, 2009)

Originalism and Summary Judgment, Symposium on Originalism and the Jury, Ohio State Law School, Columbus, OH (Nov. 17, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, 2009 Meeting of the Midwestern Law and Economics Association, University of Notre Dame Law School, South Bend, IN (Oct. 10, 2009)

The End of Objector Blackmail?, Stanford-Yale Junior Faculty Forum, Stanford Law School, Palo Alto, CA (May 29, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, University of Minnesota School of Law, Minneapolis, MN (Mar. 12, 2009)

The Politics of Merit Selection, Symposium on State Judicial Selection and Retention Systems, University of Missouri Law School, Columbia, MO (Feb. 27, 2009)

The End of Objector Blackmail?, Searle Center Research Symposium on the Empirical Studies of Civil Liability, Northwestern University School of Law, Chicago, IL (Oct. 9, 2008)

Alternatives To Affirmative Action After The Michigan Civil Rights Initiative, University of Michigan School of Law, Ann Arbor, MI (Apr. 3, 2007) (panelist)

OTHER PUBLICATIONS

Life, Law & Liberty: Confessions of a Judicial Introspectionist, SCOTUSBLOG (Oct. 24, 2025)

Is the 5th Circuit Too Extreme for the Supreme Court Yet?, SCOTUSBLOG (Sep. 10, 2025)

The Perils of Using Class Actions as a Replacement for Universal Injunctions, SCOTUSBLOG (Aug. 12, 2025)

Senate's Tax Bill Picks Winners and Losers in Litigation Finance, BLOOMBERG LAW (June 20, 2025)

Las acciones colectivas 'opt out', 'win win win' para la justicia española, EL CONFIDENCIAL (June 11, 2025)

Trump is Right About One Thing: Nationwide Injunctions Need Fixing, THE BERKSHIRE EAGLE (Apr. 9, 2025)

We Don't Need the Consumer Financial Protection Bureau—We Have Courts, THE HILL (Mar. 15, 2025)

Is the Fifth Circuit Really Too Conservative for the Supreme Court? THE NATIONAL LAW JOURNAL (Aug. 15, 2024)

Judicial Profile: Hon. Charles Breyer, THE FEDERAL LAWYER (Summer 2024)

Racial Preferences Won't Go Easily, WALL ST. J. (June 1, 2023)

Memo to Mitch: Repeal the Republican Tax Increase, THE HILL (July 17, 2020)

The Right Way to End Qualified Immunity, THE HILL (June 25, 2020)

I Still Remember, 133 HARV. L. REV. 2458 (2020)

Proposed Reforms to Texas Judicial Selection, 24 TEX. R. L. & POL. 307 (2020)

The Conservative Case for Class Actions?, NATIONAL REVIEW (Nov. 13, 2019)

9th Circuit Split: What's the math say?, DAILY JOURNAL (Mar. 21, 2017)

Former clerk on Justice Antonin Scalia and his impact on the Supreme Court, THE CONVERSATION (Feb. 24, 2016)

Lessons from Tennessee Supreme Court Retention Election, THE TENNESSEAN (Aug. 20, 2014)

Public Needs Voice in Judicial Process, THE TENNESSEAN (June 28, 2013)

Did the Supreme Court Just Kill the Class Action?, THE QUARTERLY JOURNAL (April 2012)

Let General Assembly Confirm Judicial Selections, CHATTANOOGA TIMES FREE PRESS (Feb. 19, 2012)

"Tennessee Plan" Needs Revisions, THE TENNESSEAN (Feb. 3, 2012)

How Does Your State Select Its Judges?, INSIDE ALEC 9 (March 2011) (with Stephen Ware)

On the Merits of Merit Selection, THE ADVOCATE 67 (Winter 2010)

Supreme Court Case Could End Class Action Suits, SAN FRANCISCO CHRONICLE (Nov. 7, 2010)

Kagan is an Intellect Capable of Serving Court, THE TENNESSEAN (Jun. 13, 2010)

Confirmation "Kabuki" Does No Justice, POLITICO (July 20, 2009)

Selection by Governor may be Best Judicial Option, THE TENNESSEAN (Apr. 27, 2009)

Verdict on Tennessee Plan May Require a Jury, THE MEMPHIS COMMERCIAL APPEAL (Apr. 16, 2008)

Tennessee's Plan to Appoint Judges Takes Power Away from the Public, THE TENNESSEAN (Mar. 14, 2008)

Process of Picking Judges Broken, CHATTANOOGA TIMES FREE PRESS (Feb. 27, 2008)

Disorder in the Court, LOS ANGELES TIMES (Jul. 11, 2007)

Scalia's Mistake, NATIONAL LAW JOURNAL (Apr. 24, 2006)

GM Backs Its Bottom Line, DETROIT FREE PRESS (Mar. 19, 2003)

Good for GM, Bad for Racial Fairness, LOS ANGELES TIMES (Mar. 18, 2003)

10 Percent Fraud, WASHINGTON TIMES (Nov. 15, 2002)

OTHER PRESENTATIONS

Ethics & Professionalism, Class Action & Pharmaceutical and Medical Device Sections, American Association for Justice Annual Convention, Nashville, TN (July 21, 2024) (panelist)

Abstention, Tennessee Attorney General's Office Continuing Legal Education, Nashville, TN (Apr. 13, 2022)

The Need for New Lower Court Judgeships, 30 Years in the Making, Committee on the Judiciary, Subcommittee on Courts, Intellectual Property, and the Internet, United States House of Representatives, Washington, D.C. (Feb. 24, 2021)

Does the Way We Choose our Judges Affect Case Outcomes?, American Legislative Exchange Council 2018 Annual Meeting, New Orleans, LA (August 10, 2018) (panelist)

Oversight of the Structure of the Federal Courts, Subcommittee on Oversight, Agency Action, Federal Rights and Federal Courts, United States Senate, Washington, D.C. (July 31, 2018)

Where Will Justice Scalia Rank Among the Most Influential Justices, The Leo Bearman, Sr. American Inn of Court, Memphis, TN (Mar. 21, 2017)

Bringing Justice Closer to the People: Examining Ideas for Restructuring the 9th Circuit, Subcommittee on Courts, Intellectual Property, and the Internet, United States House of Representatives, Washington, D.C. (Mar. 16, 2017)

Supreme Court Review 2016: Current Issues and Cases Update, Nashville Bar Association, Nashville, TN (Sep. 15, 2016) (panelist)

A Respected Judiciary—Balancing Independence and Accountability, Florida Bar Annual Convention, Orlando, FL (June 16, 2016) (panelist)

Future Amendments in the Pipeline: Rule 23, Tennessee Bar Association, Nashville, TN (Dec. 2, 2015)

The New Business of Law: Attorney Outsourcing, Legal Service Companies, and Commercial Litigation Funding, Tennessee Bar Association, Nashville, TN (Nov. 12, 2014)

Hedge Funds + Lawsuits = A Good Idea?, Vanderbilt University Alumni Association, Washington, DC (Sep. 3, 2014)

Judicial Selection in Historical and National Perspective, Committee on the Judiciary, Kansas Senate (Jan. 16, 2013)

The Practice that Never Sleeps: What's Happened to, and What's Next for, Class Actions, ABA Annual Meeting, Chicago, IL (Aug. 3, 2012) (panelist)

Life as a Supreme Court Law Clerk and Views on the Health Care Debate, Exchange Club, Nashville, TN (Apr. 3, 2012)

The Tennessee Judicial Selection Process—Shaping Our Future, Tennessee Bar Association Leadership Law Retreat, Dickson, TN (Feb. 3, 2012) (panelist)

Reexamining the Class Action Practice, ABA National Institute on Class Actions, New York, NY (Oct. 14, 2011) (panelist)

Judicial Selection in Kansas, Committee on the Judiciary, Kansas House of Representatives (Feb. 16, 2011)

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Judicial Selection and the Tennessee Constitution, Civil Practice and Procedure Subcommittee, Tennessee House of Representatives (Mar. 24, 2009)

What Would Happen if the Judicial Selection and Evaluation Commissions Sunset?, Civil Practice and Procedure Subcommittee, Tennessee House of Representatives (Feb. 24, 2009)

Judicial Selection in Tennessee, Chattanooga Bar Association, Chattanooga, TN (Feb. 27, 2008) (panelist)

Ethical Implications of Tennessee's Judicial Selection Process, Tennessee Bar Association, Nashville, TN (Dec. 12, 2007)

PROFESSIONAL ASSOCIATIONS

Referee, Israel Science Foundation
Referee, Journal of Legal Studies
Referee, Journal of Law, Economics and Organization
Referee, Journal of Empirical Legal Studies
Referee, Supreme Court Economic Review
Reviewer, Aspen Publishing
Reviewer, Bloomsbury
Reviewer, Cambridge University Press
Reviewer, University Press of Kansas
Reviewer, Palgrave Macmillan
Reviewer, Oxford University Press
Reviewer, Routledge
Member, American Law Institute
Member, American Bar Association
Member, Tennessee Advisory Committee to the U.S. Commission on Civil Rights, 2009-2015
Board of Directors, Tennessee Stonewall Bar Association, 2012-2022
American Swiss Foundation Young Leaders' Conference, 2012
Bar Admission, District of Columbia & California (inactive)

COMMUNITY ACTIVITIES

Board of Directors, Beacon Center of Tennessee, 2018-present; Board of Directors, Nashville Ballet, 2011-2017 & 2019-2022; Nashville Talking Library for the Blind, 2008-2009

EXHIBIT 2

An Empirical Study of Class Action Settlements and Their Fee Awards

Brian T. Fitzpatrick*

This article is a comprehensive empirical study of class action settlements in federal court. Although there have been prior empirical studies of federal class action settlements, these studies have either been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as those settlements approved in published opinions). By contrast, in this article, I attempt to study every federal class action settlement from the years 2006 and 2007. As far as I am aware, this study is the first attempt to collect a complete set of federal class action settlements for any given year. I find that district court judges approved 688 class action settlements over this two-year period, involving nearly $33 billion. Of this $33 billion, roughly $5 billion was awarded to class action lawyers, or about 15 percent of the total. Most judges chose to award fees by using the highly discretionary percentage-of-the-settlement method, and the fees awarded according to this method varied over a broad range, with a mean and median around 25 percent. Fee percentages were strongly and inversely associated with the size of the settlement. The age of the case at settlement was positively associated with fee percentages. There was some variation in fee percentages depending on the subject matter of the litigation and the geographic circuit in which the district court was located, with lower percentages in securities cases and in settlements from the Second and Ninth Circuits. There was no evidence that fee percentages were associated with whether the class action was certified as a settlement class or with the political affiliation of the judge who made the award.

I. INTRODUCTION

Class actions have been the source of great controversy in the United States. Corporations fear them.[1] Policymakers have tried to corral them.[2] Commentators and scholars have

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[1]See, e.g., Robert W. Wood, Defining Employees and Independent Contractors, Bus. L. Today 45, 48 (May–June 2008).

[2]See Private Securities Litigation Reform Act (PSLRA) of 1995, Pub. L. No. 104-67, 109 Stat. 737 (codified as amended in scattered sections of 15 U.S.C.); Class Action Fairness Act of 2005, 28 U.S.C. §§ 1453, 1711–1715 (2006).

suggested countless ways to reform them.[3] Despite all the attention showered on class actions, and despite the excellent empirical work on class actions to date, the data that currently exist on how the class action system operates in the United States are limited. We do not know, for example, how much money changes hands in class action litigation every year. We do not know how much of this money goes to class action lawyers rather than class members. Indeed, we do not even know how many class action cases are resolved on an annual basis. To intelligently assess our class action system as well as whether and how it should be reformed, answers to all these questions are important. Answers to these questions are equally important to policymakers in other countries who are currently thinking about adopting U.S.-style class action devices.[4]

This article tries to answer these and other questions by reporting the results of an empirical study that attempted to gather all class action settlements approved by federal judges over a recent two-year period, 2006 and 2007. I use class action settlements as the basis of the study because, even more so than individual litigation, virtually all cases certified as class actions and not dismissed before trial end in settlement.[5] I use federal settlements as the basis of the study for practical reasons: it was easier to identify and collect settlements approved by federal judges than those approved by state judges. Systematic study of class action settlements in state courts must await further study;[6] these future studies are important because there may be more class action settlements in state courts than there are in federal court.[7]

This article attempts to make three contributions to the existing empirical literature on class action settlements. First, virtually all the prior empirical studies of federal class action settlements have either been confined to securities cases or have been based on samples of cases that were not intended to be representative of the whole (such as those settlements approved in published opinions). In this article, by contrast, I attempt to collect every federal class action settlement from the years 2006 and 2007. As far as I am aware, this study is the first to attempt to collect a complete set of federal class action settlements for

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[3]See, e.g., Robert G. Bone, Agreeing to Fair Process: The Problem with Contractarian Theories of Procedural Fairness, 83 B.U.L. Rev. 485, 490–94 (2003); Allan Erbsen, From "Predominance" to "Resolvability": A New Approach to Regulating Class Actions, 58 Vand. L. Rev. 995, 1080–81 (2005).

[4]See, e.g., Samuel Issacharoff & Geoffrey Miller, Will Aggregate Litigation Come to Europe?, 62 Vand. L. Rev. 179 (2009).

[5]See, e.g., Emery Lee & Thomas E. Willing, Impact of the Class Action Fairness Act on the Federal Courts: Preliminary Findings from Phase Two's Pre-CAFA Sample of Diversity Class Actions 11 (Federal Judicial Center 2008); Tom Baker & Sean J. Griffith, How the Merits Matter: D&O Insurance and Securities Settlements, 157 U. Pa. L. Rev. 755 (2009).

[6]Empirical scholars have begun to study state court class actions in certain subject areas and in certain states. See, e.g., Robert B. Thompson & Randall S. Thomas, The Public and Private Faces of Derivative Suits, 57 Vand. L. Rev. 1747 (2004); Robert B. Thompson & Randall S. Thomas, The New Look of Shareholder Litigation: Acquisition-Oriented Class Actions, 57 Vand. L. Rev. 133 (2004); Findings of the Study of California Class Action Litigation (Administrative Office of the Courts) (First Interim Report, 2009).

[7]See Deborah R. Hensler et al., Class Action Dilemmas: Pursuing Public Goals for Private Gain 56 (2000).

any given year.[8] As such, this article allows us to see for the first time a complete picture of the cases that are settled in federal court. This includes aggregate annual statistics, such as how many class actions are settled every year, how much money is approved every year in these settlements, and how much of that money class action lawyers reap every year. It also includes how these settlements are distributed geographically as well as by litigation area, what sort of relief was provided in the settlements, how long the class actions took to reach settlement, and an analysis of what factors were associated with the fees awarded to class counsel by district court judges.

Second, because this article analyzes settlements that were approved in both published and unpublished opinions, it allows us to assess how well the few prior studies that looked beyond securities cases but relied only on published opinions capture the complete picture of class action settlements. To the extent these prior studies adequately capture the complete picture, it may be less imperative for courts, policymakers, and empirical scholars to spend the considerable resources needed to collect unpublished opinions in order to make sound decisions about how to design our class action system.

Third, this article studies factors that may influence district court judges when they award fees to class counsel that have not been studied before. For example, in light of the discretion district court judges have been delegated over fees under Rule 23, as well as the salience the issue of class action litigation has assumed in national politics, realist theories of judicial behavior would predict that Republican judges would award smaller fee percentages than Democratic judges. I study whether the political beliefs of district court judges are associated with the fees they award and, in doing so, contribute to the literature that attempts to assess the extent to which these beliefs influence the decisions of not just appellate judges, but trial judges as well. Moreover, the article contributes to the small but growing literature examining whether the ideological influences found in published judicial decisions persist when unpublished decisions are examined as well.

In Section II of this article, I briefly survey the existing empirical studies of class action settlements. In Section III, I describe the methodology I used to collect the 2006–2007 federal class action settlements and I report my findings regarding these settlements. District court judges approved 688 class action settlements over this two-year period, involving over $33 billion. I report a number of descriptive statistics for these settlements, including the number of plaintiff versus defendant classes, the distribution of settlements by subject matter, the age of the case at settlement, the geographic distribution of settlements, the number of settlement classes, the distribution of relief across settlements, and various statistics on the amount of money involved in the settlements. It should be noted that despite the fact that the few prior studies that looked beyond securities settlements appeared to oversample larger settlements, much of the analysis set forth in this article is consistent with these prior studies. This suggests that scholars may not need to sample unpublished as well as published opinions in order to paint an adequate picture of class action settlements.

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[8]Of course, I cannot be certain that I found every one of the class actions that settled in federal court over this period. Nonetheless, I am confident that if I did not find some, the number I did not find is small and would not contribute meaningfully to the data reported in this article.

In Section IV, I perform an analysis of the fees judges awarded to class action lawyers in the 2006–2007 settlements. All told, judges awarded nearly $5 billion over this two-year period in fees and expenses to class action lawyers, or about 15 percent of the total amount of the settlements. Most federal judges chose to award fees by using the highly discretionary percentage-of-the-settlement method and, unsurprisingly, the fees awarded according to this method varied over a broad range, with a mean and median around 25 percent. Using regression analysis, I confirm prior studies and find that fee percentages are strongly and inversely associated with the size of the settlement. Further, I find that the age of the case is positively associated with fee percentages but that the percentages were not associated with whether the class action was certified as a settlement class. There also appeared to be some variation in fee percentages depending on the subject matter of the litigation and the geographic circuit in which the district court was located. Fee percentages in securities cases were lower than the percentages in some but not all other areas, and district courts in some circuits—the Ninth and the Second (in securities cases)—awarded lower fee percentages than courts in many other circuits. Finally, the regression analysis did not confirm the realist hypothesis: there was no association between fee percentage and the political beliefs of the judge in any regression.

II. Prior Empirical Studies of Class Action Settlements

There are many existing empirical studies of federal securities class action settlements.[9] Studies of securities settlements have been plentiful because for-profit organizations maintain lists of all federal securities class action settlements for the benefit of institutional investors that are entitled to file claims in these settlements.[10] Using these data, studies have shown that since 2005, for example, there have been roughly 100 securities class action settlements in federal court each year, and these settlements have involved between $7 billion and $17 billion per year.[11] Scholars have used these data to analyze many different aspects of these settlements, including the factors that are associated with the percentage of

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[9]See, e.g., James D. Cox & Randall S. Thomas, Does the Plaintiff Matter? An Empirical Analysis of Lead Plaintiffs in Securities Class Actions, 106 Colum. L. Rev. 1587 (2006); James D. Cox, Randall S. Thomas & Lynn Bai, There are Plaintiffs and . . . there are Plaintiffs: An Empirical Analysis of Securities Class Action Settlements, 61 Vand. L. Rev. 355 (2008); Theodore Eisenberg, Geoffrey Miller & Michael A. Perino, A New Look at Judicial Impact: Attorneys' Fees in Securities Class Actions after *Goldberger v. Integrated Resources, Inc.*, 29 Wash. U.J.L. & Pol'y 5 (2009); Michael A. Perino, Markets and Monitors: The Impact of Competition and Experience on Attorneys' Fees in Securities Class Actions (St. John's Legal Studies, Research Paper No. 06-0034, 2006), available at <http://ssrn.com/abstract=870577> [hereinafter Perino, Markets and Monitors]; Michael A. Perino, The Milberg Weiss Prosecution: No Harm, No Foul? (St. John's Legal Studies, Research Paper No. 08-0135, 2008), available at <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1133995> [hereinafter Perino, Milberg Weiss].

[10]See, e.g., RiskMetrics Group, available at <http://www.riskmetrics.com/scas>.

[11]See Cornerstone Research, Securities Class Action Settlements: 2007 Review and Analysis 1 (2008), available at <http://securities.stanford.edu/Settlements/REVIEW_1995-2007/Settlements_Through_12_2007.pdf>.

the settlements that courts have awarded to class action lawyers.[12] These studies have found that the mean and median fees awarded by district court judges are between 20 percent and 30 percent of the settlement amount.[13] These studies have also found that a number of factors are associated with the percentage of the settlement awarded as fees, including (inversely) the size of the settlement, the age of the case, whether a public pension fund was the lead plaintiff, and whether certain law firms were class counsel.[14] None of these studies has examined whether the political affiliation of the federal district court judge awarding the fees was associated with the size of awards.

There are no comparable organizations that maintain lists of nonsecurities class action settlements. As such, studies of class action settlements beyond the securities area are much rarer and, when they have been done, rely on samples of settlements that were not intended to be representative of the whole. The two largest studies of class action settlements not limited to securities class actions are a 2004 study by Ted Eisenberg and Geoff Miller,[15] which was recently updated to include data through 2008,[16] and a 2003 study by Class Action Reports.[17] The Eisenberg-Miller studies collected data from class action settlements in both state and federal courts found from court opinions published in the Westlaw and Lexis databases and checked against lists maintained by the CCH Federal Securities and Trade Regulation Reporters. Through 2008, their studies have now identified 689 settlements over a 16-year period, or less than 45 settlements per year.[18] Over this 16-year period, their studies found that the mean and median settlement amounts were, respectively, $116 million and $12.5 million (in 2008 dollars), and that the mean and median fees awarded by district courts were 23 percent and 24 percent of the settlement, respectively.[19] Their studies also performed an analysis of fee percentages and fee awards. For the data through 2002, they found that the percentage of the settlement awarded as fees was associated with the size of the settlement (inversely), the age of the case, and whether the

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[12]See, e.g., Eisenberg, Miller & Perino, supra note 9, at 17–24, 28–36; Perino, Markets and Monitors, supra note 9, at 12–28, 39–44; Perino, Milberg Weiss, supra note 9, at 32–33, 39–60.

[13]See, e.g., Eisenberg, Miller & Perino, supra note 9, at 17–18, 22, 28, 33; Perino, Markets and Monitors, supra note 9, at 20–21, 40; Perino, Milberg Weiss, supra note 9, at 32–33, 51–53.

[14]See, e.g., Eisenberg, Miller & Perino, supra note 9, at 14–24, 29–30, 33–34; Perino, Markets and Monitors, supra note 9, at 20–28, 41; Perino, Milberg Weiss, supra note 9, at 39–58.

[15]See Theodore Eisenberg & Geoffrey Miller, Attorney Fees in Class Action Settlements: An Empirical Study, 1 J. Empirical Legal Stud. 27 (2004).

[16]See Theodore Eisenberg & Geoffrey Miller, Attorneys' Fees and Expenses in Class Action Settlements: 1993–2008, 7 J. Empirical Legal Stud. 248 (2010) [hereinafter Eisenberg & Miller II].

[17]See Stuart J. Logan, Jack Moshman & Beverly C. Moore, Jr., Attorney Fee Awards in Common Fund Class Actions, 24 Class Action Rep. 169 (Mar.–Apr. 2003).

[18]See Eisenberg & Miller II, supra note 16, at 251.

[19]Id. at 258–59.

district court went out of its way to comment on the level of risk that class counsel had assumed in pursuing the case.[20] For the data through 2008, they regressed only fee awards and found that the awards were inversely associated with the size of the settlement, that state courts gave lower awards than federal courts, and that the level of risk was still associated with larger awards.[21] Their studies have not examined whether the political affiliations of the federal district court judges awarding fees were associated with the size of the awards.

The Class Action Reports study collected data on 1,120 state and federal settlements over a 30-year period, or less than 40 settlements per year.[22] Over the same 10-year period analyzed by the Eisenberg-Miller study, the Class Action Reports data found mean and median settlements of $35.4 and $7.6 million (in 2002 dollars), as well as mean and median fee percentages between 25 percent and 30 percent.[23] Professors Eisenberg and Miller performed an analysis of the fee awards in the Class Action Reports study and found the percentage of the settlement awarded as fees was likewise associated with the size of the settlement (inversely) and the age of the case.[24]

III. Federal Class Action Settlements, 2006 and 2007

As far as I am aware, there has never been an empirical study of all federal class action settlements in a particular year. In this article, I attempt to make such a study for two recent years: 2006 and 2007. To compile a list of all federal class settlements in 2006 and 2007, I started with one of the aforementioned lists of securities settlements, the one maintained by RiskMetrics, and I supplemented this list with settlements that could be found through three other sources: (1) broad searches of district court opinions in the Westlaw and Lexis databases,[25] (2) four reporters of class action settlements—*BNA Class Action Litigation Report, Mealey's Jury Verdicts and Settlements, Mealey's Litigation Report*, and the *Class Action World* website[26]—and (3) a list from the Administrative Office of Courts of all district court cases

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[20]See Eisenberg & Miller, supra note 15, at 61–62.

[21]See Eisenberg & Miller II, supra note 16, at 278.

[22]See Eisenberg & Miller, supra note 15, at 34.

[23]Id. at 47, 51.

[24]Id. at 61–62.

[25]The searches consisted of the following terms: ("class action" & (settle! /s approv! /s (2006 2007))); (((counsel attorney) /s fee /s award!) & (settle! /s (2006 2007)) & "class action"); ("class action" /s settle! & da(aft 12/31/2005 & bef 1/1/2008)); ("class action" /s (fair reasonable adequate) & da(aft 12/31/2005 & bef 1/1/2008)).

[26]See <http://classactionworld.com/>.

coded as class actions that terminated by settlement between 2005 and 2008.[27] I then removed any duplicate cases and examined the docket sheets and court orders of each of the remaining cases to determine whether the cases were in fact certified as class actions under either Rule 23, Rule 23.1, or Rule 23.2.[28] For each of the cases verified as such, I gathered the district court's order approving the settlement, the district court's order awarding attorney fees, and, in many cases, the settlement agreements and class counsel's motions for fees, from electronic databases (such as Westlaw or PACER) and, when necessary, from the clerk's offices of the various federal district courts. In this section, I report the characteristics of the settlements themselves; in the next section, I report the characteristics of the attorney fees awarded to class counsel by the district courts that approved the settlements.

A. Number of Settlements

I found 688 settlements approved by federal district courts during 2006 and 2007 using the methodology described above. This is almost the exact same number the Eisenberg-Miller study found over a *16*-year period in both federal *and* state court. Indeed, the number of annual settlements identified in this study is *several times* the number of annual settlements that have been identified in any prior empirical study of class action settlements. Of the 688 settlements I found, 304 were approved in 2006 and 384 were approved in 2007.[29]

B. Defendant Versus Plaintiff Classes

Although Rule 23 permits federal judges to certify either a class of plaintiffs or a class of defendants, it is widely assumed that it is extremely rare for courts to certify defendant classes.[30] My findings confirm this widely held assumption. Of the 688 class action settlements approved in 2006 and 2007, 685 involved plaintiff classes and only three involved

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[27]I examined the AO lists in the year before and after the two-year period under investigation because the termination date recorded by the AO was not necessarily the same date the district court approved the settlement.

[28]See Fed. R. Civ. P. 23, 23.1, 23.2. I excluded from this analysis opt-in collective actions, such as those brought pursuant to the provisions of the Fair Labor Standards Act (see 29 U.S.C. § 216(b)), if such actions did not also include claims certified under the opt-out mechanism in Rule 23.

[29]A settlement was assigned to a particular year if the district court judge's order approving the settlement was dated between January 1 and December 31 of that year. Cases involving multiple defendants sometimes settled over time because defendants would settle separately with the plaintiff class. All such partial settlements approved by the district court on the same date were treated as one settlement. Partial settlements approved by the district court on different dates were treated as different settlements.

[30]See, e.g., Robert H. Klonoff, Edward K.M. Bilich & Suzette M. Malveaux, Class Actions and Other Multi-Party Litigation: Cases and Materials 1061 (2d ed. 2006).

defendant classes. All three of the defendant-class settlements were in employment benefits cases, where companies sued classes of current or former employees.[31]

C. Settlement Subject Areas

Although courts are free to certify Rule 23 classes in almost any subject area, it is widely assumed that securities settlements dominate the federal class action docket.[32] At least in terms of the number of settlements, my findings reject this conventional wisdom. As Table 1 shows, although securities settlements comprised a large percentage of the 2006 and 2007 settlements, they did not comprise a majority of those settlements. As one would have

Table 1:   The Number of Class Action Settlements Approved by Federal Judges in 2006 and 2007 in Each Subject Area

	Number of Settlements	
Subject Matter	*2006*	*2007*
Securities	122 (40%)	135 (35%)
Labor and employment	41 (14%)	53 (14%)
Consumer	40 (13%)	47 (12%)
Employee benefits	23 (8%)	38 (10%)
Civil rights	24 (8%)	37 (10%)
Debt collection	19 (6%)	23 (6%)
Antitrust	13 (4%)	17 (4%)
Commercial	4 (1%)	9 (2%)
Other	18 (6%)	25 (6%)
Total	304	384

NOTE: Securities: cases brought under federal and state securities laws. Labor and employment: workplace claims brought under either federal or state law, with the exception of ERISA cases. Consumer: cases brought under the Fair Credit Reporting Act as well as cases for consumer fraud and the like. Employee benefits: ERISA cases. Civil rights: cases brought under 42 U.S.C. § 1983 or cases brought under the Americans with Disabilities Act seeking nonworkplace accommodations. Debt collection: cases brought under the Fair Debt Collection Practices Act. Antitrust: cases brought under federal or state antitrust laws. Commercial: cases between businesses, excluding antitrust cases. Other: includes, among other things, derivative actions against corporate managers and directors, environmental suits, insurance suits, Medicare and Medicaid suits, product liability suits, and mass tort suits.
SOURCES: Westlaw, PACER, district court clerks' offices.

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[31]See Halliburton Co. v. Graves, No. 04-00280 (S.D. Tex., Sept. 28, 2007); Rexam, Inc. v. United Steel Workers of Am., No. 03-2998 (D. Minn. Aug. 29, 2007); Rexam, Inc. v. United Steel Workers of Am., No. 03-2998 (D. Minn. Sept. 17, 2007).

[32]See, e.g., John C. Coffee, Jr., Reforming the Security Class Action: An Essay on Deterrence and its Implementation, 106 Colum. L. Rev. 1534, 1539–40 (2006) (describing securities class actions as "the 800-pound gorilla that dominates and overshadows other forms of class actions").

expected in light of Supreme Court precedent over the last two decades,[33] there were almost no mass tort class actions (included in the "Other" category) settled over the two-year period.

Although the Eisenberg-Miller study through 2008 is not directly comparable on the distribution of settlements across litigation subject areas—because its state and federal court data cannot be separated (more than 10 percent of the settlements were from state court[34]) and because it excludes settlements in fee-shifting cases—their study through 2008 is the best existing point of comparison. Interestingly, despite the fact that state courts were included in their data, their study through 2008 found about the same percentage of securities cases (39 percent) as my 2006–2007 data set shows.[35] However, their study found many more consumer (18 percent) and antitrust (10 percent) cases, while finding many fewer labor and employment (8 percent), employee benefits (6 percent), and civil rights (3 percent) cases.[36] This is not unexpected given their reliance on published opinions and their exclusion of fee-shifting cases.

D. Settlement Classes

The Federal Rules of Civil Procedure permit parties to seek certification of a suit as a class action for settlement purposes only.[37] When the district court certifies a class in such circumstances, the court need not consider whether it would be manageable to try the litigation as a class.[38] So-called settlement classes have always been more controversial than classes certified for litigation because they raise the prospect that, at least where there are competing class actions filed against the same defendant, the defendant could play class counsel off one another to find the one willing to settle the case for the least amount of money.[39] Prior to the Supreme Court's 1997 opinion in *Amchem Products, Inc. v. Windsor*,[40] it was uncertain whether the Federal Rules even permitted settlement classes. It may therefore be a bit surprising to learn that 68 percent of the federal settlements in 2006 and 2007 were settlement classes. This percentage is higher than the percentage found in the Eisenberg-Miller studies, which found that only 57 percent of class action settlements in

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[33]See, e.g., Samuel Issacharoff, Private Claims, Aggregate Rights, 2008 Sup. Ct. Rev. 183, 208.

[34]See Eisenberg & Miller II, supra note 16, at 257.

[35]Id. at 262.

[36]Id.

[37]See Martin H. Redish, Settlement Class Actions, The Case-or-Controversy Requirement, and the Nature of the Adjudicatory Process, 73 U. Chi. L. Rev. 545, 553 (2006).

[38]See Amchem Prods., Inc v Windsor, 521 U.S. 591, 620 (1997).

[39]See Redish, supra note 368, at 557–59.

[40]521 U.S. 591 (1997).

state and federal court between 2003 and 2008 were settlement classes.[41] It should be noted that the distribution of litigation subject areas among the settlement classes in my 2006–2007 federal data set did not differ much from the distribution among nonsettlement classes, with two exceptions. One exception was consumer cases, which were nearly three times as prevalent among settlement classes (15.9 percent) as among nonsettlement classes (5.9 percent); the other was civil rights cases, which were four times as prevalent among nonsettlement classes (18.0 percent) as among settlements classes (4.5 percent). In light of the skepticism with which the courts had long treated settlement classes, one might have suspected that courts would award lower fee percentages in such settlements. Nonetheless, as I report in Section III, whether a case was certified as a settlement class was not associated with the fee percentages awarded by federal district court judges.

E. The Age at Settlement

One interesting question is how long class actions were litigated before they reached settlement. Unsurprisingly, cases reached settlement over a wide range of ages.[42] As shown in Table 2, the average time to settlement was a bit more than three years (1,196 days) and the median time was a bit under three years (1,068 days). The average and median ages here are similar to those found in the Eisenberg-Miller study through 2002, which found averages of 3.35 years in fee-shifting cases and 2.86 years in non-fee-shifting cases, and

Table 2: The Number of Days, 2006–2007, Federal Class Action Cases Took to Reach Settlement in Each Subject Area

Subject Matter	Average	Median	Minimum	Maximum
Securities	1,438	1,327	392	3,802
Labor and employment	928	786	105	2,497
Consumer	963	720	127	4,961
Employee benefits	1,162	1,161	164	3,157
Civil rights	1,373	1,360	181	3,354
Debt collection	738	673	223	1,973
Antitrust	1,140	1,167	237	2,480
Commercial	1,267	760	163	5,443
Other	1,065	962	185	3,620
All	1,196	1,068	105	5,443

SOURCE: PACER.

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[41]See Eisenberg & Miller II, supra note 16, at 266.

[42]The age of the case was calculated by subtracting the date the relevant complaint was filed from the date the settlement was approved by the district court judge. The dates were taken from PACER. For consolidated cases, I used the date of the earliest complaint. If the case had been transferred, consolidated, or removed, the date the complaint was filed was not always available from PACER. In such cases, I used the date the case was transferred, consolidated, or removed as the start date.

medians of 4.01 years in fee-shifting cases and 3.0 years in non-fee-shifting cases.[43] Their study through 2008 did not report case ages.

The shortest time to settlement was 105 days in a labor and employment case.[44] The longest time to settlement was nearly 15 years (5,443 days) in a commercial case.[45] The average and median time to settlement varied significantly by litigation subject matter, with securities cases generally taking the longest time and debt collection cases taking the shortest time. Labor and employment cases and consumer cases also settled relatively early.

F. The Location of Settlements

The 2006–2007 federal class action settlements were not distributed across the country in the same way federal civil litigation is in general. As Figure 1 shows, some of the geographic circuits attracted much more class action attention than we would expect based on their docket size, and others attracted much less. In particular, district courts in the First, Second, Seventh, and Ninth Circuits approved a much larger share of class action settlements than the share of all civil litigation they resolved, with the First, Second, and Seventh Circuits approving nearly double the share and the Ninth Circuit approving one-and-one-half times the share. By contrast, the shares of class action settlements approved by district courts in the Fifth and Eighth Circuits were less than one-half of their share of all civil litigation, with the Third, Fourth, and Eleventh Circuits also exhibiting significant underrepresentation.

With respect to a comparison with the Eisenberg-Miller studies, their federal court data through 2008 can be separated from their state court data on the question of the geographic distribution of settlements, and there are some significant differences between their federal data and the numbers reflected in Figure 1. Their study reported considerably higher proportions of settlements than I found from the Second (23.8 percent), Third (19.7 percent), Eighth (4.8 percent), and D.C. (3.3 percent) Circuits, and considerably lower proportions from the Fourth (1.3 percent), Seventh (6.8 percent), and Ninth (16.6 percent) Circuits.[46]

Figure 2 separates the class action settlement data in Figure 1 into securities and nonsecurities cases. Figure 2 suggests that the overrepresentation of settlements in the First and Second Circuits is largely attributable to securities cases, whereas the overrepresentation in the Seventh Circuit is attributable to nonsecurities cases, and the overrepresentation in the Ninth is attributable to both securities and nonsecurities cases.

It is interesting to ask why some circuits received more class action attention than others. One hypothesis is that class actions are filed in circuits where class action lawyers
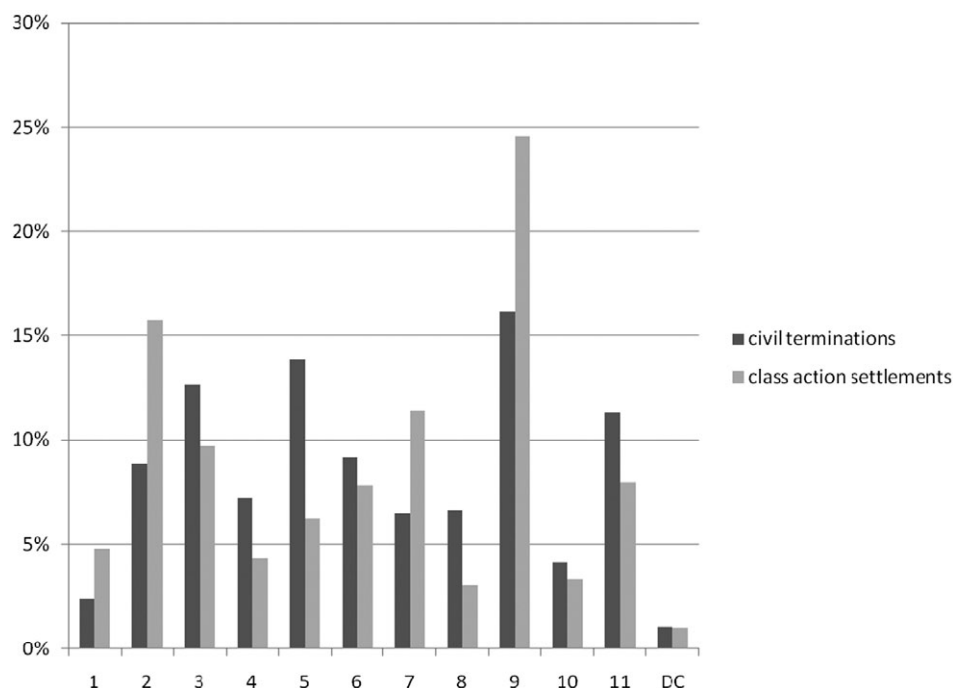
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[43]See Eisenberg & Miller, supra note 15, at 59–60.

[44]See Clemmons v. Rent-a-Center W., Inc., No. 05-6307 (D. Or. Jan. 20, 2006).

[45]See Allapattah Servs. Inc. v. Exxon Corp., No. 91-0986 (S.D. Fla. Apr. 7, 2006).

[46]See Eisenberg & Miller II, supra note 16, at 260.

Figure 1:   The percentage of 2006–2007 district court civil terminations and class action settlements in each federal circuit.
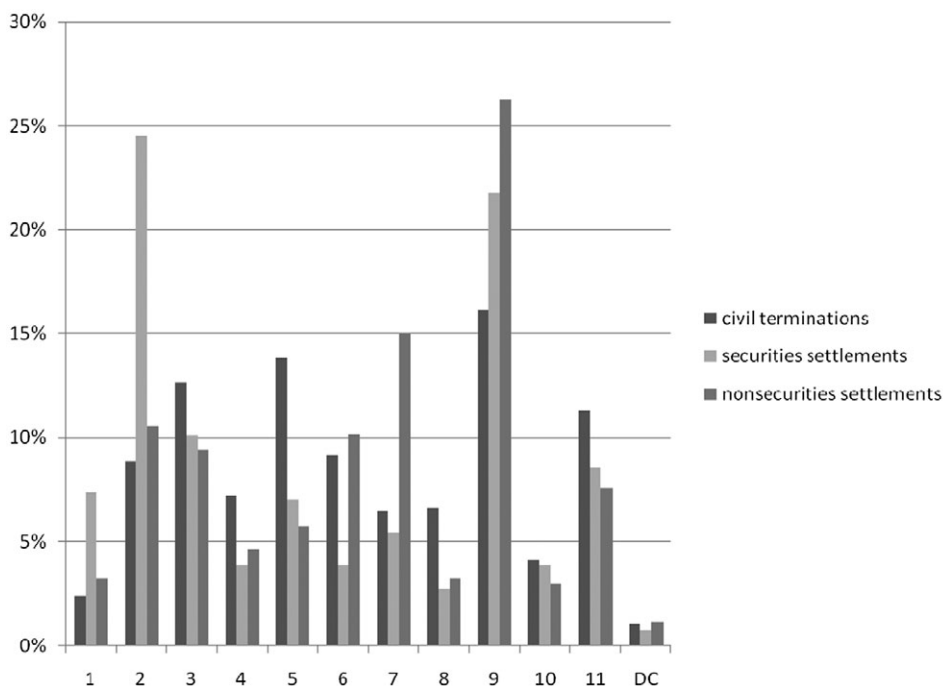
believe they can find favorable law or favorable judges. Federal class actions often involve class members spread across multiple states and, as such, class action lawyers may have a great deal of discretion over the district in which file suit.[47] One way law or judges may be favorable to class action attorneys is with regard to attorney fees. In Section III, I attempt to test whether district court judges in the circuits with the most over- and undersubscribed class action dockets award attorney fees that would attract or discourage filings there; I find no evidence that they do.

Another hypothesis is that class action suits are settled in jurisdictions where defendants are located. This might be the case because although class action lawyers may have discretion over where to file, venue restrictions might ultimately restrict cases to jurisdic-

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[47]See Samuel Issacharoff & Richard Nagareda, Class Settlements Under Attack, 156 U. Pa. L. Rev. 1649, 1662 (2008).

Figure 2:   The percentage of 2006–2007 district court civil terminations and class action settlements in each federal circuit.

SOURCES: PACER, Statistical Tables for the Federal Judiciary 2006 & 2007 (available at <http://www.uscourts.gov/stats/index.html>).

tions in which defendants have their corporate headquarters or other operations.[48] This might explain why the Second Circuit, with the financial industry in New York, sees so many securities suits, and why other circuits with cities with a large corporate presence, such as the First (Boston), Seventh (Chicago), and Ninth (Los Angeles and San Francisco), see more settlements than one would expect based on the size of their civil dockets.

Another hypothesis might be that class action lawyers file cases wherever it is most convenient for them to litigate the cases—that is, in the cities in which their offices are located. This, too, might explain the Second Circuit's overrepresentation in securities settlements, with prominent securities firms located in New York, as well as the

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[48]See 28 U.S.C. §§ 1391, 1404, 1406, 1407. See also Foster v. Nationwide Mut. Ins. Co., No. 07-04928, 2007 U.S. Dist. LEXIS 95240 at *2–17 (N.D. Cal. Dec. 14, 2007) (transferring venue to jurisdiction where defendant's corporate headquarters were located). One prior empirical study of securities class action settlements found that 85 percent of such cases are filed in the home circuit of the defendant corporation. See James D. Cox, Randall S. Thomas & Lynn Bai, Do Differences in Pleading Standards Cause Forum Shopping in Securities Class Actions?: Doctrinal and Empirical Analyses, 2009 Wis. L. Rev. 421, 429, 440, 450–51 (2009).

overrepresentation of other settlements in some of the circuits in which major metropolitan areas with prominent plaintiffs' firms are found.

G. Type of Relief

Under Rule 23, district court judges can certify class actions for injunctive or declaratory relief, for money damages, or for a combination of the two.[49] In addition, settlements can provide money damages both in the form of cash as well as in the form of in-kind relief, such as coupons to purchase the defendant's products.[50]

As shown in Table 3, the vast majority of class actions settled in 2006 and 2007 provided cash relief to the class (89 percent), but a substantial number also provided in-kind relief (6 percent) or injunctive or declaratory relief (23 percent). As would be

Table 3:   The Percentage of 2006 and 2007 Class Action Settlements Providing Each Type of Relief in Each Subject Area

Subject Matter	Cash	In-Kind Relief	Injunctive or Declaratory Relief
Securities	100%	0%	2%
($n = 257$)			
Labor and employment	95%	6%	29%
($n = 94$)			
Consumer	74%	30%	37%
($n = 87$)			
Employee benefits	90%	0%	34%
($n = 61$)			
Civil rights	49%	2%	75%
($n = 61$)			
Debt collection	98%	0%	12%
($n = 42$)			
Antitrust	97%	13%	7%
($n = 30$)			
Commercial	92%	0%	62%
($n = 13$)			
Other	77%	7%	33%
($n = 43$)			
All	89%	6%	23%
($n = 688$)			

NOTE: Cash: cash, securities, refunds, charitable contributions, contributions to employee benefit plans, forgiven debt, relinquishment of liens or claims, and liquidated repairs to property. In-kind relief: vouchers, coupons, gift cards, warranty extensions, merchandise, services, and extended insurance policies. Injunctive or declaratory relief: modification of terms of employee benefit plans, modification of compensation practices, changes in business practices, capital improvements, research, and unliquidated repairs to property.
SOURCES: Westlaw, PACER, district court clerks' offices.

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[49]See Fed. R. Civ. P. 23(b).

[50]These coupon settlements have become very controversial in recent years, and Congress discouraged them in the Class Action Fairness Act of 2005 by tying attorney fees to the value of coupons that were ultimately redeemed by class members as opposed to the value of coupons offered class members. See 28 U.S.C. § 1712.

expected in light of the focus on consumer cases in the debate over the anti-coupon provision in the Class Action Fairness Act of 2005,[51] consumer cases had the greatest percentage of settlements providing for in-kind relief (30 percent). Civil rights cases had the greatest percentage of settlements providing for injunctive or declaratory relief (75 percent), though almost half the civil rights cases also provided some cash relief (49 percent). The securities settlements were quite distinctive from the settlements in other areas in their singular focus on cash relief: every single securities settlement provided cash to the class and almost none provided in-kind, injunctive, or declaratory relief. This is but one example of how the focus on securities settlements in the prior empirical scholarship can lead to a distorted picture of class action litigation.

H. Settlement Money

Although securities settlements did not comprise the majority of federal class action settlements in 2006 and 2007, they did comprise the majority of the money—indeed, the *vast majority* of the money—involved in class action settlements. In Table 4, I report the total amount of ascertainable value involved in the 2006 and 2007 settlements. This amount

Table 4:   The Total Amount of Money Involved in Federal Class Action Settlements in 2006 and 2007

	Total Ascertainable Monetary Value in Settlements *(and Percentage of Overall Annual Total)*			
Subject Matter	*2006 (n = 304)*		*2007 (n = 384)*	
Securities	$16,728	76%	$8,038	73%
Labor and employment	$266.5	1%	$547.7	5%
Consumer	$517.3	2%	$732.8	7%
Employee benefits	$443.8	2%	$280.8	3%
Civil rights	$265.4	1%	$81.7	1%
Debt collection	$8.9	<1%	$5.7	<1%
Antitrust	$1,079	5%	$660.5	6%
Commercial	$1,217	6%	$124.0	1%
Other	$1,568	7%	$592.5	5%
Total	$22,093	100%	$11,063	100%

NOTE: Dollar amounts are in millions. Includes all determinate payments in cash or cash equivalents (such as marketable securities), including attorney fees and expenses, as well as any in-kind relief (such as coupons) or injunctive relief that was valued by the district court.

SOURCES: Westlaw, PACER, district court clerks' offices.

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[51]See, e.g., 151 Cong. Rec. H723 (2005) (statement of Rep. Sensenbrenner) (arguing that consumers are "seeing all of their gains go to attorneys and them just getting coupon settlements from the people who have allegedly done them wrong").

includes all determinate[52] payments in cash or cash equivalents (such as marketable securities), including attorney fees and expenses, as well as any in-kind relief (such as coupons) or injunctive relief that was valued by the district court.[53] I did not attempt to assign a value to any relief that was not valued by the district court (even if it may have been valued by class counsel). It should be noted that district courts did not often value in-kind or injunctive relief—they did so only 18 percent of the time—and very little of Table 4—only $1.3 billion, or 4 percent—is based on these valuations. It should also be noted that the amounts in Table 4 reflect only what defendants *agreed to pay*; they do not reflect the amounts that defendants *actually paid* after the claims administration process concluded. Prior empirical research has found that, depending on how settlements are structured (e.g., whether they awarded a fixed amount of money to each class member who eventually files a valid claim or a pro rata amount of a fixed settlement to each class member), defendants can end up paying much less than they agreed.[54]

Table 4 shows that in both years, around three-quarters of all the money involved in federal class action settlements came from securities cases. Thus, in this sense, the conventional wisdom about the dominance of securities cases in class action litigation is correct. Figure 3 is a graphical representation of the contribution each litigation area made to the total number and total amount of money involved in the 2006–2007 settlements.

Table 4 also shows that, in total, over $33 billion was approved in the 2006–2007 settlements. Over $22 billion was approved in 2006 and over $11 billion in 2007. It should be emphasized again that the totals in Table 4 understate the amount of money defendants agreed to pay in class action settlements in 2006 and 2007 because they exclude the unascertainable value of those settlements. This understatement disproportionately affects litigation areas, such as civil rights, where much of the relief is injunctive because, as I noted, very little of such relief was valued by district courts. Nonetheless, these numbers are, as far as I am aware, the first attempt to calculate how much money is involved in federal class action settlements in a given year.

The significant discrepancy between the two years is largely attributable to the 2006 securities settlement related to the collapse of Enron, which totaled $6.6 billion, as well as to the fact that seven of the eight 2006–2007 settlements for more than $1 billion were approved in 2006.[55] Indeed, it is worth noting that the eight settlements for more than $1

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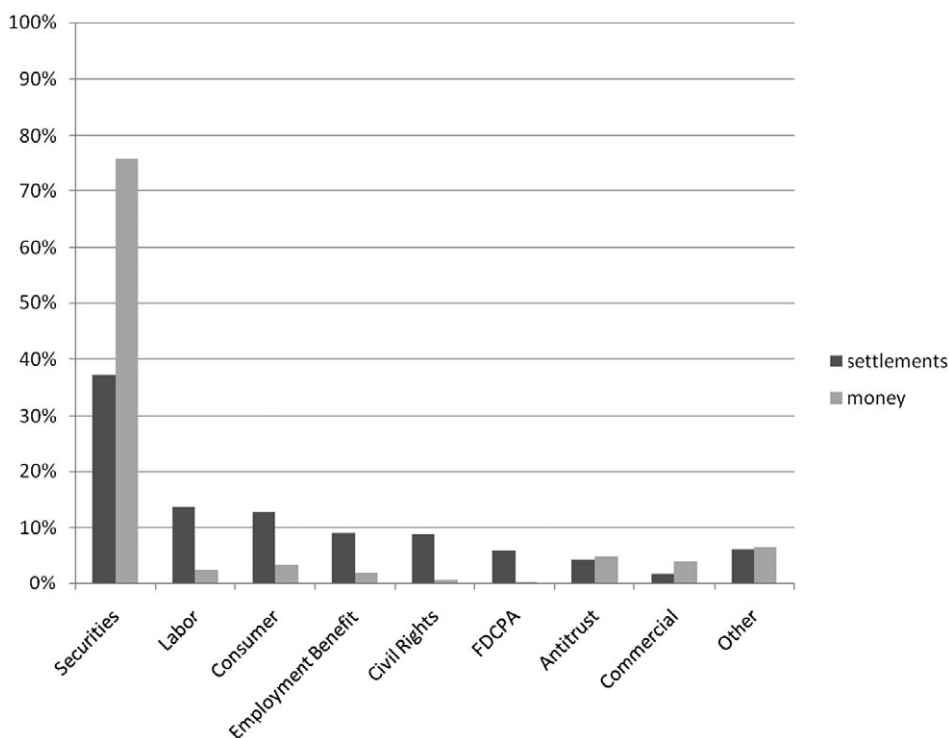[52]For example, I excluded awards of a fixed amount of money to each class member who eventually filed a valid claim (as opposed to settlements that awarded a pro rata amount of a fixed settlement to each class member) if the total amount of money set aside to pay the claims was not set forth in the settlement documents.

[53]In some cases, the district court valued the relief in the settlement over a range. In these cases, I used the middle point in the range.

[54]See Hensler et al., supra note 7, at 427–30.

[55]See In re Enron Corp. Secs. Litig., MDL 1446 (S.D. Tex. May 24, 2006) ($6,600,000,000); In re Tyco Int'l Ltd. Multidistrict Litig., MDL 02-1335 (D.N.H. Dec. 19, 2007) ($3,200,000,000); In re AOL Time Warner, Inc. Secs. & "ERISA" Litig., MDL 1500 (S.D.N.Y. Apr. 6, 2006) ($2,500,000,000); In re: Diet Drugs Prods. Liab. Litig., MDL 1203 (E.D. Pa. May 24, 2006) ($1,275,000,000); In re Nortel Networks Corp. Secs. Litig. (Nortel I), No. 01-1855 (S.D.N.Y. Dec. 26, 2006) ($1,142,780,000); In re Royal Ahold N.V. Secs. & ERISA Litig., 03-1539 (D. Md. Jun. 16, 2006)

Figure 3:   The percentage of 2006–2007 federal class action settlements and settlement money from each subject area.

SOURCES: Westlaw, PACER, district court clerks' offices.

billion accounted for almost $18 billion of the $33 billion that changed hands over the two-year period. That is, a mere 1 percent of the settlements comprised over 50 percent of the value involved in federal class action settlements in 2006 and 2007. To give some sense of the distribution of settlement size in the 2006–2007 data set, Table 5 sets forth the number of settlements with an ascertainable value beyond fee, expense, and class-representative incentive awards (605 out of the 688 settlements). Nearly two-thirds of all settlements fell below $10 million.

Given the disproportionate influence exerted by securities settlements on the total amount of money involved in class actions, it is unsurprising that the average securities settlement involved more money than the average settlement in most of the other subject areas. These numbers are provided in Table 6, which includes, again, only the settlements

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($1,100,000,000); Allapattah Servs. Inc. v. Exxon Corp., No. 91-0986 (S.D. Fla. Apr. 7, 2006) ($1,075,000,000); In re Nortel Networks Corp. Secs. Litig. (Nortel II), No. 05-1659 (S.D.N.Y. Dec. 26, 2006) ($1,074,270,000).

Table 5: The Distribution by Size of 2006–2007 Federal Class Action Settlements with Ascertainable Value

Settlement Size (in Millions)	Number of Settlements
[$0 to $1]	131
	(21.7%)
($1 to $10]	261
	(43.1%)
($10 to $50]	139
	(23.0%)
($50 to $100]	33
	(5.45%)
($100 to $500]	31
	(5.12%)
($500 to $6,600]	10
	(1.65%)
Total	605

NOTE: Includes only settlements with ascertainable value beyond merely fee, expense, and class-representative incentive awards.
SOURCES: Westlaw, PACER, district court clerks' offices.

Table 6: The Average and Median Settlement Amounts in the 2006–2007 Federal Class Action Settlements with Ascertainable Value to the Class

Subject Matter	Average	Median
Securities ($n = 257$)	$96.4	$8.0
Labor and employment ($n = 88$)	$9.2	$1.8
Consumer ($n = 65$)	$18.8	$2.9
Employee benefits ($n = 52$)	$13.9	$5.3
Civil rights ($n = 34$)	$9.7	$2.5
Debt collection ($n = 40$)	$0.37	$0.088
Antitrust ($n = 29$)	$60.0	$22.0
Commercial ($n = 12$)	$111.7	$7.1
Other ($n = 28$)	$76.6	$6.2
All ($N = 605$)	$54.7	$5.1

NOTE: Dollar amounts are in millions. Includes only settlements with ascertainable value beyond merely fee, expense, and class-representative incentive awards.
SOURCES: Westlaw, PACER, district court clerks' offices.

with an ascertainable value beyond fee, expense, and class-representative incentive awards. The average settlement over the entire two-year period for all types of cases was almost $55 million, but the median was only $5.1 million. (With the $6.6 billion Enron settlement excluded, the average settlement for all ascertainable cases dropped to $43.8 million and, for securities cases, dropped to $71.0 million.) The average settlements varied widely by litigation area, with securities and commercial settlements at the high end of around $100

million, but the median settlements for nearly every area were bunched around a few million dollars. It should be noted that the high average for commercial cases is largely due to one settlement above $1 billion;[56] when that settlement is removed, the average for commercial cases was only $24.2 million.

Table 6 permits comparison with the two prior empirical studies of class action settlements that sought to include nonsecurities as well as securities cases in their purview. The Eisenberg-Miller study through 2002, which included both common-fund and fee-shifting cases, found that the mean class action settlement was $112 million and the median was $12.9 million, both in 2006 dollars,[57] more than double the average and median I found for all settlements in 2006 and 2007. The Eisenberg-Miller update through 2008 included only common-fund cases and found mean and median settlements in federal court of $115 million and $11.7 million (both again in 2006 dollars),[58] respectively; this is still more than double the average and median I found. This suggests that the methodology used by the Eisenberg-Miller studies—looking at district court opinions that were published in Westlaw or Lexis—oversampled larger class actions (because opinions approving larger class actions are, presumably, more likely to be published than opinions approving smaller ones). It is also possible that the exclusion of fee-shifting cases from their data through 2008 contributed to this skew, although, given that their data through 2002 included fee-shifting cases and found an almost identical mean and median as their data through 2008, the primary explanation for the much larger mean and median in their study through 2008 is probably their reliance on published opinions. Over the same years examined by Professors Eisenberg and Miller, the Class Action Reports study found a smaller average settlement than I did ($39.5 million in 2006 dollars), but a larger median ($8.48 million in 2006 dollars). It is possible that the Class Action Reports methodology also oversampled larger class actions, explaining its larger median, but that there are more "mega" class actions today than there were before 2003, explaining its smaller mean.[59]

It is interesting to ask how significant the $16 billion that was involved annually in these 350 or so federal class action settlements is in the grand scheme of U.S. litigation. Unfortunately, we do not know how much money is transferred every year in U.S. litigation. The only studies of which I am aware that attempt even a partial answer to this question are the estimates of how much money is transferred in the U.S. "tort" system every year by a financial services consulting firm, Tillinghast-Towers Perrin.[60] These studies are not directly

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[56]See Allapattah Servs. Inc. v. Exxon Corp., No. 91-0986 (S.D. Fla. Apr. 7, 2006) (approving $1,075,000,000 settlement).

[57]See Eisenberg & Miller, supra note 15, at 47.

[58]See Eisenberg & Miller II, supra note 16, at 262.

[59]There were eight class action settlements during 2006 and 2007 of more than $1 billion. See note 55 supra.

[60]Some commentators have been critical of Tillinghast's reports, typically on the ground that the reports overestimate the cost of the tort system. See M. Martin Boyer, Three Insights from the Canadian D&O Insurance Market: Inertia, Information and Insiders, 14 Conn. Ins. L.J. 75, 84 (2007); John Fabian Witt, Form and Substance in the Law of

comparable to the class action settlement numbers because, again, the number of tort class action settlements in 2006 and 2007 was very small. Nonetheless, as the tort system no doubt constitutes a large percentage of the money transferred in all litigation, these studies provide something of a point of reference to assess the significance of class action settlements. In 2006 and 2007, Tillinghast-Towers Perrin estimated that the U.S. tort system transferred $160 billion and $164 billion, respectively, to claimants and their lawyers.[61] The total amount of money involved in the 2006 and 2007 federal class action settlements reported in Table 4 was, therefore, roughly 10 percent of the Tillinghast-Towers Perrin estimate. This suggests that in merely 350 cases every year, federal class action settlements involve the same amount of wealth as 10 percent of the entire U.S. tort system. It would seem that this is a significant amount of money for so few cases.

IV. Attorney Fees in Federal Class Action Settlements, 2006 and 2007

A. Total Amount of Fees and Expenses

As I demonstrated in Section III, federal class action settlements involved a great deal of money in 2006 and 2007, some $16 billion a year. A perennial concern with class action litigation is whether class action lawyers are reaping an outsized portion of this money.[62] The 2006–2007 federal class action data suggest that these concerns may be exaggerated. Although class counsel were awarded some $5 billion in fees and expenses over this period, as shown in Table 7, only 13 percent of the settlement amount in 2006 and 20 percent of the amount in 2007 went to fee and expense awards.[63] The 2006 percentage is lower than the 2007 percentage in large part because the class action lawyers in the Enron securities settlement received less than 10 percent of the $6.6 billion corpus. In any event, the percentages in both 2006 and 2007 are far lower than the portions of settlements that contingency-fee lawyers receive in individual litigation, which are usually at least 33 percent.[64] Lawyers received less than 33 percent of settlements in fees and expenses in virtually every subject area in both years.

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Counterinsurgency Damages, 41 Loy. L.A.L. Rev. 1455, 1475 n.135 (2008). If these criticisms are valid, then class action settlements would appear even more significant as compared to the tort system.

[61]See Tillinghast-Towers Perrin, U.S. Tort Costs: 2008 Update 5 (2008). The report calculates $252 billion in total tort "costs" in 2007 and $246.9 billion in 2006, id., but only 65 percent of those costs represent payments made to claimants and their lawyers (the remainder represents insurance administration costs and legal costs to defendants). See Tillinghast-Towers Perrin, U.S. Tort Costs: 2003 Update 17 (2003).

[62]See, e.g., Brian T. Fitzpatrick, Do Class Action Lawyers Make Too Little? 158 U. Pa. L. Rev. 2043, 2043–44 (2010).

[63]In some of the partial settlements, see note 29 supra, the district court awarded expenses for all the settlements at once and it was unclear what portion of the expenses was attributable to which settlement. In these instances, I assigned each settlement a pro rata portion of expenses. To the extent possible, all the fee and expense numbers in this article exclude any interest known to be awarded by the courts.

[64]See, e.g., Herbert M. Kritzer, The Wages of Risk: The Returns of Contingency Fee Legal Practice, 47 DePaul L. Rev. 267, 284–86 (1998) (reporting results of a survey of Wisconsin lawyers).

Table 7:   The Total Amount of Fees and Expenses Awarded to Class Action Lawyers in Federal Class Action Settlements in 2006 and 2007

Subject Matter	Total Fees and Expenses Awarded in Settlements (and as Percentage of Total Settlement Amounts) in Each Subject Area	
	2006 (n = 292)	*2007* (n = 363)
Securities	$1,899 (11%)	$1,467 (20%)
Labor and employment	$75.1 (28%)	$144.5 (26%)
Consumer	$126.4 (24%)	$65.3 (9%)
Employee benefits	$57.1 (13%)	$71.9 (26%)
Civil rights	$31.0 (12%)	$32.2 (39%)
Debt collection	$2.5 (28%)	$1.1 (19%)
Antitrust	$274.6 (26%)	$157.3 (24%)
Commercial	$347.3 (29%)	$18.2 (15%)
Other	$119.3 (8%)	$103.3 (17%)
Total	$2,932 (13%)	$2,063 (20%)

NOTE: Dollar amounts are in millions. Excludes settlements in which fees were not (or at least not yet) sought (22 settlements), settlements in which fees have not yet been awarded (two settlements), and settlements in which fees could not be ascertained due to indefinite award amounts, missing documents, or nonpublic side agreements (nine settlements).

SOURCES: Westlaw, PACER, district court clerks' offices.

It should be noted that, in some respects, the percentages in Table 7 overstate the portion of settlements that were awarded to class action attorneys because, again, many of these settlements involved indefinite cash relief or noncash relief that could not be valued.[65] If the value of all this relief could have been included, then the percentages in Table 7 would have been even lower. On the other hand, as noted above, not all the money defendants agree to pay in class action settlements is ultimately collected by the class.[66] To the extent leftover money is returned to the defendant, the percentages in Table 7 understate the portion class action lawyers received relative to their clients.

B. Method of Awarding Fees

District court judges have a great deal of discretion in how they set fee awards in class action cases. Under Rule 23, federal judges are told only that the fees they award to class counsel

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[65]Indeed, the large year-to-year variation in the percentages in labor, consumer, and employee benefits cases arose because district courts made particularly large valuations of the equitable relief in a few settlements and used the lodestar method to calculate the fees in these settlements (and thereby did not consider their large valuations in calculating the fees).

[66]See Hensler et al., supra note 7, at 427–30.

must be "reasonable."[67] Courts often exercise this discretion by choosing between two approaches: the lodestar approach or the percentage-of-the-settlement approach.[68] The lodestar approach works much the way it does in individual litigation: the court calculates the fee based on the number of hours class counsel actually worked on the case multiplied by a reasonable hourly rate and a discretionary multiplier.[69] The percentage-of-the-settlement approach bases the fee on the size of the settlement rather than on the hours class counsel actually worked: the district court picks a percentage of the settlement it thinks is reasonable based on a number of factors, one of which is often the fee lodestar (sometimes referred to as a "lodestar cross-check").[70] My 2006–2007 data set shows that the percentage-of-the-settlement approach has become much more common than the lodestar approach. In 69 percent of the settlements reported in Table 7, district court judges employed the percentage-of-the-settlement method with or without the lodestar cross-check. They employed the lodestar method in only 12 percent of settlements. In the other 20 percent of settlements, the court did not state the method it used or it used another method altogether.[71] The pure lodestar method was used most often in consumer (29 percent) and debt collection (45 percent) cases. These numbers are fairly consistent with the Eisenberg-Miller data from 2003 to 2008. They found that the lodestar method was used in only 9.6 percent of settlements.[72] Their number is no doubt lower than the 12 percent number found in my 2006–2007 data set because they excluded fee-shifting cases from their study.

C. Variation in Fees Awarded

Not only do district courts often have discretion to choose between the lodestar method and the percentage-of-the-settlement method, but each of these methods leaves district courts with a great deal of discretion in how the method is ultimately applied. The courts

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[67]Fed. R. Civ. P. 23(h).

[68]The discretion to pick between these methods is most pronounced in settlements where the underlying claim was not found in a statute that would shift attorney fees to the defendant. See, e.g., In re Thirteen Appeals Arising out of San Juan DuPont Plaza Hotel Fire Litig., 56 F.3d 295, 307 (1st Cir. 1995) (permitting either percentage or lodestar method in common-fund cases); Goldberger v. Integrated Res. Inc., 209 F.3d 43, 50 (2d Cir. 2000) (same); Rawlings v. Prudential-Bache Props., Inc., 9 F.3d 513, 516 (6th Cir. 1993) (same). By contrast, courts typically used the lodestar approach in settlements arising from fee-shifting cases.

[69]See Eisenberg & Miller, supra note 15, at 31.

[70]Id. at 31–32.

[71]These numbers are based on the fee method described in the district court's order awarding fees, unless the order was silent, in which case the method, if any, described in class counsel's motion for fees (if it could be obtained) was used. If the court explicitly justified the fee award by reference to its percentage of the settlement, I counted it as the percentage method. If the court explicitly justified the award by reference to a lodestar calculation, I counted it as the lodestar method. If the court explicitly justified the award by reference to both, I counted it as the percentage method with a lodestar cross-check. If the court calculated neither a percentage nor the fee lodestar in its order, then I counted it as an "other" method.

[72]See Eisenberg & Miller II, supra note 16, at 267.

that use the percentage-of-the-settlement method usually rely on a multifactor test[73] and, like most multifactor tests, it can plausibly yield many results. It is true that in many of these cases, judges examine the fee percentages that other courts have awarded to guide their discretion.[74] In addition, the Ninth Circuit has adopted a presumption that 25 percent is the proper fee award percentage in class action cases.[75] Moreover, in securities cases, some courts presume that the proper fee award percentage is the one class counsel agreed to when it was hired by the large shareholder that is now usually selected as the lead plaintiff in such cases.[76] Nonetheless, presumptions, of course, can be overcome and, as one court has put it, "[t]here is no hard and fast rule mandating a certain percentage . . . which may reasonably be awarded as a fee because the amount of any fee must be determined upon the facts of each case."[77] The court added: "[i]ndividualization in the exercise of a discretionary power [for fee awards] will alone retain equity as a living system and save it from sterility."[78] It is therefore not surprising that district courts awarded fees over a broad range when they used the percentage-of-the-settlement method. Figure 4 is a graph of the distribution of fee awards as a percentage of the settlement in the 444 cases where district courts used the percentage method with or without a lodestar cross-check and the fee percentages were ascertainable. These fee awards are exclusive of awards for expenses whenever the awards could be separated by examining either the district court's order or counsel's motion for fees and expenses (which was 96 percent of the time). The awards ranged from 3 percent of the settlement to 47 percent of the settlement. The average award was 25.4 percent and the median was 25 percent. Most fee awards were between 25 percent and 35 percent, with almost no awards more than 35 percent. The Eisenberg-Miller study through 2008 found a slightly lower mean (24 percent) but the same median (25 percent) among its federal court settlements.[79]

It should be noted that in 218 of these 444 settlements (49 percent), district courts said they considered the lodestar calculation as a factor in assessing the reasonableness of the fee percentages awarded. In 204 of these settlements, the lodestar multiplier resulting

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[73]The Eleventh Circuit, for example, has identified a nonexclusive list of 15 factors that district courts might consider. See Camden I Condo. Ass'n, Inc. v. Dunkle, 946 F.2d 768, 772 n.3, 775 (11th Cir. 1991). See also In re Tyco Int'l, Ltd. Multidistrict Litig., 535 F. Supp. 2d 249, 265 (D.N.H. 2007) (five factors); Goldberger v. Integrated Res. Inc., 209 F.3d 43, 50 (2d Cir. 2000) (six factors); Gunter v. Ridgewood Energy Corp., 223 F.3d 190, 195 n.1 (3d Cir. 2000) (seven factors); In re Royal Ahold N.V. Sec. & ERISA Litig., 461 F. Supp. 2d 383, 385 (D. Md. 2006) (13 factors); Brown v. Phillips Petroleum Co., 838 F.2d 451, 454 (10th Cir. 1988) (12 factors); In re Baan Co. Sec. Litig., 288 F. Supp. 2d 14, 17 (D.D.C. 2003) (seven factors).

[74]See Eisenberg & Miller, supra note 15, at 32.

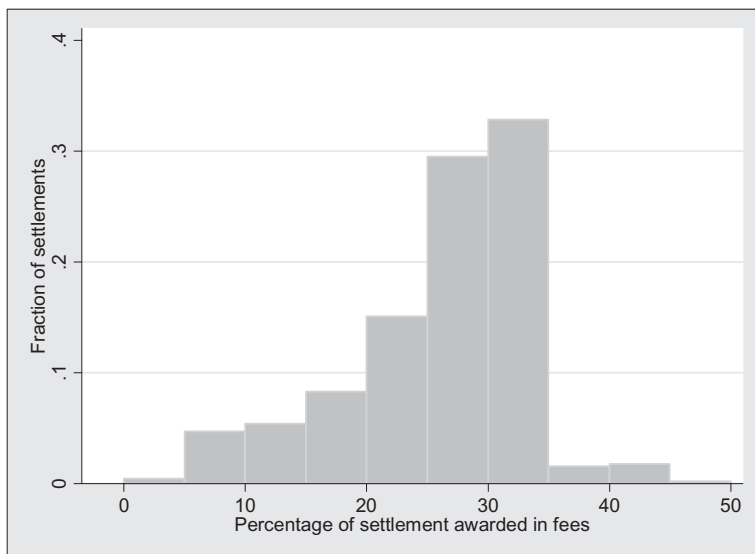[75]See Staton v. Boeing Co., 327 F.3d 938, 968 (9th Cir. 2003).

[76]See, e.g., In re Cendant Corp. Litig., 264 F.3d 201, 282 (3d Cir. 2001).

[77]*Camden I Condo. Ass'n*, 946 F.2d at 774.

[78]*Camden I Condo. Ass'n*, 946 F.2d at 774 (alterations in original and internal quotation marks omitted).

[79]See Eisenberg & Miller II, supra note 16, at 259.

Figure 4: The distribution of 2006–2007 federal class action fee awards using the percentage-of-the-settlement method with or without lodestar cross-check.

SOURCES: Westlaw, PACER, district court clerks' offices.

from the fee award could be ascertained. The lodestar multiplier in these cases ranged from 0.07 to 10.3, with a mean of 1.65 and a median of 1.34. Although there is always the possibility that class counsel are optimistic with their timesheets when they submit them for lodestar consideration, these lodestar numbers—only one multiplier above 6.0, with the bulk of the range not much above 1.0—strike me as fairly parsimonious for the risk that goes into any piece of litigation and cast doubt on the notion that the percentage-of-the-settlement method results in windfalls to class counsel.[80]

Table 8 shows the mean and median fee percentages awarded in each litigation subject area. The fee percentages did not appear to vary greatly across litigation subject areas, with most mean and median awards between 25 percent and 30 percent. As I report later in this section, however, after controlling for other variables, there were statistically significant differences in the fee percentages awarded in some subject areas compared to others. The mean and median percentages for securities cases were 24.7 percent and 25.0 percent, respectively; for all nonsecurities cases, the mean and median were 26.1 percent and 26.0 percent, respectively. The Eisenberg-Miller study through 2008 found mean awards ranging from 21–27 percent and medians from 19–25 percent,[81] a bit lower than the ranges in my

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[80]It should be emphasized, of course, that these 204 settlements may not be representative of the settlements where the percentage-of-the-settlement method was used without the lodestar cross-check.

[81]See Eisenberg & Miller II, supra note 16, at 262.

Table 8:   Fee Awards in 2006–2007 Federal Class
Action   Settlements   Using   the   Percentage-of-the-
Settlement   Method   With   or   Without   Lodestar
Cross-Check

| Subject Matter | Percentage of Settlement Awarded as Fees | |
	Mean	Median
Securities	24.7	25.0
(*n* = 233)		
Labor and employment	28.0	29.0
(*n* = 61)		
Consumer	23.5	24.6
(*n* = 39)		
Employee benefits	26.0	28.0
(*n* = 37)		
Civil rights	29.0	30.3
(*n* = 20)		
Debt collection	24.2	25.0
(*n* = 5)		
Antitrust	25.4	25.0
(*n* = 23)		
Commercial	23.3	25.0
(*n* = 7)		
Other	24.9	26.0
(*n* = 19)		
All	25.7	25.0
(*N* = 444)		

SOURCES: Westlaw, PACER, district court clerks' offices.

2006–2007 data set, which again, may be because they oversampled larger settlements (as I show below, district courts awarded smaller fee percentages in larger cases).

   In light of the fact that, as I noted above, the distribution of class action settlements among the geographic circuits does not track their civil litigation dockets generally, it is interesting to ask whether one reason for the pattern in class action cases is that circuits oversubscribed with class actions award higher fee percentages. Although this question will be taken up with more sophistication in the regression analysis below, it is worth describing here the mean and median fee percentages in each of the circuits. Those data are presented in Table 9. Contrary to the hypothesis set forth in Section III, two of the circuits most oversubscribed with class actions, the Second and the Ninth, were the only circuits in which the mean fee awards were *under* 25 percent. As I explain below, these differences are statistically significant and remain so after controlling for other variables.

   The lodestar method likewise permits district courts to exercise a great deal of leeway through the application of the discretionary multiplier. Figure 5 shows the distribution of lodestar multipliers in the 71 settlements in which district courts used the lodestar method and the multiplier could be ascertained. The average multiplier was 0.98 and the median was 0.92, which suggest that courts were not terribly prone to exercise their discretion to deviate from the amount of money encompassed in the lodestar calculation. These 71

Table 9:   Fee Awards in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

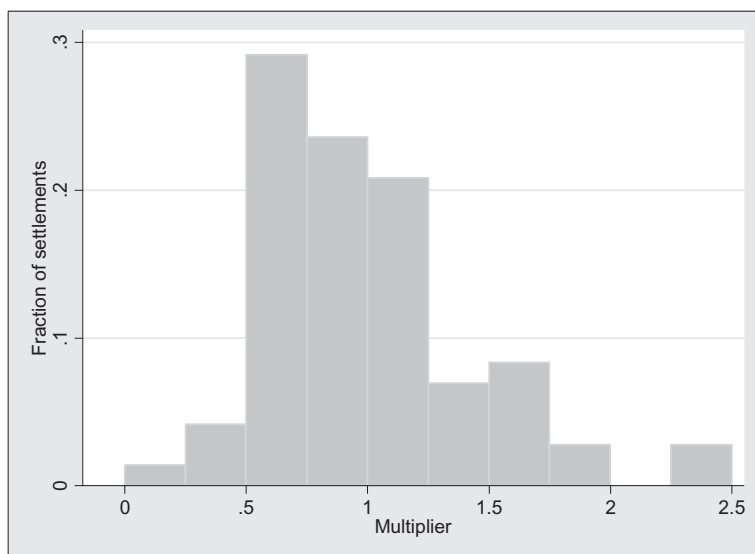| Circuit	Percentage of Settlement Awarded as Fees	
	Mean	*Median*
First	27.0	25.0
(*n* = 27)		
Second	23.8	24.5
(*n* = 72)		
Third	25.4	29.3
(*n* = 50)		
Fourth	25.2	28.0
(*n* = 19)		
Fifth	26.4	29.0
(*n* = 27)		
Sixth	26.1	28.0
(*n* = 25)		
Seventh	27.4	29.0
(*n* = 39)		
Eighth	26.1	30.0
(*n* = 15)		
Ninth	23.9	25.0
(*n* = 111)		
Tenth	25.3	25.5
(*n* = 18)		
Eleventh	28.1	30.0
(*n* = 35)		
DC	26.9	26.0
(*n* = 6)		

Sources: Westlaw, PACER, district court clerks' offices.

settlements were heavily concentrated within the consumer (median multiplier 1.13) and debt collection (0.66) subject areas. If cases in which district courts used the percentage-of-the-settlement method with a lodestar cross-check are combined with the lodestar cases, the average and median multipliers (in the 263 cases where the multipliers were ascertainable) were 1.45 and 1.19, respectively. Again—putting to one side the possibility that class counsel are optimistic with their timesheets—these multipliers appear fairly modest in light of the risk involved in any piece of litigation.

D. Factors Influencing Percentage Awards

Whether district courts are exercising their discretion over fee awards wisely is an important public policy question given the amount of money at stake in class action settlements. As shown above, district court judges awarded class action lawyers nearly $5 billion in fees and expenses in 2006–2007. Based on the comparison to the tort system set forth in Section III, it is not difficult to surmise that in the 350 or so settlements every year, district court judges

Figure 5: The distribution of lodestar multipliers in 2006–2007 federal class action fee awards using the lodestar method.
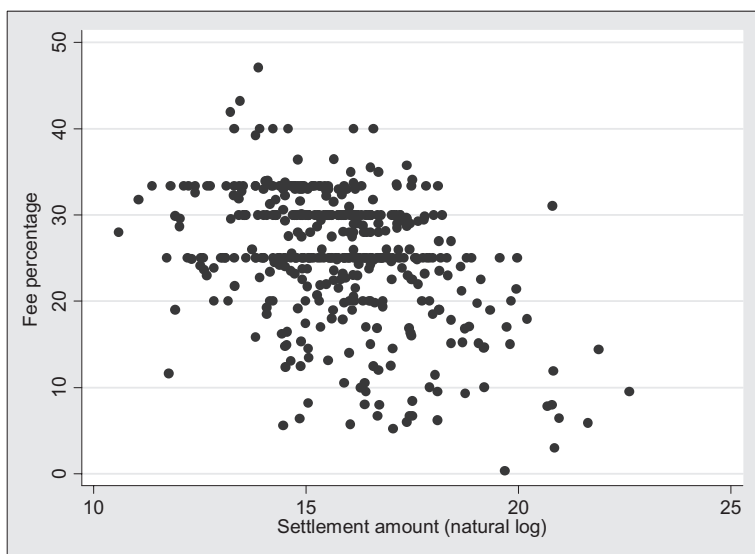

SOURCES: Westlaw, PACER, district court clerks' offices.

are awarding a significant portion of all the annual compensation received by contingency-fee lawyers in the United States. Moreover, contingency fees are arguably the engine that drives much of the noncriminal regulation in the United States; unlike many other nations, we regulate largely through the ex post, decentralized device of litigation.[82] To the extent district courts could have exercised their discretion to award billions more or billions less to class action lawyers, district courts have been delegated a great deal of leeway over a big chunk of our regulatory horsepower. It is therefore worth examining how district courts exercise their discretion over fees. This examination is particularly important in cases where district courts use the percentage-of-the-settlement method to award fees: not only do such cases comprise the vast majority of settlements, but they comprise the vast majority of the money awarded as fees. As such, the analysis that follows will be confined to the 444 settlements where the district courts used the percentage-of-the-settlement method.

As I noted, prior empirical studies have shown that fee percentages are strongly and inversely related to the size of the settlement both in securities fraud and other cases. As shown in Figure 6, the 2006–2007 data are consistent with prior studies. Regression analysis, set forth in more detail below, confirms that after controlling for other variables, fee percentage is strongly and inversely associated with settlement size among all cases, among securities cases, and among all nonsecurities cases.

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[82]See, e.g., Samuel Issacharoff, Regulating after the Fact, 56 DePaul L. Rev. 375, 377 (2007).

Figure 6:   Fee awards as a function of settlement size in 2006–2007 class action cases using the percentage-of-the-settlement method with or without lodestar cross-check.

SOURCES: Westlaw, PACER, district court clerks' offices.

As noted above, courts often look to fee percentages in other cases as one factor they consider in deciding what percentage to award in a settlement at hand. In light of this practice, and in light of the fact that the size of the settlement has such a strong relationship to fee percentages, scholars have tried to help guide the practice by reporting the distribution of fee percentages across different settlement sizes.[83] In Table 10, I follow the Eisenberg-Miller studies and attempt to contribute to this guidance by setting forth the mean and median fee percentages, as well as the standard deviation, for each decile of the 2006–2007 settlements in which courts used the percentage-of-the-settlement method to award fees. The mean percentages ranged from over 28 percent in the first decile to less than 19 percent in the last decile.

It should be noted that the last decile in Table 10 covers an especially wide range of settlements, those from $72.5 million to the Enron settlement of $6.6 billion. To give more meaningful data to courts that must award fees in the largest settlements, Table 11 shows the last decile broken into additional cut points. When both Tables 10 and 11 are examined together, it appears that fee percentages tended to drift lower at a fairly slow pace until a settlement size of $100 million was reached, at which point the fee percentages plunged well below 20 percent, and by the time $500 million was reached, they plunged well below 15 percent, with most awards at that level under even 10 percent.

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[83]See Eisenberg & Miller II, supra note 16, at 265.

Table 10:   Mean, Median, and Standard Deviation of Fee Awards by Settlement Size in 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

Settlement Size (in Millions)	Mean	Median	SD
[$0 to $0.75] (n = 45)	28.8%	29.6%	6.1%
($0.75 to $1.75] (n = 44)	28.7%	30.0%	6.2%
($1.75 to $2.85] (n = 45)	26.5%	29.3%	7.9%
($2.85 to $4.45] (n = 45)	26.0%	27.5%	6.3%
($4.45 to $7.0] (n = 44)	27.4%	29.7%	5.1%
($7.0 to $10.0] (n = 43)	26.4%	28.0%	6.6%
($10.0 to $15.2] (n = 45)	24.8%	25.0%	6.4%
($15.2 to $30.0] (n = 46)	24.4%	25.0%	7.5%
($30.0 to $72.5] (n = 42)	22.3%	24.9%	8.4%
($72.5 to $6,600] (n = 45)	18.4%	19.0%	7.9%

SOURCES: Westlaw, PACER, district court clerks' offices.

Table 11:   Mean, Median, and Standard Deviation of Fee Awards of the Largest 2006–2007 Federal Class Action Settlements Using the Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

Settlement Size (in Millions)	Mean	Median	SD
($72.5 to $100] (n = 12)	23.7%	24.3%	5.3%
($100 to $250] (n = 14)	17.9%	16.9%	5.2%
($250 to $500] (n = 8)	17.8%	19.5%	7.9%
($500 to $1,000] (n = 2)	12.9%	12.9%	7.2%
($1,000 to $6,600] (n = 9)	13.7%	9.5%	11%

SOURCES: Westlaw, PACER, district court clerks' offices.

Prior empirical studies have not examined whether fee awards are associated with the political affiliation of the district court judges making the awards. This is surprising because realist theories of judicial behavior would predict that political affiliation would influence fee decisions.[84] It is true that as a general matter, political affiliation may influence district court judges to a lesser degree than it does appellate judges (who have been the focus of most of the prior empirical studies of realist theories): district court judges decide more routine cases and are subject to greater oversight on appeal than appellate judges. On the other hand, class action settlements are a bit different in these regards than many other decisions made by district court judges. To begin with, class action settlements are almost never appealed, and when they are, the appeals are usually settled before the appellate court hears the case.[85] Thus, district courts have much less reason to worry about the constraint of appellate review in fashioning fee awards. Moreover, one would think the potential for political affiliation to influence judicial decision making is greatest when legal sources lead to indeterminate outcomes and when judicial decisions touch on matters that are salient in national politics. (The more salient a matter is, the more likely presidents will select judges with views on the matter and the more likely those views will diverge between Republicans and Democrats.) Fee award decisions would seem to satisfy both these criteria. The law of fee awards, as explained above, is highly discretionary, and fee award decisions are wrapped up in highly salient political issues such as tort reform and the relative power of plaintiffs' lawyers and corporations. I would expect to find that judges appointed by Democratic presidents awarded higher fees in the 2006–2007 settlements than did judges appointed by Republican presidents.

The data, however, do not appear to bear this out. Of the 444 fee awards using the percentage-of-the-settlement approach, 52 percent were approved by Republican appointees, 45 percent were approved by Democratic appointees, and 4 percent were approved by non-Article III judges (usually magistrate judges). The mean fee percentage approved by Republican appointees (25.6 percent) was slightly *greater* than the mean approved by Democratic appointees (24.9 percent). The medians (25 percent) were the same.

To examine whether the realist hypothesis fared better after controlling for other variables, I performed regression analysis of the fee percentage data for the 427 settlements approved by Article III judges. I used ordinary least squares regression with the dependent variable the percentage of the settlement that was awarded in fees.[86] The independent

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[84]See generally C.K. Rowland & Robert A. Carp, Politics and Judgment in Federal District Courts (1996). See also Max M. Schanzenbach & Emerson H. Tiller, Reviewing the Sentencing Guidelines: Judicial Politics, Empirical Evidence, and Reform, 75 U. Chi. L. Rev. 715, 724–25 (2008).

[85]See Brian T. Fitzpatrick, The End of Objector Blackmail? 62 Vand. L. Rev. 1623, 1640, 1634–38 (2009) (finding that less than 10 percent of class action settlements approved by federal courts in 2006 were appealed by class members).

[86]Professors Eisenberg and Miller used a square root transformation of the fee percentages in some of their regressions. I ran all the regressions using this transformation as well and it did not appreciably change the results. I also ran the regressions using a natural log transformation of fee percentage and with the dependent variable natural log of the fee amount (as opposed to the fee percentage). None of these models changed the results

variables were the natural log of the amount of the settlement, the natural log of the age of the case (in days), indicator variables for whether the class was certified as a settlement class, for litigation subject areas, and for circuits, as well as indicator variables for whether the judge was appointed by a Republican or Democratic president and for the judge's race and gender.[87]

The results for five regressions are in Table 12. In the first regression (Column 1), only the settlement amount, case age, and judge's political affiliation, gender, and race were included as independent variables. In the second regression (Column 2), all the independent variables were included. In the third regression (Column 3), only securities cases were analyzed, and in the fourth regression (Column 4), only nonsecurities cases were analyzed.

In none of these regressions was the political affiliation of the district court judge associated with fee percentage in a statistically significant manner.[88] One possible explanation for the lack of evidence for the realist hypothesis is that district court judges elevate other preferences above their political and ideological ones. For example, district courts of both political stripes may succumb to docket-clearing pressures and largely rubber stamp whatever fee is requested by class counsel; after all, these requests are rarely challenged by defendants. Moreover, if judges award class counsel whatever they request, class counsel will not appeal and, given that, as noted above, class members rarely appeal settlements (and when they do, often settle them before the appeal is heard),[89] judges can thereby virtually guarantee there will be no appellate review of their settlement decisions. Indeed, scholars have found that in the vast majority of cases, the fees ultimately awarded by federal judges are little different than those sought by class counsel.[90]

Another explanation for the lack of evidence for the realist hypothesis is that my data set includes both unpublished as well as published decisions. It is thought that realist theories of judicial behavior lose force in unpublished judicial decisions. This is the case because the kinds of questions for which realist theories would predict that judges have the most room to let their ideologies run are questions for which the law is ambiguous; it is

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appreciably. The regressions were also run with and without the 2006 Enron settlement because it was such an outlier ($6.6 billion); the case did not change the regression results appreciably. For every regression, the data and residuals were inspected to confirm the standard assumptions of linearity, homoscedasticity, and the normal distribution of errors.

[87]Prior studies of judicial behavior have found that the race and sex of the judge can be associated with his or her decisions. See, e.g., Adam B. Cox & Thomas J. Miles, Judging the Voting Rights Act, 108 Colum. L. Rev. 1 (2008); Donald R. Songer et al., A Reappraisal of Diversification in the Federal Courts: Gender Effects in the Courts of Appeals, 56 J. Pol. 425 (1994).

[88]Although these coefficients are not reported in Table 8, the gender of the district court judge was never statistically significant. The race of the judge was only occasionally significant.

[89]See Fitzpatrick, supra note 85, at 1640.

[90]See Eisenberg & Miller II, supra note 16, at 270 (finding that state and federal judges awarded the fees requested by class counsel in 72.5 percent of settlements); Eisenberg, Miller & Perino, supra note 9, at 22 ("judges take a light touch when it comes to reviewing fee requests").

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Table 12:   Regression of Fee Percentages in 2006–2007 Settlements Using Percentage-of-the-Settlement Method With or Without Lodestar Cross-Check

Independent Variable	*Regression Coefficients (and Robust* t *Statistics)*				
	1	*2*	*3*	*4*	*5*
Settlement amount (natural log)	−1.77	−1.76	−1.76	−1.41	−1.78
	(−5.43)**	(−8.52)**	(−7.16)**	(−4.00)**	(−8.67)**
Age of case (natural log days)	1.66	1.99	1.13	1.72	2.00
	(2.31)**	(2.71)**	(1.21)	(1.47)	(2.69)**
Judge's political affiliation (1 = Democrat)	−0.630	−0.345	0.657	−1.43	−0.232
	(−0.83)	(−0.49)	(0.76)	(−1.20)	(−0.34)
Settlement class		0.150	0.873	−1.62	0.124
		(0.19)	(0.84)	(−1.00)	(0.15)
1st Circuit		3.30	4.41	0.031	0.579
		(2.74)**	(3.32)**	(0.01)	(0.51)
2d Circuit		0.513	−0.813	2.93	−2.23
		(0.44)	(−0.61)	(1.14)	(−1.98)**
3d Circuit		2.25	4.00	−1.11	—
		(1.99)**	(3.85)**	(−0.50)	
4th Circuit		2.34	0.544	3.81	—
		(1.22)	(0.19)	(1.35)	
5th Circuit		2.98	1.09	6.11	0.230
		(1.90)*	(0.65)	(1.97)**	(0.15)
6th Circuit		2.91	0.838	4.41	—
		(2.28)**	(0.57)	(2.15)**	
7th Circuit		2.55	3.22	2.90	−0.227
		(2.23)**	(2.36)**	(1.46)	(−0.20)
8th Circuit		2.12	−0.759	3.73	−0.586
		(0.97)	(−0.24)	(1.19)	(−0.28)
9th Circuit		—	—	—	−2.73
					(−3.44)**
10th Circuit		1.45	−0.254	3.16	—
		(0.94)	(−0.13)	(1.29)	
11th Circuit		4.05	3.85	4.14	—
		(3.44)**	(3.07)**	(1.88)*	
DC Circuit		2.76	2.60	2.41	—
		(1.10)	(0.80)	(0.64)	
Securities case		—			—
Labor and employment case		2.93		—	2.85
		(3.00)**			(2.94)**
Consumer case		−1.65		−4.39	−1.62
		(−0.88)		(−2.20)**	(−0.88)
Employee benefits case		−0.306		−4.23	−0.325
		(−0.23)		(−2.55)**	(−0.26)
Civil rights case		1.85		−2.05	1.76
		(0.99)		(−0.97)	(0.95)
Debt collection case		−4.93		−7.93	−5.04
		(−1.71)*		(−2.49)**	(−1.75)*
Antitrust case		3.06		0.937	2.78
		(2.11)**		(0.47)	(1.98)**

Table 12   *Continued*

| Independent Variable | Regression Coefficients (and Robust t Statistics) | | | | |
	1	2	3	4	5
Commercial case		−0.028		−2.65	0.178
		(−0.01)		(−0.73)	(0.05)
Other case		−0.340		−3.73	−0.221
		(−0.17)		(−1.65)	(−0.11)
Constant	42.1	37.2	43.0	38.2	40.1
	(7.29)**	(6.08)**	(6.72)**	(4.14)**	(7.62)**
N	427	427	232	195	427
R^2	.20	.26	.37	.26	.26
Root MSE	6.59	6.50	5.63	7.24	6.48

Note: **significant at the 5 percent level; *significant at the 10 percent level. Standard errors in Column 1 were clustered by circuit. Indicator variables for race and gender were included in each regression but not reported.

Sources: Westlaw, PACER, district court clerks' offices, Federal Judicial Center.

thought that these kinds of questions are more often answered in published opinions.[91] Indeed, most of the studies finding an association between ideological beliefs and case outcomes were based on data sets that included only published opinions.[92] On the other hand, there is a small but growing number of studies that examine unpublished opinions as well, and some of these studies have shown that ideological effects persisted.[93] Nonetheless, in light of the discretion that judges exercise with respect to fee award decisions, it hard to characterize *any* decision in this area as "unambiguous." Thus, even when unpublished, I would have expected the fee award decisions to exhibit an association with ideological beliefs. Thus, I am more persuaded by the explanation suggesting that judges are more concerned with clearing their dockets or insulating their decisions from appeal in these cases than with furthering their ideological beliefs.

In all the regressions, the size of the settlement was strongly and inversely associated with fee percentages. Whether the case was certified as a settlement class was not associated

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[91]See, e.g., Ahmed E. Taha, Data and Selection Bias: A Case Study, 75 UMKC L. Rev. 171, 179 (2006).

[92]Id. at 178–79.

[93]See, e.g., David S. Law, Strategic Judicial Lawmaking: Ideology, Publication, and Asylum Law in the Ninth Circuit, 73 U. Cin. L. Rev. 817, 843 (2005); Deborah Jones Merritt & James J. Brudney, Stalking Secret Law: What Predicts Publication in the United States Courts of Appeals, 54 Vand. L. Rev. 71, 109 (2001); Donald R. Songer, Criteria for Publication of Opinions in the U.S. Courts of Appeals: Formal Rules Versus Empirical Reality, 73 Judicature 307, 312 (1990). At the trial court level, however, the studies of civil cases have found no ideological effects. See Laura Beth Nielsen, Robert L. Nelson & Ryon Lancaster, Individual Justice or Collective Legal Mobilization? Employment Discrimination Litigation in the Post Civil Rights United States, 7 J. Empirical Legal Stud. 175, 192–93 (2010); Denise M. Keele et al., An Analysis of Ideological Effects in Published Versus Unpublished Judicial Opinions, 6 J. Empirical Legal Stud. 213, 230 (2009); Orley Ashenfelter, Theodore Eisenberg & Stewart J. Schwab, Politics and the Judiciary: The Influence of Judicial Background on Case Outcomes, 24 J. Legal Stud. 257, 276–77 (1995). With respect to criminal cases, there is at least one study at the trial court level that has found ideological effects. See Schanzenbach & Tiller, supra note 81, at 734.

with fee percentages in any of the regressions. The age of the case at settlement was associated with fee percentages in the first two regressions, and when the settlement class variable was removed in regressions 3 and 4, the age variable became positively associated with fee percentages in nonsecurities cases but remained insignificant in securities cases. Professors Eisenberg and Miller likewise found that the age of the case at settlement was positively associated with fee percentages in their 1993–2002 data set,[94] and that settlement classes were not associated with fee percentages in their 2003–2008 data set.[95]

Although the structure of these regressions did not permit extensive comparisons of fee awards across different litigation subject areas, fee percentages appeared to vary somewhat depending on the type of case that settled. Securities cases were used as the baseline litigation subject area in the second and fifth regressions, permitting a comparison of fee awards in each nonsecurities area with the awards in securities cases. These regressions show that awards in a few areas, including labor/employment and antitrust, were more lucrative than those in securities cases. In the fourth regression, which included only nonsecurities cases, labor and employment cases were used as the baseline litigation subject area, permitting comparison between fee percentages in that area and the other nonsecurities areas. This regression shows that fee percentages in several areas, including consumer and employee benefits cases, were lower than the percentages in labor and employment cases.

In the fifth regression (Column 5 of Table 12), I attempted to discern whether the circuits identified in Section III as those with the most overrepresented (the First, Second, Seventh, and Ninth) and underrepresented (the Fifth and Eighth) class action dockets awarded attorney fees differently than the other circuits. That is, perhaps district court judges in the First, Second, Seventh, and Ninth Circuits award greater percentages of class action settlements as fees than do the other circuits, whereas district court judges in the Fifth and Eighth Circuits award smaller percentages. To test this hypothesis, in the fifth regression, I included indicator variables only for the six circuits with unusual dockets to measure their fee awards against the other six circuits combined. The regression showed statistically significant association with fee percentages for only two of the six unusual circuits: the Second and Ninth Circuits. In both cases, however, the direction of the association (i.e., the Second and Ninth Circuits awarded *smaller* fees than the baseline circuits) was opposite the hypothesized direction.[96]

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[94]See Eisenberg & Miller, supra note 15, at 61.

[95]See Eisenberg & Miller II, supra note 16, at 266.

[96]This relationship persisted when the regressions were rerun among the securities and nonsecurities cases separately. I do not report these results, but, even though the First, Second, and Ninth Circuits were oversubscribed with securities class action settlements and the Fifth, Sixth, and Eighth were undersubscribed, there was no association between fee percentages and any of these unusual circuits except, again, the inverse association with the Second and Ninth Circuits. In nonsecurities cases, even though the Seventh and Ninth Circuits were oversubscribed and the Fifth and the Eighth undersubscribed, there was no association between fee percentages and any of these unusual circuits except again for the inverse association with the Ninth Circuit.

The lack of the expected association with the unusual circuits might be explained by the fact that class action lawyers forum shop along dimensions other than their potential fee awards; they might, for example, put more emphasis on favorable class-certification law because there can be no fee award if the class is not certified. As noted above, it might also be the case that class action lawyers are unable to engage in forum shopping at all because defendants are able to transfer venue to the district in which they are headquartered or another district with a significant connection to the litigation.

It is unclear why the Second and Ninth Circuits were associated with lower fee awards despite their heavy class action dockets. Indeed, it should be noted that the Ninth Circuit was the baseline circuit in the second, third, and fourth regressions and, in all these regressions, district courts in the Ninth Circuit awarded smaller fees than courts in many of the other circuits. The lower fees in the Ninth Circuit may be attributable to the fact that it has adopted a presumption that the proper fee to be awarded in a class action settlement is 25 percent of the settlement.[97] This presumption may make it more difficult for district court judges to award larger fee percentages. The lower awards in the Second Circuit are more difficult to explain, but it should be noted that the difference between the Second Circuit and the baseline circuits went away when the fifth regression was rerun with only nonsecurities cases.[98] This suggests that the awards in the Second Circuit may be lower *only* in securities cases. In any event, it should be noted that the lower fee awards from the Second and Ninth Circuits contrast with the findings in the Eisenberg-Miller studies, which found no intercircuit differences in fee awards in common-fund cases in their data through 2008.[99]

V. Conclusion

This article has attempted to fill some of the gaps in our knowledge about class action litigation by reporting the results of an empirical study that attempted to collect all class action settlements approved by federal judges in 2006 and 2007. District court judges approved 688 class action settlements over this two-year period, involving more than $33 billion. Of this $33 billion, nearly $5 billion was awarded to class action lawyers, or about 15 percent of the total. District courts typically awarded fees using the highly discretionary percentage-of-the-settlement method, and fee awards varied over a wide range under this method, with a mean and median around 25 percent. Fee awards using this method were strongly and inversely associated with the size of the settlement. Fee percentages were positively associated with the age of the case at settlement. Fee percentages were not associated with whether the class action was certified as a settlement class or with the

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[97]See note 75 supra. It should be noted that none of the results from the previous regressions were affected when the Ninth Circuit settlements were excluded from the data.

[98]The Ninth Circuit's differences persisted.

[99]See Eisenberg & Miller II, supra note 16, at 260.

political affiliation of the judge who made the award. Finally, there appeared to be some variation in fee percentages depending on subject matter of the litigation and the geographic circuit in which the district court was located. Fee percentages in securities cases were lower than the percentages in some but not all of the other litigation areas, and district courts in the Ninth Circuit and in the Second Circuit (in securities cases) awarded lower fee percentages than district courts in several other circuits. The lower awards in the Ninth Circuit may be attributable to the fact that it is the only circuit that has adopted a presumptive fee percentage of 25 percent.

EXHIBIT 3

Documents reviewed:

- Order on Fair Use (document 231, filed 6/23/25)

- Order on Class Certification (document 244, 7/17/25)

- Unopposed Motion for Preliminary Approval of Class Settlement (document 363, filed 9/5/25) and the exhibits thereto, including Class Action Settlement Agreement (document 363-3) ("Settlement Agreement")

- Supplemental Brief in Support of Motion for Preliminary Approval of Class Settlement (document 401, filed 9/22/25)

- Joint Response to the Court's Questions for Preliminary Approval Hearing on September 25, 2025 (document 418, filed 9/23/25)

- Transcript of Proceedings (9/25/25)

- Memorandum Opinion on Preliminary Approval of Class Action Settlement (document 437, filed 10/17/25)

- Transcript of Proceedings (11/13/25) ("Transcript")

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANDREA BARTZ, ANDREA BARTZ, INC., CHARLES GRAEBER, KIRK WALLACE JOHNSON, and MJ + KJ, INC., individually and on behalf of others similarly situated, Plaintiffs, v. ANTRHOPIC PBC, Defendant.	Case No. 3:24-cv-05417-WHA **DECLARATION OF WILLIAM B. RUBENSTEIN**

DECLARATION OF PROFESSOR WILLIAM B. RUBENSTEIN

1.   I am the Bruce Bromley Professor of Law at Harvard Law School and have been recognized as a leading national expert on class action law and practice. Class Counsel[1] seek a fee of $300 million (plus accrued interest), which constitutes 20% of the $1.5 billion settlement fund. Class Counsel have retained me to provide my expert opinion on the reasonableness of this request. After setting forth my qualifications to serve as an expert (Part I, *infra*), I state the following opinions:

- ***Class Counsel's lodestar reflects remarkable efficiency in the quantity of hours*** ***expended to bring about this $1.5 billion settlement*** (Part II, *infra*). The total number of hours Class Counsel expended in this case is about one-third of the norm for cases

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[1] By order dated July 17, 2025, this Court granted a motion for class certification and appointed Lieff Cabraser Heimann & Bernstein, LLP and Susman Godfrey LLP as "LibGen & PiLiMi Pirated Books Class Counsel." Order, *Bartz v. Anthropic PBC,* No. 3:24-cv-05417-WHA (N.D. Cal.), Dkt. 244 at 31. I refer to the firms as "Class Counsel" throughout.

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of this size. A qualitative assessment of the time spent provides strong support for the conclusion that Class Counsel accomplished significant work with admirable efficiency: Class Counsel report that they took or defended over 20 depositions, reviewed hundreds of thousands of pages of documents, litigated 17 motions to compel, generated a score of expert declarations across the critical issues in the case, engaged in extensive briefing here and in the Ninth Circuit on motions ranging from class certification through summary judgment, and were well along the road in preparing for a trial that was set to commence just months after the settlement was reached. Given that quantity of work, completed within the short arc of the case, there is little concern that Class Counsel have padded their lodestar (so as to lower their lodestar multiplier). Indeed, what sticks out as truly extraordinary here is the relationship between the number of hours expended and the recovery for the client: roughly speaking, Class Counsel secured (in gross) nearly $60,000 for every hour they have worked on the case; this recovery-per-hour worked is more than 3 times the mean and median for the largest class action cases.

- ***Class Counsel are entitled to a significant lodestar multiplier given the substantial risks they undertook and the unparalleled results they achieved for the class*** (Part III, *infra*). Class Counsel's $300 million fee request is 13.45 times higher than their current lodestar, and they project it will be 9.32 times higher following the extensive work still required in the litigation. Courts have assessed the meaning of lodestar multipliers in two key manners, each of which provides support for a significant multiplier in this case:

  - ✓ *Multifactor test*. Courts routinely approve common fund fee awards that embody a multiple of class counsel's lodestar in recognition of the risks that class counsel take in contingent fee matters and the results that they achieve for the class in a given case. Here, Class Counsel took significant risks, investing more than $20 million of their own time and money into an untested case against a well-funded Defendant represented by some of the largest law firms in the world; the case did not piggy-back on a government enforcement action (as many class actions do), nor was it one in a series of similar cases regularly pursued by class counsel (as many securities, antitrust, or consumer class actions are); it was an entirely novel endeavor, based on a completely new fact situation. Class Counsel's risks surely paid off when they secured for their clients what appears to be the largest recovery in a copyright class action in history and indeed one of the largest funds in class action history, with monetary damages available to 100% of the class, at very significant levels ($3,000/work recovery is four times the $750 statutory damage level and 15 times the $200 award for innocent infringement). Notably, working with the Court in this case, Class Counsel have helped develop a template for all future AI cases, of which there are many. This is the first AI case to tackle the key liability issues through summary judgment, the first AI case to certify a class, the first AI case to secure a significant settlement, the first AI case to provide notice to

a class (composed of both authors and publishers), the first to address questions of how to allocate "works" proceeds across these different owners. Put simply, this case invented a wheel, with the positive externalities of everything Class Counsel helped pioneer here likely to structure AI litigation in the United States for the next decade. There is no doubt that they are entitled to a significant multiple of their lodestar.

✓ ***Numerical comparison***. Empirical evidence shows the average multiplier to be about 2 times counsel's lodestar in all cases, with that number rising to 3.2 in large fund cases; but in many cases (a list of which is attached as Exhibit C) courts have awarded higher multipliers, including some at or above the level sought here. Nonetheless, numerical comparisons are somewhat constrained by several limitations in the available data: (1) there is no empirical evidence of the multipliers lawyers make in the vast majority of contingent fee cases (basic tort matters), but it is likely the multipliers in those cases are often quite high; (2) there is empirical evidence of multipliers in only about half of all class action cases; and (3) it is likely that lawyers most often propose, and by implication courts most often undertake, a cross-check in those cases in which multipliers are low, creating a selection bias problem with the available data. Thus, while the multiplier implied by Class Counsel's lodestar is at the high end of available data, it is surely a more normal data point across the full range of contingent fee cases. Moreover, there are non-trivial policy reasons for not over-relying on the cross check alone, as doing so can, *inter alia*, incentivize lawyers to prolong litigation unnecessarily.

2.   I have long been a proponent of the lodestar cross-check, explaining in my scholarship that simply comparing percentages across cases without reference to the lodestar multiplier, and other qualitative factors, provides courts little insight as to the reasonableness of a proposed fee in a particular case.[2] The same point, however, applies in reverse: simply comparing lodestar multipliers across cases without reference to qualitative factors (such as the *Vizcaino* factors regularly employed by courts in this circuit),[3] also provides little insight into the

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[2] *See* William B. Rubenstein, 5 *Newberg and Rubenstein on Class Actions* § 15:86 (6th ed. & Supp. 2023) [hereinafter "*Newberg and Rubenstein on Class Actions*"].

[3] *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-50 (9th Cir. 2002) (assessing the following factors when selecting a percentage fee award in a common fund case: (1) the results achieved for the class; (2) the risk of the litigation (including complexity of litigation); (3) benefits generated

reasonableness of a fee request. Here, the multiplier is high, but at the same time, class members

are receiving robust recoveries while paying a price below the Ninth Circuit's 25% benchmark, in

a case of first impression that faced serious hurdles on the road to an outstanding recovery. A 20%

fee would provide Class Counsel with a significant profit, but the record contains substantial

evidence by which the Court could find that Class Counsel's requested award is reasonable.

I.
BACKGROUND AND QUALIFICATIONS[4]

3.   I am the Bruce Bromley Professor of Law at Harvard Law School. I graduated

from Yale College, *magna cum laude*, in 1982 and from Harvard Law School, *magna cum laude*,

in 1986. I clerked for the Hon. Stanley Sporkin in the U.S. District Court for the District of

Columbia following my graduation from law school. Before joining the Harvard faculty as a

tenured professor in 2007, I was a law professor at the UCLA School of Law for a decade, and an

adjunct faculty member at Harvard, Stanford, and Yale Law Schools while a litigator in private

practice during the preceding decade. I am admitted to practice law in the Commonwealth of

Massachusetts, the State of California, the Commonwealth of Pennsylvania (inactive), the District

of Columbia (inactive), the U.S. Supreme Court, six U.S. Courts of Appeals, and four U.S. District

Courts.

4.   My principal area of scholarship is complex civil litigation, with a special emphasis

on class action law. I am the author, co-author, or editor of five books and more than a dozen

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by class counsel beyond the settlement fund; (4) the comparison between the proposed fee and
market rate; and (5) the burdens of the litigation for class counsel (including contingency basis,
length of litigation, expenses to counsel, and opportunity cost of foregone work)).

[4] My full c.v. is attached as Exhibit A.

scholarly articles, as well as many shorter publications (a fuller bibliography appears in my appended c.v.). Much of this work concerns various aspects of class action law. Since 2008, I have been the sole author of the leading national treatise on class action law, *Newberg on Class Actions*. Between 2008 and 2017, I rewrote the entire multi-volume treatise from scratch as its Fifth Edition and, subsequently, produced the treatise's Sixth Edition – now entitled, *Newberg and Rubenstein on Class Actions* – which was published in 2022. My work has been excerpted in casebooks on complex litigation, as noted on my c.v.

5.   My expertise in complex litigation has been recognized by judges, scholars, and lawyers in private practice throughout the country for whom I regularly provide consulting advice and educational training programs. Between 2010 and 2023, the Judicial Panel on Multidistrict Litigation (JPML) annually invited me to give a presentation on the current state of class action law at its MDL Transferee Judges Conference. The Federal Judicial Center invited me to participate as a panelist (on the topic of class action settlement approval) at its March 2018 judicial workshop celebrating the 50th anniversary of the JPML, *Managing Multidistrict and Other Complex Litigation Workshop*. The Ninth Circuit invited me to moderate a panel on class action law at the 2015 Ninth Circuit/Federal Judicial Center Mid-Winter Workshop. The American Law Institute selected me to serve as an Adviser on a Restatement-like project developing the *Principles of the Law of Aggregate Litigation*. In 2007, I was the co-chair of the Class Action Subcommittee of the Mass Torts Committee of the ABA's Litigation Section. I have often presented continuing legal education programs on class action law at law firms and conferences.

6.   My teaching focuses on procedure and complex litigation. I regularly teach the basic civil procedure course to first-year law students, and I have taught a variety of advanced

courses on complex litigation, professional responsibility concerns in aggregate litigation, remedies, and federal litigation. I have received honors for my teaching, including: the Albert M. Sacks-Paul A. Freund Award for Teaching Excellence, as the best teacher at Harvard Law School during the 2011–2012 school year; the Rutter Award for Excellence in Teaching, as the best teacher at UCLA School of Law during the 2001–2002 school year; and the John Bingham Hurlbut Award for Excellence in Teaching, as the best teacher at Stanford Law School during the 1996–1997 school year.

7.   My academic work on class action law follows a significant career as a litigator. For nearly eight years, I worked as a staff attorney and project director at the national office of the American Civil Liberties Union (ACLU) in New York City. In those capacities, I litigated dozens of cases on behalf of plaintiffs pursuing civil rights matters in state and federal courts throughout the United States. I also oversaw and coordinated hundreds of additional cases being litigated by ACLU affiliates and cooperating attorneys in courts around the country. I therefore have personally initiated and pursued complex litigation, including class actions.

8.   I have been retained as an expert witness in more than 120 cases and as an expert consultant in another 40 or so cases. These cases have been in state and federal courts throughout the United States, most have been complex class action cases, and many have been MDL proceedings. I have been retained to testify as an expert witness on issues ranging from the propriety of class certification to the reasonableness of settlements and fees, to the preclusive effect of class action judgments. I have been retained by counsel for plaintiffs, for defendants, and for objectors.

9.   Courts have also appointed me to serve as their expert witness in complex matters:

- In 2015, the United States Court of Appeals for the Second Circuit appointed me to argue for affirmance of a district court order that significantly reduced class counsel's fee request in a large, complex securities class action, a task I completed successfully when the Circuit summarily affirmed the decision on appeal.[5]

- In 2017, the United States District Court for the Eastern District of Pennsylvania appointed me to serve as an expert witness on certain attorney's fees issues in the National Football League (NFL) Players' Concussion Injury Litigation (MDL 2323). In my final report to the Court, I recommended, *inter alia*, that the Court should cap individual retainer agreements at 22%, a recommendation that the Court adopted.[6]

- In 2018, the United States District Court for the Northern District of Ohio appointed me to serve as an expert consultant to the Court on complex class certification and common benefit fees issues in the National Prescription Opiate Litigation (MDL 2804).

- The United States District Courts for the Southern District of New York and the Eastern District of Pennsylvania have both appointed me to serve as a mediator to resolve complex matters in class action cases.

10.   One of the functions I can provide as an expert witness is to present empirical evidence of class action practices from other cases. As part of my scholarly work on class action law, I have created and maintain a database containing data on over 1,000 class action lawsuits. Specifically, my research assistants coded the data from case reports appearing in the journal, *Class Action Attorney Fee Digest* (CAAFD). CAAFD was published monthly from January 2007 to September 2011 for a total of 57 issues and reported on 1,187 unique court-approved state and federal class actions. For each case, a CAAFD case abstract describes the awarding court and judge, the subject matter of the dispute, the settlement/judgment benefits, the attorney fee and

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[5] *See In re IndyMac Mortg.-Backed Sec. Litig.*, 94 F. Supp. 3d 517 (S.D.N.Y. 2015), *aff'd sub nom. DeValerio v. Olinski*, 673 F. App'x 87 (2d Cir. 2016).

[6] *In re Nat'l Football League Players' Concussion Inj. Litig.*, No. 2:12-md-02323-AB, 2018 WL 1658808, at *1 (E.D. Pa. Apr. 5, 2018) ("I adopt the conclusions of Professor Rubenstein and order that IRPAs' fees be capped at 22% plus reasonable costs.").

expense awards (both as requested by plaintiff's counsel and as approved by the court), the case

filing and attorney fee award dates, any named plaintiff awards, and miscellaneous data on case

and settlement/judgment administration. In creating the database from the CAAFD reports, my

research team cross-checked the accuracy of a subset of federal reports against source documents

from PACER; we found only one error – an understatement of the settlement benefit value by 2%

– in 726 data fields, or fewer than 0.15% of fields. I am therefore confident about the accuracy of

the data in my database and use it regularly as a source for my scholarship and expert witness

work.

        11.   Courts have often relied on my expert witness testimony.[7]

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[7] *See, e.g.*, *In re Genetically Modified Rice Litig.*, 764 F.3d 864, 872 (8th Cir. 2014); *In re Zetia (Ezetimibe) Antitrust Litig.*, No. 2:18-MD-2836, 2022 WL 18108387, at *7 (E.D. Va. Nov. 8, 2022); *Reed v. Light & Wonder, Inc.*, No. 18-CV-565-RSL, 2022 WL 3348217, at *1–2 (W.D. Wash. Aug. 12, 2022); *City of Westland Police & Fire Ret. Sys. v. MetLife, Inc.*, No. 12-CV-0256 (LAK), 2021 WL 2453972, at *2–3 (S.D.N.Y. June 15, 2021); *In re Facebook Biometric Info. Priv. Litig.*, No. 15-CV-03747-JD, 2021 WL 757025, at *10–12 (N.D. Cal. Feb. 26, 2021); *Kater v. Churchill Downs Inc.*, No. 15-CV-00612-RSL, 2021 WL 511203, at *1–2 (W.D. Wash. Feb. 11, 2021); *Wilson v. Playtika Ltd.*, No. 18-CV-5277-RSL, 2021 WL 512230, at *1–2 (W.D. Wash. Feb. 11, 2021); *Wilson v. Huuuge, Inc.*, No. 18-CV-5276-RSL, 2021 WL 512229, at *1–2 (W.D. Wash. Feb. 11, 2021); *Amador v. Baca*, No. 2:10-CV-01649-SVW-JEM, 2020 WL 5628938, at *13 (C.D. Cal. Aug. 11, 2020); *Hale v. State Farm Mut. Auto. Ins. Co.*, No. 12-0660-DRH, 2018 WL 6606079, at *10, 14 (S.D. Ill. Dec. 16, 2018); *Krakauer v. Dish Network, L.L.C.*, No. 1:14-CV-333, 2018 WL 6305785, at *5 (M.D.N.C. Dec. 3, 2018); *In re Nat'l Football League Players' Concussion Injury Litig.*, No. 2:12-md-02323-AB, 2018 WL 1658808, at *2–4 (E.D. Pa. Apr. 5, 2018); *In re Volkswagen "Clean Diesel" Mktg., Sales Pracs., & Prods. Liab. Litig.*, No. MDL 2672 CRB (JSC), 2017 WL 3175924, at *3 (N.D. Cal. July 21, 2017); *Aranda v. Caribbean Cruise Line, Inc.*, No. 1:12-cv-04069, 2017 WL 1369741, at *5 (N.D. Ill. Apr. 10, 2017), *aff'd sub nom. Birchmeier v. Caribbean Cruise Line, Inc.*, 896 F.3d 792 (7th Cir. 2018); *In re High-Tech Employee Antitrust Litig.*, No. 11-CV-02509-LHK, 2015 WL 5158730, at *9–10 (N.D. Cal. Sept. 2, 2015); *Asghari v. Volkswagen Grp. of Am., Inc.*, No. 13-CV-02529 MMM, 2015 WL 12732462, at *44 (C.D. Cal. May 29, 2015); *In re Syngenta AG MIR 162 Corn Litig.*, No. 14-md-2591-JWL, 2015 WL 2165341, at *5 (D. Kan. May 8, 2015); *Parkinson v. Hyundai Motor Am.*, 796 F. Supp. 2d 1160, 1172 (C.D. Cal. 2010); *Commonwealth Care All. v. Astrazeneca Pharm. L.P.*, No. CIV.A. 05-0269 BLS 2, 2013 WL 6268236, at *2 (Mass. Super. Aug. 5, 2013).

12.   I have been retained in this case to provide an opinion concerning the issues set forth in the first paragraph above. I am being compensated for providing this expert opinion. I was paid a flat fee in advance of rendering my opinion, so my compensation is in no way contingent upon the content of my opinion.

13.   In analyzing these issues, I have discussed the case with the counsel who retained me. I have also reviewed documents from this litigation and the related cases, a list of which is attached as Exhibit B, and I have reviewed the case law and scholarship relevant to the issues herein.

14.   Counsel responsible for creating a common fund are entitled to a fee from the fund according to the common fund doctrine. Rule 23 requires that the fee be "reasonable."[8] Courts differ in the methods that they employ to hit that mark, with most circuits utilizing a percentage method with a lodestar cross-check.[9] The Ninth Circuit gives its district courts discretion as to whether to use a percentage or lodestar method.[10] The Ninth Circuit requires its district courts to assess the reasonableness of a given award according to a multifactor test.[11] As discussed in ¶37,

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[8] Fed. R. Civ. P. 23(h) ("In a certified class action, the court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement.").

[9] *See Newberg and Rubenstein on Class Actions*, *supra* note 2, at § 15:67 (discussing empirical evidence on choice of percentage or lodestar method)

[10] *In re Optical Disk Drive Products Antitrust Litigation*, 959 F.3d 922, 929–30 ("District courts have discretion to choose which method they use to calculate fees, but their discretion must be exercised to reach a reasonable result. We have approved fee awards in class litigation using either the lodestar method or the percentage-of-recovery method.") (citation omitted).

[11] *See Vizcaino*, *supra* note 3.

infra, the Ninth Circuit encourages the use of a lodestar cross-check and of course this District

requires submission of that information.[12]

15.   The following sections consider two primary components of Class Counsel's

requested fee: their total hours (Part II, *infra*) and their lodestar multiplier (Part III, *infra*).

II.
CLASS COUNSEL'S HOURS DEMONSTRATE REMARKABLE EFFICIENCY

16.   Lest the cross-check require significant judicial resources to undertake, courts in

nearly every circuit have held that, for the purposes of a cross-check, they need not scrutinize each

individual billed hour but may instead focus on the general question of whether the fee award

appropriately reflects the degree of time and effort expended by the attorneys.[13]

17.   Counsel are entitled to be compensated for reasonable time spent at all points in the

litigation. Courts are cautioned to avoid engaging in an "*ex post facto* determination of whether

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[12] *Preliminary Approval*, Procedural Guidance for Class Action Settlements, available at https://cand.uscourts.gov/rules-forms-fees/northern-district-guidelines/procedural-guidance-class-action-settlements ("Although attorneys' fee requests will not be approved until the final approval hearing, class counsel should include information about the fees and costs (including expert fees) they intend to request, their lodestar calculation (including total hours), and resulting multiplier in the motion for preliminary approval."); *see also id.* at Final Approval ("All requests for approval of attorneys' fees must include detailed lodestar information, even if the requested amount is based on a percentage of the settlement fund.").

[13] *In re National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litig.*, 768 Fed. Appx. 651, 654 (9th Cir. 2019) ("[When conducting a lodestar cross-check,] the district court may rely on attorney fee summaries rather than actual billing records.") (citing *In re Rite Aid Corp. Sec. Litig.*, 396 F.3d 294, 306–07 (3d Cir. 2005), as amended, (Feb. 25, 2005) (noting that the "lodestar cross-check calculation need entail neither mathematical precision nor bean-counting," and that "[t]he district courts may rely on summaries submitted by the attorneys and need not review actual billing records"); *see also Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 50 (2d Cir. 2000) ("[W]here used as a mere cross-check, the hours documented by counsel need not be exhaustively scrutinized by the district court."); *see generally, Newberg and Rubenstein on Class Actions*, *supra* note 2, at § 15:86 n.13.

attorney hours were necessary to the relief obtained."[14] The issue "is not whether hindsight vindicates an attorney's time expenditures, but whether, at the time the work was performed, a reasonable attorney would have engaged in similar time expenditures."[15]

18.   I examine the hours that Class Counsel billed in two ways: *first*, by a quantitative comparison to the hours expended in similarly large cases (¶¶ 19-22, *infra*); and *second*, by a qualitative analysis of the tasks undertaken (¶¶ 23-24, *infra*).[16]

19.   *Quantitative Assessment.* In my database of more than 1,000 cases (*see* ¶ 10, *supra*), there are 9 cases with common fund sizes similar to this case: 7 of the settlements are between $1-$2 billion, one is $2.4 billion, and the final one is $6.5 billion. (in 2025 dollars). The hours class counsel expended to produce those common funds ranged from 37,466 to 677,000. Class Counsel's 26,191 hours (as of December 2025) fall far below that range.

20.   Further, the cases in the comparison set of large fund settlements unfolded over different total time periods. Thus, to normalize the comparison in another fashion, we divided the total hours in each case by the total number of days the case was pending, yielding the hours counsel billed each day the case was pending. These normalized calculations show that the *median* amount of time spent on class actions of similar magnitude was 95 hours/day, well above Class

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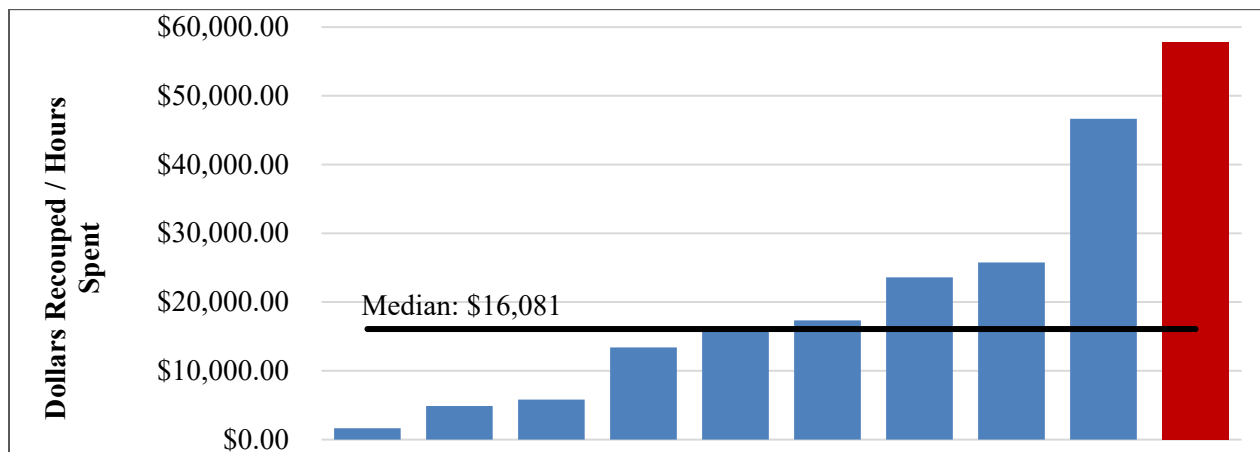[14] *Grant v. Martinez*, 973 F.2d 96, 99 (2d Cir. 1992).

[15] *Id.*

[16] Class Counsel did not provide me – nor did I ask to see – a breakdown of each hour expended, given the "more relaxed specificity and documentation standards [that] apply to examination of the lodestar" in the cross-check context. *Health Republic Ins. Co. v. United States*, 58 F.4th 1365, 1378 (Fed. Cir. 2023). *See also* note 13, *supra; Manier v. Sims Metal Mgmt.-Nw.*, No. 19-CV-00718-JST, 2022 WL 20184566, at *4 (N.D. Cal. Jan. 14, 2022) ("When conducting a lodestar cross-check . . . the courts seek to do rough justice, not to achieve auditing perfection.") (cleaned up).

Counsel's 55.6 hours/day, and the *average* was 104 hours/day, nearly double Class Counsel. Class Counsel, in other words, billed a much lower number of hours per day than the cases in the comparison set while achieving the same or, as it did in 6 of the 9 comparison cases, better results.

21.   Counsel's low number of hours supports the conclusions that they managed the litigation efficiently and did not pad their lodestar with excess hours. But that conclusion minimizes Class Counsel's achievement because not only did they efficiently manage their hours, but the recovery they produced is also extraordinarily large. Putting those two data points together (time and results) shows that Class Counsel secured about $57,300 every hour they worked on the case – this is about 3.6 times the median for the 9 comparably-sized class actions in my data base, as reflected in Graph 1 below.
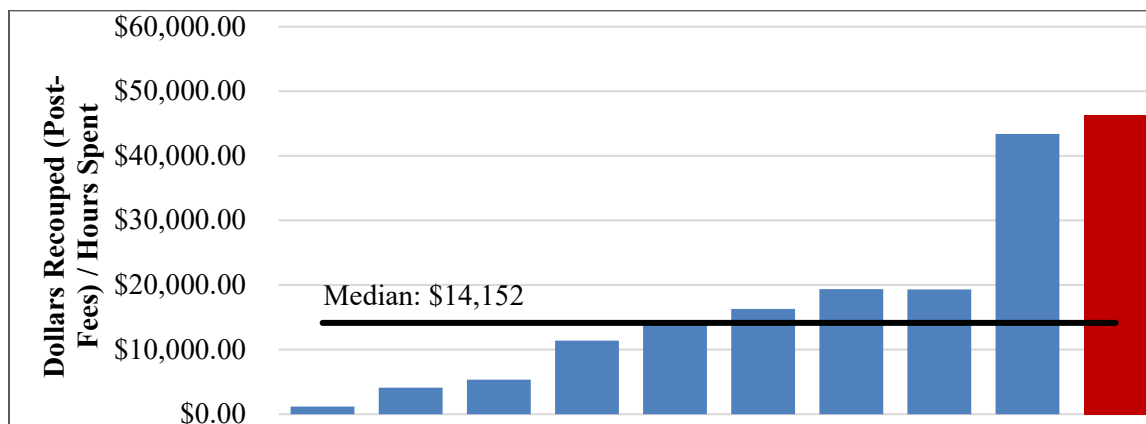
GRAPH 1
CLASS COUNSEL'S DOLLARS OBTAINED PER HOURS SPENT
COMPARED TO THAT IN CLASS ACTIONS OF SIMILAR SIZE

As remarkable, since the class here will pay, at most, 20% in fees, this means that the class members will receive about $45,817 for every hour class counsel expended, which is 3.2 times

higher than the median for class actions of this size, as reflected in Graph 2, and 3.1 times higher

than the average.

GRAPH 2
CLASS COUNSEL'S DOLLARS OBTAINED (POST-FEES) PER HOURS SPENT
COMPARED TO THAT IN CLASS ACTIONS OF SIMILAR SIZE

22.   The data presented in Graphs 1-2 provide strong quantitative support for the

conclusions that Class Counsel were efficient, that they have not attempted to pad their lodestar,

and that their efficiency was remarkably productive. These conclusions are confirmed by a more

qualitative assessment of the efforts that Class Counsel undertook.

23.   *Qualitative Assessment.* Class Counsel filed the initial complaint in this case on

August 19, 2024. Up to the filing of the present fee petition, Class Counsel cumulatively logged

about 26,191 hours of time. If an average litigator in a busy big firm practice bills about 2,200

hours/year,[17] the total hours expended here equate to about 12 lawyer years. Given that the case

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[17] Roughly speaking, 2,200 hours/year may be considered as one lawyer working "full time." The
National Association for Law Placement (NALP)'s most recent data available online, published in
May 2016, reflect the hours billed by firms in 2013 and 2014. *Update on Associate Hours Worked*,
NALP (May 2016), https://www.nalp.org/0516research. Those data show that, for lawyers at the

has been pending about one-and-a-third years at the time of the filing of the fee petition, the total

hours here amount to the equivalent of roughly 9 lawyers working more or less full time on the

case throughout that duration. That number seems quite reasonable in that, during that period,

Class Counsel's activities included:

- developing a thorough understanding of the new, developing, and ever-changing technology of AI – and, more specifically, of Anthropic's Claude AI program in particular – to determine the viability of a legal claim and the legal theory(s) that could support liability;

- researching the facts behind the AI program including how the defendant generated its large language model and how that model plausibly infringed protected copyrights;

- linking that factual investigation to the proper legal claims by researching relevant legal precedents under federal law;

- identifying potential class representatives and securing retention;

- identifying experts and working with them to develop core substantive arguments as well as responses to the defendant's likely experts;

- preparing for and participating in the Court-ordered "technology tutorial;"[18]

- developing the facts of the case through intensive discovery into, *inter alia*, the defendants use of "shadow libraries,"[19] encompassing "20 depositions, . . . hundreds of thousands [of] pages of documents, . . . inspections of at least 3 TB of training data, and [the litigation of] 17 discovery motions;"[20]

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largest firms (700+ lawyers), about 2/3 worked more than 2,200 hours/year, and the average number of hours worked in 2014 was 2,199.

[18] Motion for Preliminary Approval of Settlement, *Bartz v. Anthropic PBC*, No. 3:24-cv-05417-WHA (N.D. Cal.), Dkt. 363 at 9 n.6.

[19] *Id.* at 2.

[20] *Id. See also, id.* at 9-10 ("Plaintiffs served 186 requests for production, 29 interrogatories, and 65 requests for admission. In turn, Anthropic served 263 RFPs (approximately 87 directed to each named author), 75 interrogatories (25 per author), and 395 RFAs (47 for Graeber, 230 for Bartz, and 118 for Johnson). The Parties negotiated and the Court entered three stipulated discovery

- litigating a summary judgment motion on the cutting-edge issues at the core of this case, which generated the first legal ruling in the country on the substantive issues at the heart of the many AI litigations;[21]

- simultaneously researching, drafting, filing, and arguing a motion for class certification in this novel setting – involving "works" with both legal and beneficial owners[22] – and preparing to litigate the 23(f) petition after the Court's ruling;

- assembling the Works List "by matching millions of records of Anthropic's downloads to U.S. Copyright Office registration records;"[23]

- developing and obtaining approval for a plan to provide notice to potential class members regarding the certified class action and their options;

- engaging in multiple mediation sessions with Layn Phillips, including exchanging mediation briefs and engaging in a full day mediation session;

- developing a settlement agreement and all the associated documents and presenting these to the Court for preliminary approval;

- working with the Court and parties in refining the settlement and notice plans;

- undertaking regular communications with class members to update them on case proceedings;

- undertaking emergency efforts to stave off problematic third-party claims processors who sent problematic communications to absent class members.

24.   In sum, then, the range and depth of Class Counsel's efforts set forth in the prior

paragraph add important context to the number of hours they expended. Viewed in isolation, the

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protocols: a Protective Order, an ESI and Hard-Copy Document Protocol, and a Protocol for Inspection of Training Data and Source Code. These agreements governed production formats, metadata, claw-back procedures, and the mechanics of secure dataset inspections. Plaintiffs and Anthropic met and conferred dozens of times on search terms, custodians, privilege logging, and scheduling, and exchanged dozens of written proposals refining the discovery parameters.").

[21] *Bartz v. Anthropic PBC*, 787 F. Supp. 3d 1007 (N.D. Cal. 2025)

[22] *Bartz v. Anthropic PBC*, 791 F. Supp. 3d 1038 (N.D. Cal. 2025).

[23] Motion for Preliminary Approval of Settlement, *Bartz v. Anthropic PBC*, No. 3:24-cv-05417-WHA (N.D. Cal.), Dkt. 363 at 2.

number might leave the impression that this litigation followed some easy path to pre-ordained judgment; but this qualitative review demonstrates the opposite: this was carefully planned litigation pursued by dogged counsel who played a vital role in initially conceiving this litigation and then seeing it through a series of considerable hurdles to settlement in a remarkably short period of time. The outcome was never inevitable, and Class Counsel deserve commendation not just for achieving this landmark settlement, but also for doing so in such an efficient manner.

III.
A SIGNIFICANT LODESTAR MULTIPLIER IS WARRANTED

25.   Class Counsel's lodestar – the product of their rates and modest number of hours, given the $1.5 billion common fund – is $22,304,844 at present and they project it will be roughly $32,171,769 by the end of this matter.   That means that the 20% fee Class Counsel seek currently constitutes 13.45 times their lodestar but will likely fall to roughly 9.32 times their lodestar.

26.   In *Newberg and Rubenstein on Class Actions*,[24] I explain that there is more guidance from the circuit courts on whether a lodestar cross-check ought to be employed than there is on the question of how to assess the results of that cross-check and I note that the appellate courts' guidance on the latter question is not particularly illuminating. I explain that into that void, lower courts have adopted several methods to make sense of the cross-check outcome, and, in particular, to determine whether any positive multiplier that emerges from the cross-check is indeed warranted. Specifically, two primary approaches have emerged: (1) employing a multi-factor test, focusing especially on the risk of non-recovery, the quality of counsel's work, and the

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[24] This paragraph is adapted from *Newberg and Rubenstein on Class Actions*, *supra* note 2, at § 15:87.

results achieved; and (2) comparing the proposed multipliers to empirical evidence about multipliers in other cases. In the succeeding sections, I apply each of these methods.

(A)
A Multi-Factor Analysis Supports a Significant Multiplier as
Class Counsel Took Large Risks and
Secured an Extraordinary Quantity of Money for the Class

27.   The Ninth Circuit offers several reasonableness factors to consider in assessing a multiplier, including "the quality of representation, the benefit obtained for the class, the complexity and novelty of the issues presented, and the risk of nonpayment."[25] In the following paragraphs, I sort those factors into two categories – risks and results – and consider each in turn.

28.   Nine independent factors demonstrate the riskiness of this case:[26]

- *Non-piggyback case.*   Many class actions follow on the heels of government enforcement actions, such as securities class actions that follow SEC enforcement actions or antitrust cases that follow Department of Justice actions. Class counsel have a lower risk in such cases as their investigative costs may be lower; as they may be able to employ non-mutual offensive issue preclusion to establish liability without litigation;[27] and/or as the defendant has a natural incentive to settle with the government, thereby easing the road to settlement with the class. Not this case: no government agency has pursued concerns about copyright infringement in the exploding market for AI tools. Moreover, these Class Counsel have been deeply involved in the initial cases in this developing field, indicating that they independently detected, investigated, theorized, and executed the entire case largely from scratch.

- *Uncertain liability.*   Many class actions pursue obvious instances of wrongdoing publicized in the media, such as the BP oil spill case or the Volkswagen emissions case. These cases embody less risk because settlement is almost a given. This case is the opposite: there was no high-profile prior exposé of the Defendant's actions here and liability was anything but pre-ordained. Indeed, Class Counsel report that it was their

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[25] *In re Apple Inc. Device Performance Litig.*, 50 F.4th 769, 784 (9th Cir. 2022).

[26] The point is not to look at Counsel's risks *ex post*, but rather to demonstrate the strength of the achievement compared to the risks *ex ante*.

[27] *See, e.g.*, *Parklane Hosiery Co., Inc. v. Shore*, 439 U.S. 322 (1979).

efforts during the discovery period that revealed, for the first time, the nature and extent of Anthropic's use of the LibGen and PiLiMi datasets.

- *Novelty.* In many class actions, application of the antitrust, securities, or consumer laws is based on well-established precedent and enables counsel, at the outset, to gauge – with some certainty – the chances of success in the new case. Not so here: this case turned on application of complex legal norms in a novel context, with hotly-contested facts, and enormous companies across the tech spectrum strongly opposing Class Counsel's approach to the legal claim. Indeed, prior to this case, no court had ever found an AI company liable for piracy; and no court had ever even certified a class in these circumstances. The case embodied significant risk because the outcome was so uniquely unpredictable.

- *High stakes.* There is fierce competition in the AI market and Defendant possessed significant incentives to defeat claims that they had cheated in their rush to the market. Given the magnitude of the issues in this case, Anthropic surely defended it with special interest and vigor.

- *High cost.* Class Counsel report a lodestar above $22 million to date, plus additional hard cost expenses (now including a $15 million notice program). This means that Class Counsel have loaned the class more than $30 million dollars – most when the odds were long – and risked losing every penny of it on the outcome of this case.

- *Unshared risk.* In many class action matters, particularly of this magnitude, the class is represented by a collection of plaintiffs' firms.[28] This means that the lawyers can spread the risk among the various firms. Here, two law firms shouldered nearly all of the risk.

- *Well-funded, yet volatile, Defendant.* Anthropic is a well-capitalized corporation boasting an enterprise valuation of $241 billion.[29] While Class Counsel were funding this case themselves, with more than twenty million dollars of their own money, they were up against a Defendant with almost unlimited – and apparently constantly expanding – resources. At the same time, Anthropic exists in a developing and highly competitive environment and reported no profits last year. Thus, the nature of the

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[28] *See, e.g.*, *Manual for Complex Litigation (Fourth)* § 10.22 (2004) (discussing presence of multiple counsel in complex litigation and advising judges on how to manage); Judith Resnick et al., *Individuals Within the Aggregate: Relationships, Representation, and Fees*, 71 N.Y.U. L. Rev. 296, 321 n.74 (1996) (describing a class action "in which some 60 firms are reportedly involved").

[29] *See* Yahoo! Finance, *Anthropic (ANTH.PVT) – Summary*, https://finance.yahoo.com/quote/ANTH.PVT/ (indicating enterprise valuation of $241 billion for Defendant Anthropic as of November 18, 2025).

Defendant's business meant that Class Counsel litigated against _**both**_ a well-funded adversary _**and**_ yet one plausibly unable to satisfy any large judgment against it – a uniquely double-sided risk.

- *Powerful Defense firms.* Anthropic exerted its financial strength by retaining high-priced counsel from three enormous law firms: Arnold & Porter Kaye Scholer LLP is one of the largest, most expensive, and well-respected firms in the country;[30] the same is true of Cooley LLP[31] and Morrison & Foerster LLP.[32] Lead Counsel's risk was increased significantly by the skill, depth, resources, and tenacity of the defense firms they faced.

- *Opportunity costs.* In a normal class action lawsuit, it is fair to conclude that class counsel's devotion of time and resources prevents them from pursuing simpler, bread-and-butter, actions, which might have a higher expectation of settlement and hence ease of recovery of a contingent fee. That statement applies with particular force here, as Lieff Cabraser and Susman Godfrey are two of the nation's leading class action firms, with significant opportunities elsewhere; indeed, Susman Godfrey regularly handles cases for paying clients without any contingent risk.

29.   These nine points demonstrate what seems incontestable: Class Counsel took large risks in litigating this case from inception to judgment. Like any investor that takes large risks, these attorneys are entitled to a return on their investment, so long as the risks they took paid off. I will now turn to that analysis.

30.   At least eight components of this case's outcome speak to the results Class Counsel obtained in this matter.

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[30] *See* Vault, *Arnold & Porter Kaye Scholer Company Profile*, https://vault.com/company-profiles/law/arnold-porter, (ranking Arnold & Porter as the 33rd most prestigious law firm in the United States and noting that Arnold & Porter employs over 1,000 attorneys).

[31] *See* Vault, *2026 Vault Law 100*, https://legacy.vault.com/best-companies-to-work-for/law/top-100-law-firms-rankings (ranking Cooley as the 22nd most prestigious law firm in the United States).

[32] *See* Vault, *Morrison & Foerster Company Profile*, https://vault.com/company-profiles/law/morrison-foerster-llp, (ranking Morrison & Foerster as the 24th most prestigious firm in the United States and noting that the firm employs over 1,000 attorneys).

- *Significant legal victory*. The class certification and summary judgment rulings in this matter are landmark achievements in this novel area of law. As discussed below (*see infra* ¶31), given the proliferation of AI-related copyright cases, the Court's summary judgment ruling will have a significant impact on all such litigation throughout the United States. Class Counsel's success on a piece of that motion has accordingly generated important law in a manner many class actions do not and indeed is likely to serve as a template strategy for AI litigation elsewhere.

- *Significant monetary relief*. Put simply, $1.5 billion is an extraordinary sum of money. This is likely the largest copyright class action in history and among the largest class action outcomes of any kind. And of course the common fund is entirely non-reversionary: the Defendant will be disgorged this full amount.

- *Significant non-monetary relief*. The Settlement requires the Defendant to "destroy all the original files of works torrented/downloaded from Library Genesis or Pirate Library Mirror, and any copies that originate from the torrented copies," subject to certain legal preservation obligations.[33] The Settlement also requires the Defendant to certify that "neither the LibGen or PiLiMi datasets, nor any portions of those datasets, were in the training corpus of any of its commercially released large language models."[34]

- *Relief for 100% of the class.* All works in the Class are eligible for relief and each is treated similarly, receiving a *pro rata* amount of the Settlement Fund.

- *Cash relief*. Class actions sometimes end in settlements that return class members little direct compensation, occasionally nothing more concrete than coupons or recoveries going exclusively to third party *cy pres* recipients.[35] The *Manual for Complex Litigation* therefore warns federal judges overseeing class action settlements to be on the lookout for settlements "granting class members illusory nonmonetary benefits, such as discount coupons for more of defendants' product. . . ."[36] The settlement secured in this case will deliver cash compensation directly to class members, a form of recovery that speaks highly of the case's outcome.

- *Meaningful per-Class Member relief*. Not only does this settlement provide cash payments to class members, but the payments are significant when compared to the

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[33] Dkt. 363-3 ¶ 2.2.

[34] Dkt. 363-3 ¶ 3.1.

[35] *See Newberg and Rubenstein on Class Actions*, *supra* note 2, at §§ 12:7 to 12:13 (on nonpecuniary damages).

[36] *Manual for Complex Litigation (Fourth)* § 21.61 (2004).

estimated recoverable damages. The Copyright Act enables $750 damages per violation, reduced to $200 for innocent violations. Here, each work will receive at least $3,000, four times the former number and 15 times the latter.

- **Straightforward claims process.** Class actions often end with settlements requiring class members to file claims. The claim-filing process may often dissuade class members from making the effort, particularly in small-claim situations. The *Manual for Complex Litigation* therefore warns federal judges overseeing class action settlements to be on the lookout for settlements "imposing such strict eligibility conditions or cumbersome claims procedures that many members will be unlikely to claim benefits . . . ."[37] Here, the claims process is so straightforward that thousands of Class Members already have filed claims; moreover, the extensive efforts put into generating the works list will enable pre-populated claims forms. Indeed, some class members may even receive a check even without filing a Claim Form if they are listed as a claimant by another rightsholder.

- **No hint of collusion.** A critical concern in class suits is that the class's agents might be tempted to sell out the class by agreeing to a low recovery in return for a high fee. The *Manual for Complex Litigation* therefore warns federal judges overseeing class action settlements that "[a]ctive judicial oversight of the settlement process [is necessary to] prevent collusion between counsel for the class and defendant and [to] minimize the potential for unfair settlements."[38] Here, there is not a hint of collusion: the parties engaged in significant adversarial litigation, including summary judgment and class certification motions and the exchange of key discovery information, followed by a contested mediation before a well-respected former federal judge. There is no evidence whatsoever of Class Counsel selling out the Class's interest – indeed, Class Counsel's continued commitment to seeing through the complex claims resolution process in this case is strong and ongoing evidence to the contrary.

31.   Finally, beyond these eight case-specific bullet points lies an extraordinary achievement of Class Counsel in this matter: they have developed the framework for AI cases in the United States that is likely to be applied in numerous billion-dollar cases for many years hereafter. This Court pushed the parties to efficiently tee up the key legal issues engendered by

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[37] *Manual for Complex Litigation (Fourth)* § 21.61 (2004).

[38] *Manual for Complex Litigation (Fourth)* § 22.923 (2004) (cleaned up).

training large language models on copyrighted materials, the Court then undertook a rigorous

analysis of those issues rendering a Solomonic decision that enabled a landmark settlement, the

Plymouth Rock of AI litigation. In the course of hitting that mark, the Court certified a works

class in a particularly careful manner, sensitive to the dual legal and beneficial ownership of many

copyrighted materials. Now in implementing the settlement, the parties and the Court have

wrestled to the ground how to effectuate matters like notice and claims administration in this

complex but critically important setting. There are roughly 50 AI-related class action lawsuits in

the United States at present,[39] many against the largest tech companies in the country. It would

not be at all surprising if many of those cases now followed the model this Court has generated in

this case, with the remarkable assistance of these Class Counsel. Class Counsel are properly

rewarded from a common fund for the services they provided to their present clients. But it is not

at all inappropriate to acknowledge the positive externalities of their actions,[40] given that they are

serving as "private attorneys general"[41] – and I know few cases that have generated as significant

positive externalities as the AI litigation template that has emerged from this matter.

      32.   These nine risks and nine results show that Class Counsel took significant risks in

investing substantial capital and labor in highly adversarial litigation without the promise of any

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[39] *See* Chat GPT Is Eating the World, *Updated map of all 42 copyright suits v. AI companies (Jun. 12, 2025)*, https://chatgptiseatingtheworld.com/2025/06/12/updated-map-of-all-42-copyright-suits-v-ai-companies-jun-12-2025/.

[40] William B. Rubenstein, *Why Enable Litigation?: A Positive Externalities Theory of the Small Claims Class Action*, 74 UMKC L. Rev. 709 (2006).

[41] *See* William B. Rubenstein, *On What A "Private Attorney General" Is – and Why It Matters*, 57 Vand. L. Rev. 2129 (2004).

easy return on that investment, and Class Counsel shouldered that risk superbly, prevailing at each

critical juncture and generating an enormously high return for the client class.

(B)
The Proposed Multiplier is at the High End of Available Data,
But Those Data Reflect Certain Limitations

33.   The available empirical evidence shows that the average percentage fee award

generally embodies a positive lodestar multiplier. In five studies with pertinent data, the average

lodestar multiplier ranged from 1.42 to 3.89,[42] meaning that, in the average case, the percentage-

of-the-fund method yielded an award to class counsel of about 2 times their normal hourly rates.

34.   All of the empirical studies with pertinent data also show that multipliers tend to

rise as the size of the class's fund increases,[43] with the average multiplier in these larger-fund cases

across the four studies with data being 3.20.   The "larger funds" in these studies started at modest

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[42] *Newberg and Rubenstein on Class Actions*, *supra* note 2, at § 15:89 (citing William B. Rubenstein et al., *Class Action Fee Awards 2006–2011: An Empirical Study* tbl.14) (1.42 average multiplier in 790 cases from 2006-2011); Theodore Eisenberg, Geoffrey Miller & Roy Germano, *Attorneys' Fees in Class Actions: 2009-2013*, 92 N.Y.U. L. Rev. 937, 965 tbl.12 (2017) [hereinafter "Eisenberg & Miller III"] (1.48 average multiplier in 294 cases from 2009-2013); Brian T. Fitzpatrick, *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical Legal Stud. 811, 833-34 tbl.9 (2010) (1.65 average multiplier in 204 cases from 2006-2007); Theodore Eisenberg & Geoffrey P. Miller, *Attorney Fees and Expenses in Class Action Settlements: 1993-2008*, 7 J. Empirical Legal Stud. 248, 272 tbl.14 (2010) [hereinafter "Eisenberg & Miller II"] (1.81 average multiplier in 368 cases from 1993-2008); Stuart J. Logan, Beverly C. Moore & Jack Moshman, *Attorney Fee Awards in Common Fund Class Actions*, 24 Class Action Rep. 167, 167 (2003) [hereinafter "Logan, Moore & Moshman"] (3.89 average multiplier in 1,120 cases from 1973-2003).

[43] *See* Eisenberg & Miller III, *supra* note 42, at 967 tbl.13 (2.72 average multiplier in 35 cases over $67.5 million); Eisenberg & Miller II, *supra* note 42, at 274 tbl.15 (3.18 average multiplier in 40 cases over $175.5 million); *Newberg and Rubenstein on Class Actions*, *supra* note 2, at § 15:89 (2.39 average multiplier in 89 cases over $44.6 million); Logan, Moore & Moshman, *supra* note 42, at 167 (4.5 average multiplier in 64 cases over $100 million).

levels (two below $100 million, one at $100 million, and the fourth at $175.5 million), implying that isolation of multipliers in a set of larger funds alone might yield an average multiplier higher than 3.2.

35.   While the multiplier sought here is higher than the average multiplier in these studies' larger fund cases, it is not a complete outlier. In appropriate circumstances, courts have approved percentage awards embodying lodestar multipliers at or above the range sought here. In Exhibit C, I provide a list of 94 cases with multipliers of 4 or greater, 60 of which are cases with multipliers of 5 or greater. The reported cases on this list include cases approving multipliers as high as 19 and encompass 3 cases at or above the current (13.45) level of Class Counsel's multiplier and 7 above the (9.32) level Class Counsel project based on estimated future hours. This list is not meant to be either exhaustive or representative of all multipliers that courts have approved. Rather, it demonstrates that courts have approved percentage awards that embody multipliers consistent with the multiplier sought here in appropriate circumstances.

36.   Moreover, while the multiplier sought here is at the higher end of what courts have approved, that conclusion is likely exaggerated given at least three limitations in the empirical data on multipliers:

- *First,* there is no publicly-available empirical data about multipliers in the vast majority of contingent fee matters – individual tort cases – as the fees in these cases arise out of private contracts between attorney and client and need no court approval. However, many large-scale tort practices settle large volumes of cases with insurance companies, with the law firms undertaking little or no legal work prior to the settlement.[44] As tort attorneys in these matters tend to take 30-40% of

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[44] *See* Nora Freeman Engstrom, *Run-of-the-Mill Justice*, 22 Geo. J. Leg. Ethics 1485, 1526 (2009) (describing "settlement mills" and explaining that in one large settlement mill, "claims usually settled after only four-to-six hours of employee (not necessarily attorney) effort," while at another, "'regular run-of-the-mill cases' required only two-to-three hours of attorney time").

the recoveries, their lodestar multipliers are likely very high. So too, in many mass tort MDLs, lawyers have large inventories of contingent fee cases, but perform little actual legal work as most is undertaken by a central plaintiffs' steering committee; federal judges have expressed such concern about the resulting profits to the individual tort lawyers in some of these MDLs that they have often capped the amounts these lawyers are permitted to charge their clients in these cases.[45]

- *Second,* the empirical evidence of multipliers in class action cases is similarly limited as courts undertake a lodestar cross-check in only about half of all cases.[46]

- *Third*, it is likely that lawyers are more prone to propose, and therefore courts to undertake, a cross-check in those cases in which multipliers are low, creating a selection bias problem with the available data. For instance, many courts have held that "a lodestar cross check need not be performed where plaintiff's counsel achieves a significant result through an early settlement"[47] – in other words, in cases where a multiplier is likely to be significant.

Given these limitations in the available multiplier data, the multiplier sought here is likely a more

normal data point across the full range of contingent fee cases than it may appear.

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[45] *See In re Nat'l Football League Players' Concussion*, 2018 WL 1658808, at *4 (adopting report of court-appointed expert (Professor Rubenstein) recommending 22% fee cap and summarizing prior court approaches to fee caps).

[46] *Newberg and Rubenstein on Class Actions*, *supra* note 2, at § 15:89 (reporting that courts performed a cross-check that in 53% of the percentage cases in one six-year (2003–2008) study and in 42% of cases in another five-year (2009–2013) study).

[47] *See Rankin v. Am. Greetings, Inc.*, No. 2:10-CV-01831-GGH, 2011 WL 13239039, at *2 (E.D. Cal. July 6, 2011) ("Furthermore, in accordance with Ninth Circuit precedents, district courts within the Ninth Circuit have recognized that a lodestar cross check need not be performed where plaintiff's counsel achieves a significant result through an early settlement."); *Glass v. UBS Fin. Servs., Inc.*, No. C-06-4068 MMC, 2007 WL 221862, at *16 (N.D. Cal. Jan. 26, 2007), *aff'd*, 331 F. App'x 452 (9th Cir. 2009) ("Under the circumstances presented here, where the early settlement resulted in a significant benefit to the class, the Court finds no need to conduct a lodestar cross-check."); *see also Lopez v. Youngblood,* No. CV-F-07-0474 DLB, 2011 WL 10483569, at *14 (E.D. Cal. Sept. 2, 2011) ("A lodestar cross-check is not required in this circuit, and in a case such as this, is not a useful reference point.") (citing *Glass v. UBS Fin. Servs., Inc.*, No. C-06-4068 MMC, 2007 WL 221862, at *16 (N.D. Cal. Jan. 26, 2007)).

(C)
Over-reliance On the Multiplier Alone May Be Unwarranted

37.   The Ninth Circuit – which handles the greatest number of class actions – has long

held that a lodestar cross-check "may provide a useful perspective on the reasonableness of a given

percentage award,"[48] and "encouraged"[49] District Courts to undertake one, but the Circuit has

"consistently refused to adopt a crosscheck requirement,"[50] and in 2020, the Circuit again refused

to "do so once more."[51]

38.   The implication of that statement is that there are situations in which the lodestar

approach – and thus a lodestar cross-check – may be unhelpful. Indeed, courts have found the tool

inapplicable or unnecessary in certain situations.   *First*, if class counsel's achievement

encompassed significant non-litigation time, courts have held that a lodestar cross-check "would

not be valuable tool to help assess"[52] the reasonableness of the fee request. *Second*, as just noted,

where class counsel quickly achieves a strong settlement, courts have sometimes eschewed a

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[48] *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1050 (9th Cir. 2002).

[49] *In re Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 944 (9th Cir. 2011) ("[W]e have also encouraged courts to guard against an unreasonable result by cross-checking their calculations against a second method.").

[50] *Farrell v. Bank of Am. Corp., N.A.*, 827 F. App'x 628, 630 (9th Cir. 2020).

[51] *Id.*

[52] *See, e.g., Kater v. Churchill Downs Inc.*, No. 15-CV-00612-RSL, 2021 WL 511203, at *2 (W.D. Wash. Feb. 11, 2021) ("Given the unique circumstances presented by this litigation, in particular the significant amount of non-legal work that had to be performed to turn back industry efforts to obtain protective legislation and to prevent participation in this lawsuit, the Court concludes that a lodestar cross-check would not be a valuable tool to help assess the reasonableness of Class Counsel's fee request."); *Wilson v. Playtika Ltd.*, No. 18-CV-5277-RSL, 2021 WL 512230, at *2 (W.D. Wash. Feb. 11, 2021) (same); *Wilson v. Huuuge, Inc.*, No. 18-CV-5276-RSL, 2021 WL 512229, at *2 (W.D. Wash. Feb. 11, 2021) (same).

lodestar cross-check, likely on the premise that applying one in those circumstances would incentivize counsel to continue the case (so as to run up their lodestar and lower their multiplier) despite their efficient success.[53]   *Third*, where analysis of qualitative factors provides strong support for the percentage award, some courts have held that a cross-check is unnecessary.[54] *Fourth*, if a settlement does not stand alone but is one of a group of cases, it is often difficult to attribute lodestar to any one specific case rendering application of a lodestar cross-check problematic.[55]   *Fifth,* courts have noted that the more involved they are in overseeing a case – as

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[53] *See supra* note 47.

[54] *See, e.g.*, *Ahlman v. Barnes*, No. SACV20835JGBSHKX, 2022 WL 16957837, at *5 (C.D. Cal. Sept. 12, 2022) (noting fees were far lower than anticipated and concluding that "[t]he court is satisfied that a lodestar 'cross-check' is not required"); *Lopez v. First Student, Inc.*, No. EDCV191669JGBSHKX, 2022 WL 618973, at *6 (C.D. Cal. Feb. 8, 2022) (approving award of 30% after reviewing qualitative factors and stating, "[t]he Court is satisfied that a lodestar 'cross-check' is not required"); *Odom v. ECA Mktg., Inc.*, No. EDCV20851JGBSHKX, 2021 WL 7185059, at *6 (C.D. Cal. Dec. 22, 2021) (similar); *Hirsh v. WW N. Am. Holdings, Inc.*, No. 219CV9782DSFAFMX, 2021 WL 4622394, at *1 (C.D. Cal. Feb. 12, 2021) (similar); *Ahmed v. HSBC BANK USA*, No. EDCV152057FMOSPX, 2019 WL 13027266, at *6 (C.D. Cal. Dec. 30, 2019) (*"*In short, consideration of the foregoing factors supports class counsel's request for attorney's fees in the amount of 25% of the settlement fund, or $600,000. The court, therefore, is satisfied that a lodestar 'cross-check' is not required."); *Galarza v. Kloeckner Metals Corp.*, No. CV174910FMOPJWX, 2019 WL 12872965, at *6 (C.D. Cal. Nov. 12, 2019) (same); *Moodie v. Maxim Healthcare Servs., Inc.*, No. CV 14-3471 FMO (ASX), 2019 WL 13108327, at *6 (C.D. Cal. Nov. 12, 2019) (same); *Bendon v. DTG Operations, Inc.*, No. EDCV160861FMOAGRX, 2018 WL 4976511, at *8 (C.D. Cal. Aug. 22, 2018), *judgment entered,* No. EDCV160861FMOAGRX, 2018 WL 4959047 (C.D. Cal. Aug. 22, 2018); *Wannemacher v. Carrington Mortg. Servs., LLC*, No. SACV122016FMOANX, 2014 WL 12586117, at *10 (C.D. Cal. Dec. 22, 2014) (similar); *Bautista v. Harvest Mgmt. Sub LLC*, No. CV1210004FMOCWX, 2014 WL 12579822, at *13 (C.D. Cal. July 14, 2014) (similar); *Ladore v. Ecolab, Inc.*, No. CV 11-9386 FMO (JCX), 2013 WL 12246339, at *11 (C.D. Cal. Nov. 12, 2013) (similar).

[55] *See, e.g.*, *Bendixen v. Sprint Commc'ns Co. L.P.*, No. 3:11-CV-05274-RBL, 2013 WL 2949569, at *3 (W.D. Wash. June 14, 2013) (noting, in a multiple-case situation, although undertaking a cross-check on a global basis, that: "In terms of a lodestar crosscheck, the overlapping nature of fiber-optic-cable right-of-way discovery, motions practice, research, litigation, and settlement

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this Court has been in this matter – the less importance attaches to a cross-check,[56] seemingly on

the theory that the court's oversight is itself a cross-check. Finally, courts are judicious in their

application of a lodestar cross-check, as misapplication can lead to reversal and/or prolong fee

litigation unnecessarily;[57] for example, the Ninth Circuit recently reversed a district court decision

for relying (in large part) on the cross-check to limit a fee award below the benchmark in one

case,[58] and in another, the Circuit noted that a district court had (harmlessly) erred in applying the

cross-check.[59]

      39.   There are also good policy reasons for not over-relying on the lodestar cross-check

alone:

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efforts across the country for more than a decade . . . have prevented Settlement Class Counsel from segregating their fees and expenses into a 'Washington-only' category or similar categories for other states.").

[56] *See, e.g., Andrews v. Plains All Am. Pipeline L.P*., No. CV154113PSGJEMX, 2022 WL 4453864, at *2 (C.D. Cal. Sept. 20, 2022) ("Due to the exceptional circumstances of this case and the Court's extensive involvement in supervising the last seven years of litigation, the Court diverts from its usual practice and finds it unnecessary to cross-check the reasonableness of the requested award using the lodestar method."); *see also Senne v. Kansas City Royals Baseball Corp*., No. 14-CV-00608 JCS, 2023 WL 2699972, at *20 (N.D. Cal. Mar. 29, 2023), *aff'd sub nom. Senne v. Concepcion*, No. 23-15632, 2023 WL 4824938 (9th Cir. June 28, 2023) (noting that "[a]rguably, a lodestar cross-check is not required here because the Court has been extensively involved in supervising this litigation and has observed first-hand the monumental effort Class Counsel has put into this case" but performing a "rough calculation" nonetheless).

[57] *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983) ("A request for attorney's fees should not result in a second major litigation.").

[58] *Reyes v. Experian Info. Sols., Inc*., 856 F. App'x 108, 111 (9th Cir. 2021).

[59] *In re Wells Fargo & Co. S'holder Derivative Litig*., 845 F. App'x 563, 565 n.3 (9th Cir. 2021) (stating that "the district court erred when performing a cross-check for reasonableness using the lodestar method because it summarily dismissed objections to the rates of staff attorneys without analysis or reasoning" but finding that even if the objection had been accepted, and the multiplier adjusted, the amount awarded would not have been unreasonable).

- *First,* the high multiplier here reflects counsel's efficiency in prosecuting the case vigorously and competently, while settling the case for an extraordinary recovery.[60] A strong, but efficient, settlement poses a policy dilemma for courts awarding fees. If the Court lowers the requested fee because of the large multiplier, it thereby generates perverse incentives for future cases: counsel finding themselves with excellent class recoveries *too early in a case* will simply prolong the litigation unnecessarily until their lodestar reaches a level that disciplines the multiplier into a reasonable range. As just explained above,[61] for this reason, courts in this situation often eschew the cross-check as an unhelpful metric in measuring the fee award. This Court could reach a similar conclusion – to not *over-rely* on the cross-check in these circumstances – even after *undertaking* the cross-check analysis.

- *Second,* outside the single arena of class action fee awards, courts have studiously avoided looking at a lawyer's profit as a measuring stick of the reasonableness of the price of an attorney's services, finding that such an inquiry opens a Pandora's box.[62]

- Indeed, *third*, a lodestar cross-check may make the most sense when class members are paying a very high price for legal services – a third, or 40%, of their recovery to class counsel – but it recedes in importance as the costs of legal services decrease. When prices are high, they beg the question of whether that exorbitant cost reflects real work or excess profit. As prices come down to, or below, the norm, fears of overpayment recede and policy concerns about over-relying on profit as the decisive factor may outweigh them.

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[60] *See supra* ¶ 32.

[61] *See supra* text accompanying note 53.

[62] *See Shaffer v. Superior Ct.*, 33 Cal. App. 4th 993, 1001, 1003 (1995) ("If a law firm's profit margin were relevant to the analysis of the conscionability of its fees, a veritable Pandora's Box of questions and problems would be opened. For example, how are we to define 'profit margin.' Is it gross revenues minus total costs? If so, are those numbers measured on an accrual basis, a cost basis, or some other basis? Are they to be evaluated in absolute dollar terms or in terms of a percentage of its costs. Is every single item of cost incurred by a firm (e.g., both capital expenditures and costs of operations) to be part of the calculation? . . . Examination of profits would penalize law firms which are able to produce at costs substantially less than their competitors. It would unfairly penalize the efficient and reward the inefficient. Additionally, it would place courts in the position of supervising attorney's fees on the basis of individual profit margins instead of the going market price for given services. This would be . . . bad public policy.").

40.   In my scholarship, I am a strong proponent of a lodestar cross-check,[63] and am generally skeptical about arguments against using it,[64] but in the preceding sections I have identified potential data and policy shortcomings of the cross-check. I want to be clear that I am in no way disclaiming my belief that the cross-check remains the single most valuable tool for assessing whether a fee award would constitute a windfall – unlike comparing percentages across cases, the cross-check singularly identifies the profit (over hourly rates) that class counsel seek and hence speaks directly to the windfall issue. However, the multiplier itself is just a number and assessing whether it is, in fact, a windfall is a nuanced undertaking requiring comparison to other multipliers (without complete data) and, more importantly, undertaking a true qualitative assessment of the achievements of the case. Here, that inquiry reveals very successful litigation, against significant odds, of immense importance going forward.

41.   Thus, in my opinion, there is significant evidence in the record of this case to support the conclusion that Class Counsel have earned a significant multiplier.

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[63] *See Newberg and Rubenstein on Class Actions*, *supra* note 2, at § 15:86.

[64] I have argued that these concerns are somewhat exaggerated and can be minimized, see *Newberg and Rubenstein on Class Actions*, *supra* note 2, at § 15:86, a position the California Supreme Court has endorsed. *See Laffitte v. Robert Half Internat. Inc.*, 376 P.3d 672, 687 (Cal. 2016) ("We tend to agree with the amicus curiae brief of Professor William B. Rubenstein that these concerns [about the lodestar cross-check] are likely overstated and the benefits of having the lodestar cross-check available as a tool outweigh the problems its use could cause in individual cases."). Regardless, this core debate about the efficacy of a cross-check recedes in relevance in this case for the reasons outlined in this textual paragraph.

42.   I have testified that:

- Class Counsel's lodestar reflects a remarkably low number of hours for a matter of this magnitude, showing great efficiency; and,

- Class Counsel are entitled to a significant lodestar multiplier given the risks they undertook and the unparalleled results they achieved for the class.

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December 3, 2025   William B. Rubenstein

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EXHIBIT A

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PROFESSOR WILLIAM B. RUBENSTEIN

Harvard Law School - AR323   (617) 496-7320
1545 Massachusetts Avenue   rubenstein@law.harvard.edu
Cambridge, MA 02138

ACADEMIC EMPLOYMENT

HARVARD LAW SCHOOL, CAMBRIDGE MA

Bruce Bromley Professor of Law	2018-present
Sidley Austin Professor of Law	2011-2018
Professor of Law	2007-2011
Bruce Bromley Visiting Professor of Law	2006-2007
Visiting Professor of Law	2003-2004, 2005-2006
Lecturer in Law	1990-1996

Courses: Civil Procedure; Class Action Law; Remedies; Legal Profession
Awards: 2012 Albert M. Sacks-Paul A. Freund Award for Teaching Excellence
Membership: American Law Institute; American Bar Foundation Fellow

UCLA SCHOOL OF LAW, LOS ANGELES CA

Professor of Law	2002-2007
Acting Professor of Law	1997-2002

Courses: Civil Procedure; Complex Litigation; Remedies
Awards: 2002 Rutter Award for Excellence in Teaching
               Top 20 California Lawyers Under 40, *Calif. Law Business* (2000)

STANFORD LAW SCHOOL, STANFORD CA

Acting Associate Professor of Law	1995-1997

Courses: Civil Procedure; Federal Litigation
Awards: 1997 John Bingham Hurlbut Award for Excellence in Teaching

YALE LAW SCHOOL, NEW HAVEN CT

Lecturer in Law	1994, 1995

BENJAMIN N. CARDOZO SCHOOL OF LAW, NEW YORK NY

Visiting Professor	Summer 2005

LITIGATION-RELATED EMPLOYMENT

AMERICAN CIVIL LIBERTIES UNION, NATIONAL OFFICE, NEW YORK NY

Project Director and Staff Counsel	1987-1995

-Litigated impact cases in federal and state courts throughout the United States.
-Supervised a staff of attorneys at the national office, oversaw work of ACLU attorneys
around the country and coordinated work with private cooperating counsel nationwide.
-Significant experience in complex litigation practice and procedural issues; appellate
litigation; litigation coordination, planning and oversight.

HON. STANLEY SPORKIN, U.S. DISTRICT COURT, WASHINGTON DC

Law Clerk	1986-87

PUBLIC CITIZEN LITIGATION GROUP, WASHINGTON DC

Intern	Summer 1985

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EDUCATION

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HARVARD LAW SCHOOL, CAMBRIDGE MA
        J.D., 1986, *magna cum laude*

YALE COLLEGE, NEW HAVEN CT
        B.A., 1982, *magna cum laude*
                Editor-in-Chief, YALE DAILY NEWS

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SELECTED COMPLEX LITIGATION EXPERIENCE

Professional Service and Highlighted Activities

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◊   *Author,* NEWBERG AND RUBENSTEIN ON CLASS ACTIONS (6th ed. 2022); NEWBERG ON CLASS ACTIONS (sole author since 2008, sole author of entirely re-written Fifth Edition (2011-2019))

◊   *Speaker,* Judicial Panel on Multidistrict Litigation, Multidistrict Litigation (MDL) Transferee Judges Conference, Palm Beach, Florida (provided presentation to MDL judges on recent developments in class action law and related topics (2010, 2011, 2013-2019)

◊   *Panelist,* Federal Judicial Center, *Managing Multidistrict Litigation and Other Complex Litigation Workshop* (for federal judges) (March 15, 2018)

◊   *Amicus curiae,* authored *amicus* brief in United States Supreme Court on proper approach to standing in class action lawsuits (*Labcorp, v. Davis*, Case No. 24-304 (2025))

◊   *Amicus curiae,* authored *amicus* brief on proper approach to incentive awards in class action lawsuits in conjunction with motion for rehearing *en banc* in the United States Court of Appeals for the Eleventh Circuit (*Johnson v. NPAS Sols., LLC*, 975 F.3d 1244 (11th Cir. 2020))

◊   *Amicus curiae,* authored *amicus* brief in United States Supreme Court on proper approach to *cy pres* award in class action lawsuits (*Frank v. Gaos*, 139 S. Ct. 1041 (2019))

◊   *Amicus curiae,* authored *amicus* brief in California Supreme Court on proper approach to attorney's fees in common fund cases (*Laffitte v. Robert Half Int'l Inc*., 376 P.3d 672, 687 (Cal. 2016) (noting reliance on *amicus* brief))

◊   *Amicus curiae,* authored *amicus* brief in the United States Supreme Court filed on behalf of civil procedure and complex litigation law professors concerning the importance of the class action lawsuit (*AT&T Mobility v. Concepcion,* No. 09-893, 131 S. Ct. 1740 (2011))

◊   *Adviser,* American Law Institute, *Project on the Principles of the Law of Aggregate Litigation*, Philadelphia, Pennsylvania

◊   *Co-Chair,* ABA Litigation Section, Mass Torts Committee, Class Action Sub-Committee, 2007

◊   *Planning Committee,* American Bar Association, Annual National Institute on Class Actions

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Conference, 2006, 2007

◊   *"Expert's Corner"* (Monthly Column)*, Class Action Attorney Fee Digest,* 2007-2011

Judicial Appointments

◊   *Co-Mediator.*   Appointed by the United States District Court for the Eastern District of Pennsylvania to help mediate a complex attorney's fees issue (*In re National Football League Players' Concussion Injury Litigation*, Civil Action No. 2:12-md-02323 (E.D. Pa. June-September 2022))

◊   *Meditator.*   Appointed by the United States District Court for the Southern District of New York to mediate a set of complex issues in civil rights class action (*Grottano v. City of New York*, Civil Action No. 15-cv-9242 (RMB) (May 2020-January 2021))

◊   *Expert consultant.*   Appointed by the United States District Court for the Northern District of Ohio, and Special Master, as an expert consultant on class certification and attorney's fees issues in complex multidistrict litigation (*National Prescription Opiate Litigation,* MDL 2804, Civil Action No. 1:17-md-2804 (N.D. Ohio Aug. 13, 2018; June 29, 2019; March 10, 2020))

◊   *Expert witness.*   Appointed by the United States District Court for the Eastern District of Pennsylvania as an expert witness on attorney's fees in complex litigation, with result that the Court adopted recommendations (*In re National Football League Players' Concussion Injury Litigation*, 2018 WL 1658808 (E.D. Pa. April 5, 2018))

◊   *Appellate counsel.*   Appointed by the United States Court of Appeals for the Second Circuit to argue for affirmance of district court fee decision in complex securities class action, with result that the Court summarily affirmed the decision below (*In re Indymac Mortgage-Backed Securities Litigation*, 94 F.Supp.3d 517 (S.D.N.Y. 2015), *aff'd sub. nom.*, *DeValerio v. Olinski*, 673 F. App'x 87, 90 (2d Cir. 2016))

Expert Witness

◊   Submitted expert witness declaration on relevance of ethics allegations to class counsel's adequacy to represent class (*Corzo v. Brown*, Case No. 1:22-cv-00125 (N.D. Ill. 2025))

◊   Submitted expert witness declaration concerning reasonableness of attorney's fee request (*In re Zoom Securities Litigation,* Case No. 3:20-cv-02353-JD (N.D. Cal. 2025)

◊   Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Loop, LLC v. CDK Global, LLC,* Case No. 3:24-cv-00571-jdp (W.D. Wisc. 2025)

◊   Submitted expert witness declaration on ethics concerns arising out of Plaintiffs' Steering Committee member in one piece of MDL representing opt-out plaintiffs in another (*In re: Blue Cross Blue Shield Antitrust Litigation,* MDL 2406, Case No. 2:13-cv-20000-RDP (N.D. Ala. 2025))

◊   Submitted expert witness declaration and scheduled to testify at trial concerning valuation of class action settlement (*In the Matter of the Petition for the Allocation of Aggregate Settlement Amount Between the Individual Settlement and the Class Settlement of the Maui Fire Cases,* Case No. S.P. No.

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2CSP-24-0000049 (Hawai'i Cir. Ct., Second Circuit, 2024-2025))

◊   Submitted two expert witness declarations concerning reasonableness of proposed settlement in nationwide insurance class action, in light of competing litigation (*Glover v. Connecticut General Life Insurance Co., et al.,* Civil Action No. 3:16-cv-00827-MPS (D. Conn. 2024))

◊   Submitted expert witness declaration concerning ethics of class counsel and other objections to proposed complex class action settlement (*In re National Prescription Opiate Litigation (Third Party Payor Actions),* Case No. 1:17-md-02804-DAP (N.D. Ohio 2024))

◊   Submitted expert witness declaration and deposed as to class certification requirements (*Gateway Royalty LLC v. EAP Ohio LLC,* Case No. 5:20-cv-02813 (N.D. Ohio 2024))

◊   Submitted expert witness declaration on history and equity of proposed allocation system in complex class action settlement (*In re National Prescription Opiate Litigation (Third Party Payor Actions),* Case No. 1:17-md-02804-DAP (N.D. Ohio 2024))

◊   Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Drazen v. GoDaddy.com,* Civil Action No. 1:19-cv-00563-KD-B (S.D. Ala. 2024))

◊   Retained as an expert witness concerning reasonableness of attorney's fee request (*In re Apple Inc. Securities Litigation*, Case No. 4:19-cv-02033-YGR (N.D. Cal. 2024))

◊   Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Brown v. Google LLC,* Civil Action No. 4:20-cv-03664 (N.D. Cal. 2024))

◊   Submitted expert witness declaration concerning proper approach to – and reasonableness of – attorney's fee request (*Parris v. Meta Platforms, Inc.,* Case No. 2023LA000672 (Illinois Circuit Court, DuPage Cty., 2024))

◊   Submitted expert witness declaration concerning proper approach to – and reasonableness of – attorney's fee request (*Barr v. SelectBlinds LLC,* Civil Action No. 2:22-cv-08326-SPG-PD (C.D. Cal. 2023))

◊   Submitted expert witness declaration on history and equity of proposed allocation system in complex class action settlement (*In re McKinsey & Co. Inc. National Prescription Opiate Consultant Litigation,* Case No. 3:21-md-02996-CRB (N.D. Cal. 2023))

◊   Submitted expert witness declaration concerning reasonableness of proposed hourly rates used in lodestar cross-check submission (*In re National Veterans Legal Services Program, et al. v. United States,* Case No. 1:16-CV-00745-PLF (D. D.C. 2023))

◊   Submitted expert witness declarations concerning reasonableness of – and proper approach to – attorney's fees in context of issue class action judgment (*James, et al., v. PacifiCorp, et al.,* Civil Action No. 20CV33885 (Oregon Circuit Court, Multnomah Cty. 2023))

◊   Retained as an expert witness concerning reasonableness of attorney's fee request (*In re Wells Fargo & Company Securities Litigation*, Case No. 1:20-cv-04494-GHW (S.D.N.Y. 2023))

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◊ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*In re Facebook, Inc. Consumer Privacy User Profile Litigation,* Civil Action No. 3:18-cv-02843-VC (N.D. Cal. 2023))

◊ Submitted expert witness declaration concerning constitutionality of proposed procedures for resolving aggregate claims within a bankruptcy proceeding (*In re PG&E Corporation and Pacific Gas and Electric Company,* Bankruptcy Case No. 19-30088 (N.D. Cal. Bankrpt. 2023))

◊ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Health Republic Insurance Company v. United States,* Civil Action No. 1:16-cv-0259C (Ct. Fed. Cl. 2023))

◊ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Benson, et al. v. DoubleDown Interactive, LLC, et al.,* Civil Action No. 2:18-cv-00525 (W.D. Wash. 2023))

◊ Submitted an expert witness declaration concerning reasonableness of attorney's fees request (*In re Twitter Inc. Securities Litigation,* Case No. 4:16-cv-05314 (N.D. Cal. October 13, 2022))

◊ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Ferrando v. Zynga Inc.,* Civil Action No. 2:22-cv-00214 (W.D. Wash. 2022))

◊ Retained as an expert witness concerning fee structures in complex mass/class litigation (*In re Upstream Addicks and Barker (Texas) Flood-Control Reservoirs,* Sub-Master Docket No. 17-9001L, (Ct. of Federal Claims, 2022-)

◊ Submitted an expert witness declaration concerning reasonableness of proposed settlement in nationwide securities class action, in light of competing litigation (*In re Lyft, Inc. Securities Litigation,* Case No. 4:19-cv-02690 (N.D. Cal. August 19, 2022))

◊ Submitted an expert witness declaration concerning reasonableness of common benefit attorney's fee request (*In re: Zetia (Ezetimibe) Antitrust Litigation*, MDL No. 2836, 2:18-md-2836 (E.D. Va. July 12, 2022))

◊ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Reed v. Scientific Games Corp.,* Civil Action No. 2:18-cv-00565 (W.D. Wash. 2022))

◊ Submitted an expert witness declaration concerning reasonableness of proposed settlement in nationwide securities class action, in light of competing litigation (*In re Micro Focus International PLC Securities Litigation,* Master File No. 1:18-cv-06763 (S.D.N.Y., May 4, 2022))

◊ Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Americredit Financial Services, Inc., d/b/a/ GM Financial v. Bell,* No. 15SL-AC24506-01 (Twenty-First Judicial Circuit Court, St. Louis County, Missouri, March 13, 2022))

◊ Submitted an expert witness declaration concerning reasonableness of common benefit attorney's fee request (*In re: Marjory Stoneman Douglas High School Shooting FTCA Litigation*, Case No. 0:18-cv-62758 (S.D. Fla. February 7, 2022))

◊   Expert witness declaration concerning expected claiming rates in class action submitted to court (*In re: Tiktok, Inc., Consumer Privacy Litigation*, No. 1:20-cv-04699 (N.D. Ill. Jan. 24, 2022))

◊   Submitted expert witness declaration concerning reasonableness of attorney's fee request (*City of Westland Police & Fire Ret. Sys. v. MetLife, Inc*., No. 12-CV-0256 (LAK), 2021 WL 2453972 (S.D.N.Y. June 15, 2021))

◊   Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Kater v. Churchill Downs,* Civil Action No. 2:15-cv-00612 (W.D. Wash. 2020))

◊   Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Wilson v. Playtika, LTD,* Civil Action No. 3:18-cv-05277 (W.D. Wash. 2020))

◊   Submitted expert witness declaration concerning reasonableness of attorney's fee request (*Wilson v. Huuuge,* Civil Action No. 3:18-cv-005276 (W.D. Wash. 2020))

◊   Submitted expert witness declarations and testified at fairness hearing concerning (1) reasonableness of attorney's fee request and (2) empirical data confirming robustness of class claims rate (*In re Facebook Biometric Information Privacy Litigation,* Civil Action No. 3:15-cv-03747-JD (N.D. Cal. (2020))

◊   Retained as an expert witness on issues regarding the Lead Plaintiff/Lead Counsel provisions of the Private Securities Litigation Reform Act of 1995 (PSLRA) (*In re Apple Inc. Securities Litigation.,* Civil Action No. 4:19-cv-02033-YGR (N.D. Cal. (2020))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Amador v. Baca*, Civil Action No. 2:10-cv-01649 (C.D. Cal. February 9, 2020))

◊   Submitted an expert witness declaration concerning reasonableness of class action settlement (*In re: Columbia Gas Cases*, Civil Action No. 1877CV01343G (Mass. Super. Ct., Essex County, February 6, 2020))

◊   Submitted an expert witness declaration, and reply declaration, concerning reasonableness of attorney's fee request (*Hartman v. Pompeo*, Civil Action No. 1:77-cv-02019 (D.D.C. October 10, 2019; February 28, 2020))

◊   Submitted an expert witness declaration concerning reasonableness of common benefit attorney's fee request (*In re: Generic Pharmaceuticals Pricing Antitrust Litigation*, MDL No. 2724, 16-MD-2724 (E.D. Pa. May 15, 2019))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request, relied upon by court in awarding fees (*Hale v. State Farm Mut. Auto. Ins. Co*., 2018 WL 6606079 (S.D. Ill. Dec. 16, 2018))

◊   Submitted expert witness affidavit and testified at fairness hearing concerning second phase fee issues in common fund class action (*Tuttle v. New Hampshire Med. Malpractice Joint Underwriting Assoc.,* Case No. 217-2010-CV-00294 (New Hampshire Superior Court, Merrimack County (2018))

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◊   Submitted expert witness report – and rebutted opposing expert – concerning class certification issues for proposed class action within a bankruptcy proceeding (*In re Think Finance,* Case No. 17-33964 (N.D. Tex. Bankrpt. 2018))

◊   Submitted expert witness declaration concerning specific fee issues raised by Court at fairness hearing and second declaration in response to report of Special Master (*In re Anthem, Inc. Data Breach Litigation,* Case No. 15-MD-02617-LHK (N.D. Cal. 2018))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request following plaintiffs' verdict at trial in consumer class action (*Krakauer v. Dish Network, L.L.C.,* Civil Action No. 1:14-cv-00333 (M.D.N.C. 2018))

◊   Submitted three expert witness declarations and deposed by/testified in front of Special Master in investigation concerning attorney's fee issues (*Arkansas Teacher Ret. Sys. v. State St. Bank & Trust Co.*, Civ. Action No. 1:11-cv-10230 (D. Mass. 2017-18))

◊   Retained as an expert witness on issues regarding the preclusive effect of a class action judgment on later cases (*Sanchez v. Allianz Life Insurance Co. of N. Amer.,* Case No. BC594715 (California Superior Court, Los Angeles County (2018))

◊   Retained as an expert witness and submitted report explaining meaning of the denial of a motion to dismiss in American procedure to foreign tribunals (*In re Qualcomm Antitrust Matter,* declaration submitted to tribunals in Korea and Taiwan (2017))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request in 3.0-liter settlement, referenced by court in awarding fees (*In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation,* 2017 WL 3175924 (N.D. Cal. July 21, 2017))

◊   Retained as an expert witness concerning impracticability of joinder in antitrust class action (*In re Celebrex (Celecoxib) Antitrust Litigation,* Civ. Action No. 2-14-cv-00361 (E.D. Va. (2017))

◊   Submitted an expert witness declaration and deposed concerning impracticability of joinder in antitrust class action (*In re Modafinil Antitrust Litigation,* Civ. Action No. 2-06-cv-01797 (E.D. Pa. (2017))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request in 2.0-liter settlement (*In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation,* 2017 WL 1047834 (N.D. Cal., March 17, 2017))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request, referenced by court in awarding fees (*Aranda v. Caribbean Cruise Line, Inc.,* 2017 WL 1368741 (N.D. Ill., April 10, 2017))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*McKinney v. United States Postal Service*, Civil Action No. 1:11-cv-00631 (D.D.C. (2016))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Johnson v. Caremark RX, LLC,* Case No. 01-CV-2003-6630, Alabama Circuit Court, Jefferson County (2016))

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◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request in sealed fee mediation (2016)

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Geancopoulos v. Philip Morris USA Inc.,* Civil Action No. 98-6002-BLS1 (Mass. Superior Court, Suffolk County))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request in sealed fee mediation (2016)

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Gates v. United Healthcare Insurance Company,* Case No. 11 Civ. 3487 (S.D.N.Y. 2015))

◊   Retained as an expert trial witness on class action procedures and deposed prior to trial in matter that settled before trial (*Johnson v. Caremark RX, LLC,* Case No. 01-CV-2003-6630, Alabama Circuit Court, Jefferson County (2016))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request, referenced by court in awarding fees (*In re High-Tech Employee Antitrust Litig.*, 2015 WL 5158730 (N.D. Cal. Sept. 2, 2015))

◊   Retained as an expert witness concerning adequacy of putative class representatives in securities class action (*Medoff v. CVS Caremark Corp.,* Case No. 1:09-cv-00554 (D.R.I. (2015))

◊   Submitted an expert witness declaration concerning reasonableness of proposed class action settlement, settlement class certification, attorney's fees, and incentive awards (*Fitzgerald Farms, LLC v. Chespeake Operating, L.L.C.,* Case No. CJ-2010-38, Dist. Ct., Beaver County, Oklahoma (2015))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request, referenced by court in awarding fees (*Asghari v. Volkswagen Grp. of Am., Inc.*, 2015 WL 12732462 (C.D. Cal. May 29, 2015))

◊   Submitted an expert witness declaration concerning propriety of severing individual cases from class action and resulting statute of repose ramifications (*In re: American   International Group, Inc. 2008 Securities Litigation,* 08-CV-4772-LTS-DCF (S.D.N.Y. (2015))

◊   Retained by Fortune Global 100 Corporation as an expert witness on fee matter that settled before testimony (2015)

◊   Submitted an expert witness declaration and testified at Special Master proceeding concerning reasonableness of attorney's fee allocation in sealed fee mediation (2014-2015)

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*In re: Hyundai and Kia Fuel Economy Litigation,* MDL 13-02424 (C.D. Cal. (2014))

◊   Submitted an expert witness declaration concerning reasonableness of attorney's fee request (*Ammari Electronics v. Pacific Bell Directory*, Case No. RG0522096, California Superior Court, Alameda County (2014))

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◊   Submitted an expert witness declaration and deposed concerning plaintiff class action practices under the Private Securities Litigation Reform Act of 1995 (PSLRA), as related to statute of limitations question (*Federal Home Loan Bank of San Francisco v. Deutsche Bank Securities, Inc.,* Case No. CGC-10-497839, California Superior Court, San Francisco County (2014))

◊   Submitted an expert witness declaration and deposed concerning plaintiff class action practices under the Private Securities Litigation Reform Act of 1995 (PSLRA), as related to statute of limitations question (*Federal Home Loan Bank of San Francisco v. Credit Suisse Securities (USA) LLC,* Case No. CGC-10-497840, California Superior Court, San Francisco County (2014))

◊   Retained as expert witness on proper level of common benefit fee in MDL (*In re Neurontin Marketing and Sales Practice Litigation,* Civil Action No. 04-10981, MDL 1629 (D. Mass. (2014))

◊   Submitted an expert witness declaration concerning Rule 23(g) selection of competing counsel, referenced by court in deciding issue (*White v. Experian Information Solutions, Inc.,* 993 F. Supp. 2d 1154 (C.D. Cal. (2014))

◊   Submitted an expert witness declaration concerning proper approach to attorney's fees under California law in a statutory fee-shifting case (*Perrin v. Nabors Well Services Co.,* Case No. 1220037974, Judicial Arbitration and Mediation Services (JAMS) (2013))

◊   Submitted an expert witness declaration concerning fairness and adequacy of proposed nationwide class action settlement (*Verdejo v. Vanguard Piping Systems,* Case No. BC448383, California Superior Court, Los Angeles County (2013))

◊   Retained as an expert witness regarding fairness, adequacy, and reasonableness of proposed nationwide consumer class action settlement   (*Herke v. Merck,* No. 2:09-cv-07218, MDL Docket No. 1657 (*In re Vioxx Products Liability Litigation*) (E. D. La. (2013))

◊   Retained as an expert witness concerning ascertainability requirement for class certification and related issues (*Henderson v. Acxiom Risk Mitigation, Inc.,* Case No. 3:12-cv-00589-REP (E.D. Va. (2013))

◊   Submitted an expert witness declaration concerning reasonableness of class action settlement and performing analysis of Anet expected value@ of settlement benefits, relied on by court in approving settlement (*In re Navistar Diesel Engine Products Liab. Litig.*, 2013 WL 10545508 (N.D. Ill. July 3, 2013))

◊   Submitted an expert witness declaration concerning reasonableness of class action settlement and attorney's fee request (*Commonwealth Care All. v. Astrazeneca Pharm. L.P.*, 2013 WL 6268236 (Mass. Super. Aug. 5, 2013))

◊   Submitted an expert witness declaration concerning propriety of preliminary settlement approval in nationwide consumer class action settlement (*Anaya v. Quicktrim, LLC,* Case No. CIVVS 120177, California Superior Court, San Bernardino County (2012))

◊   Submitted expert witness affidavit concerning fee issues in common fund class action (*Tuttle v. New Hampshire Med. Malpractice Joint Underwriting Assoc.,* Case No. 217-2010-CV-00294, New

Hampshire Superior Court, Merrimack County (2012))

◊   Submitted expert witness declaration and deposed concerning class certification issues in nationwide fraud class action, relied upon by the court in affirming class certification order (*CVS Caremark Corp. v. Lauriello,* 175 So. 3d 596, 609-10 (Ala. 2014))

◊   Submitted expert witness declaration in securities class action concerning value of proxy disclosures achieved through settlement and appropriate level for fee award (*Rational Strategies Fund v. Jhung,* Case No. BC 460783, California Superior Court, Los Angeles County (2012))

◊   Submitted an expert witness report and deposed concerning legal malpractice in the defense of a class action lawsuit (*KB Home v. K&L Gates, LLP,* Case No. BC484090, California Superior Court, Los Angeles County (2011))

◊   Retained as expert witness on choice of law issues implicated by proposed nationwide class certification (*Simon v. Metropolitan Property and Cas. Co.,* Case No. CIV-2008-1008-W (W.D. Ok. (2011))

◊   Retained, deposed, and testified in court as expert witness in fee-related dispute (*Blue, et al. v. Hill,*Case No. 3:10-CV-02269-O-BK (N.D. Tex. (2011))

◊   Retained as an expert witness in fee-related dispute (*Furth v. Furth*, Case No. C11-00071-DMR (N.D. Cal. (2011))

◊   Submitted expert witness declaration concerning interim fee application in complex environmental class action (*DeLeo v. Bouchard Transportation,* Civil Action No. PLCV2004-01166-B, Massachusetts Superior Court (2010))

◊   Retained as an expert witness on common benefit fee issues in MDL proceeding in federal court (*In re Vioxx Products Liability Litigation*, MDL Docket No. 1657 (E.D. La. (2010))

◊   Submitted expert witness declaration concerning fee application in securities case, referenced by court in awarding fee (*In re AMICAS, Inc. Shareholder Litigation,* 27 Mass. L. Rptr. 568 (Mass. Sup. Ct. (2010))

◊   Submitted an expert witness declaration concerning fee entitlement and enhancement in non-common fund class action settlement, relied upon by the court in awarding fees (*Parkinson v. Hyundai Motor America*, 796 F.Supp.2d 1160, 1172-74 (C.D. Cal. 2010))

◊   Submitted an expert witness declaration concerning class action fee allocation among attorneys (*Salvas v. Wal-Mart*, Civil Action No. 01-03645, Massachusetts Superior Court (2010))

◊   Submitted an expert witness declaration concerning settlement approval and fee application in wage and hour class action settlement (*Salvas v. Wal-Mart*, Civil Action No. 01-03645, Massachusetts Superior Court (2010))

◊   Submitted an expert witness declaration concerning objectors' entitlement to attorney's fees (*Rodriguez v. West Publishing Corp.,* Case No. CV-05-3222 (C.D. Cal. (2010))

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◊   Submitted an expert witness declaration concerning fairness of settlement provisions and processes, relied upon by the Ninth Circuit in reversing district court's approval of class action settlement (*Radcliffe v. Experian Inform. Solutions Inc.*, 715 F.3d 1157, 1166 (9th Cir. 2013))

◊   Submitted an expert witness declaration concerning attorney's fees in class action fee dispute, relied upon by the court in deciding fee issue (*Ellis v. Toshiba America Information Systems, Inc.*, 218 Cal. App. 4th 853, 871, 160 Cal. Rptr. 3d 557, 573 (2d Dist. 2013))

◊   Submitted an expert witness declaration concerning common benefit fee in MDL proceeding in federal court (*In re Genetically Modified Rice Litigation*, MDL Docket No. 1811 (E.D. Mo. (2009))

◊   Submitted an expert witness declaration concerning settlement approval and fee application in national MDL class action proceeding (*In re Wal-Mart Wage and Hour Employment Practices Litigation*, MDL Docket No.1735 (D. Nev. (2009))

◊   Submitted an expert witness declaration concerning fee application in national MDL class action proceeding, referenced by court in awarding fees (*In re Dept. of Veterans Affairs (VA) Data Theft Litigation*, 653 F. Supp.2d 58 (D.D.C. (2009))

◊   Submitted an expert witness declaration concerning common benefit fee in mass tort MDL proceeding in federal court (*In re Kugel Mesh Products Liability Litigation*, MDL Docket No. 1842 (D. R.I. (2009))

◊   Submitted an expert witness declaration and supplemental declaration concerning common benefit fee in consolidated mass tort proceedings in state court (*In re All Kugel Mesh Individual Cases*, Master Docket No. PC-2008-9999, Superior Court, State of Rhode Island (2009))

◊   Submitted an expert witness declaration concerning fee application in wage and hour class action (*Warner v. Experian Information Solutions, Inc.*, Case No.   BC362599, California Superior Court, Los Angeles County (2009))

◊   Submitted an expert witness declaration concerning process for selecting lead counsel in complex MDL antitrust class action (*In re Rail Freight Fuel Surcharge Antitrust Litigation*, MDL Docket No. 1869 (D. D.C. (2008))

◊   Retained, deposed, and testified in court as expert witness on procedural issues in complex class action (*Hoffman v. American Express*, Case No. 2001-022881, California Superior Court, Alameda County (2008))

◊   Submitted an expert witness declaration concerning fee application in wage and hour class action (*Salsgiver v. Yahoo! Inc.*, Case No. BC367430, California Superior Court, Los Angeles County (2008))

◊   Submitted an expert witness declaration concerning fee application in wage and hour class action (*Voight v. Cisco Systems, Inc.*, Case No. 106CV075705, California Superior Court, Santa Clara County (2008))

◊   Retained and deposed as expert witness on fee issues in attorney fee dispute (*Stock v. Hafif,* Case No. KC034700, California Superior Court, Los Angeles County (2008))

◊   Submitted an expert witness declaration concerning fee application in consumer class action (*Nicholas v. Progressive Direct*, Civil Action No. 06-141-DLB (E.D. Ky. (2008))

◊   Submitted expert witness declaration concerning procedural aspects of national class action arbitration (*Johnson v. Gruma Corp.,* JAMS Arbitration No. 1220026252 (2007))

◊   Submitted expert witness declaration concerning fee application in securities case (*Drulias v. ADE Corp.,* Civil Action No. 06-11033 PBS (D. Mass. (2007))

◊   Submitted expert witness declaration concerning use of expert witness on complex litigation matters in criminal trial (*U.S. v. Gallion, et al.*, No. 07-39 (E. D. Ky. (2007))

◊   Retained as expert witness on fees matters (*Heger v. Attorneys' Title Guaranty Fund, Inc.,* No. 03-L-398, Illinois Circuit Court, Lake County, IL (2007))

◊   Retained as expert witness on certification in statewide insurance class action (*Wagner v. Travelers Property Casualty of America*, No. 06CV338, Colorado District Court, Boulder County, CO (2007))

◊   Testified as expert witness concerning fee application in common fund shareholder derivative case (*In Re Tenet Health Care Corporate Derivative Litigation*, Case No. 01098905, California Superior Court, Santa Barbara Cty, CA (2006))

◊   Submitted expert witness declaration concerning fee application in common fund shareholder derivative case (*In Re Tenet Health Care Corp. Corporate Derivative Litigation*, Case No. CV-03-11 RSWL (C.D. Cal. (2006))

◊   Retained as expert witness as to certification of class action (*Canova v. Imperial Irrigation District*, Case No. L-01273, California Superior Court, Imperial Cty, CA (2005))

◊   Retained as expert witness as to certification of nationwide class action (*Enriquez v. Edward D. Jones & Co.,* Missouri Circuit Court, St. Louis, MO (2005))

◊   Submitted expert witness declaration on procedural aspects of international contract litigation filed in court in Korea (*Estate of Wakefield v. Bishop Han & Jooan Methodist Church* (2002))

◊   Submitted expert witness declaration as to contested factual matters in case involving access to a public forum (*Cimarron Alliance Foundation v. The City of Oklahoma City,* Case No. Civ. 2001-1827-C (W.D. Ok. (2002))

◊   Submitted expert witness declaration concerning reasonableness of class certification, settlement, and fees (*Baird v. Thomson Elec. Co.*, Case No. 00-L-000761, Cir. Ct., Mad. Cty, IL (2001))

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Expert Consultant

◊ Retained as a consulting expert in Rule 23(f) appeal of class decertification (*In re: Apple iPhone Antitrust Litigation,* Case No. 25-7122 (Ninth Circuit, 2025)

◊ Provided expert consulting services to the ACLU's Immigrants' Rights Project on class action issues arising out of deportation of Venezuelan migrants to El Salvador (*A. A. R. P. v. Trump*, 145 S. Ct. 1364 (2025); *Trump v. J. G. G.*, 145 S. Ct. 1003 (2025))

◊ Retained as a consulting expert in series of direct and class action cases challenging artificial intelligence (AI) generators (2024)

◊ Retained as a consulting expert in class action (*In re: East Palestine Train Derailment,* Case No. 4:23-CV-00242-BYP (N.D. Ohio 2024))

◊ Retained as a consulting expert in complex MDL/class action (*In re: Aqueous Film-Forming Foams Products Liability Litigation,* Case No. 2:18-md-2873-RMG (D. S.C. 2023-2024))

◊ Retained as an expert in confidential matter pending in international arbitration forum concerning litigation financing issues in complex litigation (2022-2023)

◊ Retained as an expert in matter pending in several federal courts concerning attorney's fees in class action setting (2022-2023)

◊ Provided expert consulting services to Planned Parenthood Federation of America and the American Civil Liberties Union Foundation concerning complex class certification, notice, and other procedural issues arising out of Texas's law banning abortion (*Whole Woman's Health v. Austin Reeve Jackson,* Civil Action No. 1:21-cv-00616 (W.D. Tex. 2021))

◊ Retained as an expert witness on class action issues in complex mass tort MDL (*In re Roundup Products Liability Litigation,* Civil Action No. 3:16-md-02741-VC (N.D. Cal. (2020))

◊ Provided expert consulting services to Harvard Law School Predatory Lending and Consumer Protection Clinic concerning complex class action issues in bankruptcy (*In re: ITT Educational Services Inc.,* Case No. 16-07207-JMC-7A (Bank. S.D. Ind. 2020))

◊ Provided expert consulting services to law firm concerning complex federal procedural and bankruptcy issues (*Homaidan v. Navient Solutions, LLC*, Adv. Proc. No. 17-1085 (Bank. E.D.N.Y 2020))

◊ Provided expert consulting services to the ACLU on multi-district litigation issues arising out of various challenges to President Trump's travel ban and related policies (*In re American Civil Liberties Union Freedom of Information Act Requests Regarding Executive Order 13769*, Case Pending No. 28, Judicial Panel on Multidistrict Litigation (2017); *Darweesh v. Trump*, Case No. 1:17-cv-00480-CBA-LB (E.D.N.Y. (2017))

◊ Provided expert consulting services to law firm regarding billing practices and fee allocation issues in nationwide class action (2016)

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◊   Provided expert consulting services to law firm regarding fee allocation issues in nationwide class action (2016)

◊   Provided expert consulting services to the ACLU of Southern California on class action and procedural issues arising out of challenges to municipality's treatment of homeless persons with disabilities (*Glover v. City of Laguna Beach*, Case No. 8:15-cv-01332-AG-DFM (C.D. Cal. (2016))

◊   Retained as an expert consultant on class certification issues (*In re: Facebook, Inc., IPO Securities and Derivative Litigation*, No. 1:12-md-2389 (S.D.N.Y. 2015))

◊   Provided expert consulting services to lead class counsel on class certification issues in nationwide class action (2015)

◊   Retained by a Fortune 100 Company as an expert consultant on class certification issues

◊   Retained as an expert consultant on class action and procedure related issues (*Lange et al v. WPX Energy Rocky Mountain LLC*, Case No. 2:13-cv-00074-ABJ (D. Wy. (2013))

◊   Retained as an expert consultant on class action and procedure related issues (*Flo & Eddie, Inc., v. Sirius XM Radio, Inc.*, Case No. CV 13-5693 (C.D. Cal. (2013))

◊   Served as an expert consultant on substantive and procedural issues in challenge to legality of credit card late and over-time fees (*In Re Late Fee and Over-Limit Fee Litigation*, 528 F.Supp.2d 953 (N.D. Cal. 2007), *aff'd*, 741 F.3d 1022 (9th Cir. 2014))

◊   Retained as an expert on Class Action Fairness Act (CAFA) removal issues and successfully briefed and argued remand motion based on local controversy exception (*Trevino, et al. v. Cummins, et al.*, No. 2:13-cv-00192-JAK-MRW (C. D. Cal. (2013))

◊   Retained as an expert consultant on class action related issues by consortium of business groups (*In re Oil Spill by the Oil Rig Deepwater Horizon in the Gulf of Mexico on April 20, 2010*, MDL No. 2179 (E.D. La. (2012))

◊   Provided presentation on class certification issues in nationwide medical monitoring classes (*In re: National Football League Players' Concussion Injury Litigation,* MDL No. 2323, Case No. 2:12-md-02323-AB (E.D. Pa. (2012))

◊   Retained as an expert consultant on class action related issues in mutli-state MDL consumer class action (*In re Sony Corp. SXRD Rear Projection Television Marketing, Sales Practices & Prod. Liability Litig.*, MDL No. 2102 (S.D. N.Y. (2009))

◊   Retained as an expert consultant on class action certification, manageability, and related issues in mutli-state MDL consumer class action (*In re Teflon Prod. Liability Litig.*, MDL No. 1733 (S.D. Iowa (2008))

◊   Retained as an expert consultant/co-counsel on certification, manageability, and related issues in nationwide anti-trust class action (*Brantley v. NBC Universal*, No.- CV07-06101 (C.D. Cal. (2008))

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◊   Retained as an expert consultant on class action issues in complex multi-jurisdictional construction dispute (*Antenucci, et al., v. Washington Assoc. Residential Partner, LLP, et al.,* Civil No. 8-04194 (E.D. Pa. (2008))

◊   Retained as an expert consultant on complex litigation issues in multi-jurisdictional class action litigation (*McGreevey v. Montana Power Company*, No. 08-35137, U.S. Court of Appeals for the Ninth Circuit (2008))

◊   Retained as an expert consultant on class action and attorney fee issues in nationwide consumer class action (*Figueroa v. Sharper Image*, 517 F.Supp.2d 1292 (S.D. Fla. 2007))

◊   Retained as an expert consultant on attorney's fees issue in complex class action case (*Natural Gas Anti-Trust Cases Coordinated Proceedings*, D049206, California Court of Appeals, Fourth District (2007))

◊   Retained as an expert consultant on remedies and procedural matters in complex class action (*Sunscreen Cases*, JCCP No. 4352, California Superior Court, Los Angeles County (2006))

◊   Retained as an expert consultant on complex preclusion questions in petition for review to California Supreme Court (*Mooney v. Caspari,* Supreme Court of California (2006))

◊   Retained as an expert consultant on attorney fee issues in complex common fund case (*In Re DietDrugs (Phen/Fen) Products Liability Litigation* (E. D. Pa. (2006))

◊   Retained as an expert consultant on procedural matters in series of complex construction lien cases (*In re Venetian Lien Litigation*, Supreme Court of the State of Nevada (2005-2006))

◊   Served as an expert consultant on class certification issues in countywide class action (*Beauchamp v. Los Angeles Cty. Metropolitan Transp. Authority*, (C.D. Cal. 2004))

◊   Served as an expert consultant on class certification issues in state-wide class action (*Williams v. State of California*, Case No. 312-236, Cal. Superior Court, San Francisco)

◊   Served as an exert consultant on procedural aspects of complex welfare litigation (*Allen v. Anderson*, 199 F.3d 1331 (9th Cir. 1999))

Ethics Opinions

◊   Retained to provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional Responsibility Inquiries* (2017))

◊   Provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional Responsibility Inquiries* (2013))

◊   Provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional Responsibility Inquiries* (2011))

◊   Provided expert opinion on issues of professional ethics in implicated by nationwide class action practice (*In re Professional Responsibility Inquiries* (2010))

◊   Provided expert opinion on issues of professional ethics implicated by complex litigation matter (*In re Professional Responsibility Inquiries* (2010))

◊   Provided expert opinion on issues of professional ethics in complex litigation matter (*In re Professional Responsibility Inquiries* (2007))

Publications on Class Actions & Procedure

◊   NEWBERG AND RUBENSTEIN ON CLASS ACTIONS (6th ed. 2022 and updates through 2024); NEWBERG ON CLASS ACTIONS (sole author since 2008, sole author of entirely re-written Fifth Edition (2011-2019)

◊   *Deconstitutionalizing Personal Jurisdiction: A Separation of Powers Approach,* Harvard Public Law Working Paper No. 20-34, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3715068.

◊   *The Negotiation Class: A Cooperative Approach to Class Actions Involving Large Stakeholders,* 99 TEXAS L. REV.73 (2020) (with Francis E. McGovern)

◊   *Profit for Costs*, 63 DEPAUL L. REV. 587 (2014) (with Morris A. Ratner)

◊   *Procedure and Society: An Essay for Steve Yeazell,* 61 U.C.L.A. REV. DISC. 136 (2013)

◊   *Supreme Court Round-Up – Part II*, 5 CLASS ACTION ATTORNEY FEE DIGEST 331 (September 2011)

◊   *Supreme Court Round-Up – Part I*, 5 CLASS ACTION ATTORNEY FEE DIGEST 263 (July-August 2011)

◊   *Class Action Fee Award* Procedures, 5 CLASS ACTION ATTORNEY FEE DIGEST 3 (January 2011)

◊   *Benefits of Class Action Lawsuits*, 4 CLASS ACTION ATTORNEY FEE DIGEST 423 (November 2010)

◊   *Contingent Fees for Representing the Government: Developments in California Law*, 4 CLASS ACTION ATTORNEY FEE DIGEST 335 (September 2010)

◊   *Supreme Court Roundup*, 4 CLASS ACTION ATTORNEY FEE DIGEST 251 (July 2010)

◊   *SCOTUS Okays Performance Enhancements in Federal Fee Shifting Cases – At Least In Principle,* 4 CLASS ACTION ATTORNEY FEE DIGEST 135 (April 2010)

◊   *The Puzzling Persistence of the AMega-Fund@ Concept*, 4 CLASS ACTION ATTORNEY FEE DIGEST 39 (February 2010)

◊   *2009: Class Action Fee Awards Go Out With A Bang, Not A Whimper*, 3 CLASS ACTION ATTORNEY FEE DIGEST 483 (December 2009)

◊   *Privatizing Government Litigation: Do Campaign Contributors Have An Inside Track?*, 3 CLASS

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ACTION ATTORNEY FEE DIGEST 407   (October 2009)

◊   *Supreme Court Preview*, 3 CLASS ACTION ATTORNEY FEE DIGEST 307 (August 2009)

◊   *Supreme Court Roundup*, 3 CLASS ACTION ATTORNEY FEE DIGEST 259 (July 2009)

◊   *What We Now Know About How Lead Plaintiffs Select Lead Counsel (And Hence Who Gets Attorney's Fees!) in Securities Cases*, 3 CLASS ACTION ATTORNEY FEE DIGEST 219 (June 2009)

◊   *Beware Of Ex Ante Incentive Award Agreements*, 3 CLASS ACTION ATTORNEY FEE DIGEST 175 (May 2009)

◊   *On What a "Common Benefit Fee" Is, Is Not, and Should Be*, 3 CLASS ACTION ATTORNEY FEE DIGEST 87 (March 2009)

◊   *2009: Emerging Issues in Class Action Fee Awards*, 3 CLASS ACTION ATTORNEY FEE DIGEST 3 (January 2009)

◊   *2008:   The Year in Class Action Fee Awards*, 2 CLASS ACTION ATTORNEY FEE DIGEST 465 (December 2008)

◊   *The Largest Fee Award – Ever!*, 2 CLASS ACTION ATTORNEY FEE DIGEST 337 (September 2008)

◊   *Why Are Fee Reductions Always 50%?: On The Imprecision of Sanctions for Imprecise Fee Submissions*, 2 CLASS ACTION ATTORNEY FEE DIGEST 295 (August 2008)

◊   *Supreme Court Round-Up,* 2 CLASS ACTION ATTORNEY FEE DIGEST 257 (July 2008)

◊   *Fee-Shifting For Wrongful Removals: A Developing Trend?,* 2 CLASS ACTION ATTORNEY FEE DIGEST 177 (May 2008)

◊   *You Cut, I Choose: (Two Recent Decisions About) Allocating Fees Among Class Counsel,* 2 CLASS ACTION ATTORNEY FEE DIGEST 137 (April 2008)

◊   *Why The Percentage Method?,* 2 CLASS ACTION ATTORNEY FEE DIGEST 93 (March 2008)

◊   *Reasonable Rates: Time To Reload The (*Laffey*) Matrix,* 2 CLASS ACTION ATTORNEY FEE DIGEST 47 (February 2008)

◊   *The "Lodestar Percentage" A New Concept For Fee Decisions?,* 2 CLASS ACTION ATTORNEY FEE DIGEST 3 (January 2008)

◊   *Class Action Practice Today: An Overview, in* ABA SECTION OF LITIGATION, CLASS ACTIONS TODAY 4 (2008)

◊   *Shedding Light on Outcomes in Class Actions*, *in* CONFIDENTIALITY, TRANSPARENCY, AND THE U.S. CIVIL JUSTICE SYSTEM 20-59 (Joseph W. Doherty, Robert T. Reville, and Laura Zakaras eds. 2008)

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(with Nicholas M. Pace)

◊ *Finality in Class Action Litigation: Lessons From Habeas,* 82 N.Y.U. L. REV. 791 (2007)

◊ *The American Law Institute's New Approach to Class Action Objectors' Attorney's Fees,* 1 CLASS ACTION ATTORNEY FEE DIGEST 347 (November 2007)

◊ *The American Law Institute's New Approach to Class Action Attorney's Fees,* 1 CLASS ACTION ATTORNEY FEE DIGEST 307 (October 2007)

◊ *"The Lawyers Got More Than The Class Did!": Is It Necessarily Problematic When Attorneys Fees Exceed Class Compensation?,* 1 CLASS ACTION ATTORNEY FEE DIGEST 233 (August 2007)

◊ *Supreme Court Round-Up,* 1 CLASS ACTION ATTORNEY FEE DIGEST 201 (July 2007)

◊ *On The Difference Between Winning and Getting Fees,* 1 CLASS ACTION ATTORNEY FEE DIGEST 163 (June 2007)

◊ *Divvying Up The Pot: Who Divides Aggregate Fee Awards, How, and How Publicly?,* 1 CLASS ACTION ATTORNEY FEE DIGEST 127 (May 2007)

◊ *On Plaintiff Incentive Payments,* 1 CLASS ACTION ATTORNEY FEE DIGEST 95 (April 2007)

◊ *Percentage of What?,* 1 CLASS ACTION ATTORNEY FEE DIGEST 63 (March 2007)

◊ *Lodestar v. Percentage: The Partial Success Wrinkle,* 1 CLASS ACTION ATTORNEY FEE DIGEST 31 (February 2007) (with Alan Hirsch)

◊ *The Fairness Hearing: Adversarial and Regulatory Approaches*, 53 U.C.L.A. L. REV. 1435 (2006) (excerpted in THE LAW OF CLASS ACTIONS AND OTHER AGGREGATE LITIGATION 447-449 (Richard A. Nagareda ed., 2009))

◊ *Why Enable Litigation? A Positive Externalities Theory of the Small Claims Class Action*, 74 U.M.K.C. L. REV. 709 (2006)

◊ *What a "Private Attorney General" Is – And Why It Matters*, 57 VAND. L. REV. 2129(2004) (excerpted in COMPLEX LITIGATION 63-72 (Kevin R. Johnson, Catherine A. Rogers & John Valery White eds., 2009)).

◊ *The Concept of Equality in Civil Procedure*, 23 CARDOZO L. REV. 1865 (2002) (selected for the Stanford/Yale Junior Faculty Forum, June 2001)

◊ *A Transactional Model of Adjudication*, 89 GEORGETOWN L.J. 371 (2000)

◊ *The Myth of Superiority*, 16 CONSTITUTIONAL COMMENTARY 599 (1999)

◊ *Divided We Litigate: Addressing Disputes Among Clients and Lawyers in Civil Rights Campaigns*,

106 YALE L. J. 1623 (1997) *(excerpted in* COMPLEX LITIGATION 120-123 (1998))

Selected Presentations

◊   *Opioid Litigation: What's New and What Does it Mean for Future Litigation?,* RAND Institute for Civil Justice and RAND Kenneth R. Feinberg Center for Catastrophic Risk Management and Compensation, RAND Corporation, October 22, 2020

◊   *The Opioid Crisis: Where Do We Go From Here?"* Clifford Symposium 2020, DePaul University College of Law, Chicago, Illinois, May 28-29, 2020)

◊   *Class Action Law Update,* MDL Transferee Judges Conference, Palm Beach, Florida, October 30, 2019

◊   *Class Action Law Update,* MDL Transferee Judges Conference, Palm Beach, Florida, October 31, 2018

◊   *Attorneys' Fees Issues,* MDL Transferee Judges Conference, Palm Beach, Florida, October 30, 2018

◊   *Panelist,* Federal Judicial Center, Managing Multidistrict Litigation and Other Complex Litigation Workshop (for federal judges) (March 15, 2018)

◊   *Class Action Update,* MDL Transferee Judges Conference, Palm Beach, Florida, November 1, 2017

◊   *Class Action Update,* MDL Transferee Judges Conference, Palm Beach, Florida, November 2, 2016

◊   *Judicial Power and its Limits in Multidistrict Litigation,* American Law Institute, Young Scholars Medal Conference, *The Future of Aggregate Litigation*, New York University School of Law, New York, New York, April 12, 2016

◊   *Class Action Update & Attorneys' Fees Issues Checklist,* MDL Transferee Judges Conference, Palm Beach, Florida, October 28, 2015

◊   *Class Action Law,* 2015 Ninth Circuit/Federal Judicial Center Mid-Winter Workshop, Tucson, Arizona, January 26, 2015

◊   *Recent Developments in Class Action Law,* MDL Transferee Judges Conference, Palm Beach, Florida, October 29, 2014

◊   *Recent Developments in Class Action Law,* MDL Transferee Judges Conference, Palm Beach, Florida, October 29, 2013

◊   *Class Action Remedies,* ABA 2013 National Institute on Class Actions, Boston, Massachusetts, October 23, 2013

◊   *The Public Life of the Private Law: The Logic and Experience of Mass Litigation – Conference in Honor of Richard Nagareda,* Vanderbilt Law School, Nashville, Tennessee, September 27-28, 2013

◊   *Brave New World: The Changing Face of Litigation and Law Firm Finance*, Clifford Symposium 2013,

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DePaul University College of Law, Chicago, Illinois, April 18-19, 2013

◊ *Twenty-First Century Litigation: Pathologies and Possibilities: A Symposium in Honor of Stephen Yeazell,* UCLA Law Review, UCLA School of Law, Los Angeles, California, January 24-25, 2013

◊ *Litigation's Mirror: The Procedural Consequences of Social Relationships,* Sidley Austin Professor of Law Chair Talk, Harvard Law School, Cambridge, Massachusetts, October 17, 2012

◊ *Alternative Litigation Funding (ALF) in the Class Action Context – Some Initial Thoughts*, Alternative Litigation Funding: A Roundtable Discussion Among Experts, George Washington University Law School, Washington, D.C., May 2, 2012

◊ *The Operation of Preclusion in Multidistrict Litigation (MDL) Cases*, Brooklyn Law School Faculty Workshop, Brooklyn, New York, April 2, 2012

◊ *The Operation of Preclusion in Multidistrict Litigation (MDL) Cases*, Loyola Law School Faculty Workshop, Los Angeles, California, February 2, 2012

◊ *Recent Developments in Class Action Law and Impact on MDL Cases,* MDL Transferee Judges Conference, Palm Beach, Florida, November 2, 2011

◊ *Recent Developments in Class Action Law,* MDL Transferee Judges Conference, Palm Beach, Florida, October 26, 2010

◊ *A General Theory of the Class Suit*, University of Houston Law Center Colloquium, Houston, Texas, February 3, 2010

◊ *Unpacking The "Rigorous Analysis" Standard,* ALI-ABA 12th Annual National Institute on Class Actions, New York, New York, November 7, 2008

◊ *The Public Role in Private Law Enforcement: Visions from CAFA*, University of California (Boalt Hall) School of Law Civil Justice Workshop, Berkeley, California, February 28, 2008

◊ *The Public Role in Private Law Enforcement: Visions from CAFA*, University of Pennsylvania Law Review Symposium, Philadelphia, Pennsylvania, Dec. 1, 2007

◊ *Current CAFA Consequences: Has Class Action Practice Changed?,* ALI-ABA 11th Annual National Institute on Class Actions, Chicago, Illinois, October 17, 2007

◊ *Using Law Professors as Expert Witnesses in Class Action Lawsuits,* ALI-ABA 10th Annual National Institute on Class Actions, San Diego, California, October 6, 2006

◊ *Three Models for Transnational Class Actions*, Globalization of Class Action Panel, International Law Association 2006 Conference, Toronto, Canada, June 6, 2006

◊ *Why Create Litigation?: A Positive Externalities Theory of the Small Claims Class Action*, UMKC Law Review Symposium, Kansas City, Missouri, April 7, 2006

◊   *Marks, Bonds, and Labels: Three New Proposals for Private Oversight of Class Action Settlements*, UCLA Law Review Symposium, Los Angeles, California, January 26, 2006

◊   Class Action Fairness Act, Arnold & Porter, Los Angeles, California, December 6, 2005

◊   ALI-ABA 9th Annual National Institute on Class Actions, Chicago, Illinois, September 23, 2005

◊   Class Action Fairness Act, UCLA Alumni Assoc., Los Angeles, California, September 9, 2005

◊   Class Action Fairness Act, Thelen Reid & Priest, Los Angeles, California, May 12, 2005

◊   Class Action Fairness Act, Sidley Austin, Los Angeles, California, May 10, 2005

◊   Class Action Fairness Act, Munger, Tolles & Olson, Los Angeles, California, April 28, 2005

◊   Class Action Fairness Act, Akin Gump Strauss Hauer Feld, Century City, CA, April 20, 2005

SELECTED OTHER LITIGATION EXPERIENCE

United States Supreme Court

◊   Served as *amicus curiae* and co-authored *amicus* brief (with Professor Arthur Miller) on proper approach to standing in class action lawsuits (*Labcorp, v. Davis*, No. 24-304, October Term 2024)

◊   Served as *amicus curiae* and authored *amicus* brief on proper approach to *cy pres* award in class action lawsuits (*Frank v. Gaos*, No. 17-961, October Term 2018)

◊   Co-counsel on petition for writ of *certiorari* concerning application of the voluntary cessation doctrine to government defendants (*Rosebrock v. Hoffman*, 135 S. Ct.1893 (2015))

◊   Authored *amicus* brief filed on behalf of civil procedure and complex litigation law professors concerning the importance of the class action lawsuit (*AT&T Mobility v. Concepcion,* No. 09-893, 131 S. Ct. 1740 (2011)

◊   Co-counsel in constitutional challenge to display of Christian cross on federal land in California's Mojave preserve (*Salazar v. Buono*, 130 S. Ct. 1803 (2010))

◊   Co-authored *amicus* brief filed on behalf of constitutional law professors arguing against constitutionality of Texas criminal law (*Lawrence v. Texas*, 539 U.S. 558 (2003))

◊   Co-authored *amicus* brief on scope of *Miranda* (*Illinois v. Perkins*, 496 U.S. 292 (1990))

Attorney's Fees

◊   Appointed by the United States District Court for the Eastern District of Pennsylvania as an expert witness on attorney's fees in complex litigation, with result that the Court adopted recommendations

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(*In re National Football League Players' Concussion Injury Litigation*, 2018 WL 1658808 (E.D.Pa. April 5, 2018))

◊   Appointed by the United States District Court for the Northern District of Ohio as an expert consultant on common benefit attorney's fees issues in complex multidistrict litigation, with result that the Court adopted recommendations (*In re: Nat'l Prescription Opiate Litig.*, No. 1:17-MD-2804, 2020 WL 8675733 (N.D. Ohio June 3, 2020))

◊   Appointed by the United States Court of Appeals for the Second Circuit to argue for affirmance of district court fee decision in complex securities class action, with result that the Court summarily affirmed the decision below (*In re Indymac Mortgage-Backed Securities Litigation*, 94 F.Supp.3d 517 (S.D.N.Y. 2015), *aff'd sub. nom.*, *DeValerio v. Olinski*, 673 F. App'x 87, 90 (2d Cir. 2016)).

◊   Co-counsel in appeal of common benefit fees decision arising out of mass tort MDL (*In re Roundup Prod. Liab. Litig.*, Civil Action No. 21-16228, 2022 WL 16646693 (9th Cir, 2022))

◊   Served as *amicus curiae* and co-authored *amicus* brief on proper approach to attorney's fees in common fund cases (*Laffitte v. Robert Half Int'l Inc.*, 1 Cal. 5th 480, 504, 376 P.3d 672, 687 (2016))

Consumer Class Action

◊   Co-counsel in challenge to antenna-related design defect in Apple's iPhone4 (*Dydyk v. Apple Inc.*, 5:10-cv-02897-HRL, U.S. Dist. Court, N.D. Cal.) (complaint filed June 30, 2010)

◊   Co-class counsel in $8.5 million nationwide class action settlement challenging privacy concerns raised by Google's Buzz social networking program (*In re Google Buzz Privacy Litigation*, 5:10-cv-00672-JW, U.S. Dist. Court, N.D. Cal.) (amended final judgment June 2, 2011)

Disability

◊   Co-counsel in successful ADA challenge ($500,000 jury verdict) to the denial of health care in emergency room (*Howe v. Hull*, 874 F. Supp. 779, 873 F. Supp 72 (N.D. Ohio 1994))

Employment

◊   Co-counsel in challenges to scope of family benefit programs (*Ross v. Denver Dept. of Health*, 883 P.2d 516 (Colo. App. 1994)); *(Phillips v. Wisc. Personnel Com'n*, 482 N.W.2d 121 (Wisc. 1992))

Equal Protection

◊   Co-counsel in (state court phases of) successful challenge to constitutionality of a Colorado ballot initiative, Amendment 2 (*Evans v. Romer*, 882 P.2d 1335 (Colo. 1994))

◊   Co-counsel (and *amici*) in challenges to rules barring military service by gay people (*Able v. United States*, 44 F.3d 128 (2d Cir. 1995); *Steffan v. Perry*, 41 F.3d 677 (D.C. Cir. 1994) (*en banc*))

◊   Co-counsel in challenge to the constitutionality of the Attorney General of Georgia' firing of staff attorney (*Shahar v. Bowers*, 120 F.3d 211 (11th Cir. 1997))

Fair Housing

◊   Co-counsel in successful Fair Housing Act case on behalf of group home (*Hogar Agua y Vida En el Desierto v. Suarez-Medina*, 36 F.3d 177 (1st Cir. 1994))

Family Law

◊   Co-counsel in challenge to constitutionality of Florida law limiting adoption (*Cox v. Florida Dept. of Health and Rehab. Srvcs.*, 656 So.2d 902 (Fla. 1995))

◊   Co-authored *amicus* brief in successful challenge to Hawaii ban on same-sex marriages (*Baehr v. Lewin*, 852 P.2d 44 (Haw. 1993))

First Amendment

◊   Co-counsel in successful challenge to constitutionality of Alabama law barring state funding foruniversity student groups (*GLBA v. Sessions*, 930 F.Supp. 1492 (M.D. Ala. 1996))

◊   Co-counsel in successful challenge to content restrictions on grants for AIDS education materials (*Gay Men's Health Crisis v. Sullivan*, 792 F.Supp. 278 (S.D.N.Y. 1992))

Landlord / Tenant

◊   Lead counsel in successful challenge to rent control regulation (*Braschi v. Stahl Associates Co.*, 544 N.E.2d 49 (N.Y. 1989))

Police

◊   Co-counsel in case challenging DEA brutality (*Anderson v. Branen*, 27 F.3d 29 (2d Cir. 1994))

Prison Conditions

◊   Co-counsel in appeal of class certification decision in damages class action arising out of conditions in St. Louis City Jail (*Cody v. City of St. Louis for & on behalf of Medium Sec. Inst.,* 103 F.4th 523, 526 (8th Cir. 2024))

Racial Equality

◊   Co-authored *amicus* brief for constitutional law professors challenging constitutionality of Proposition 209 *(Coalition for Economic Equity v. Wilson*, 110 F.3d 1431 (9th Cir. 1997))

SELECTED OTHER PUBLICATIONS

Editorials

◊   *Follow the Leaders*, NEW YORK TIMES, March 15, 2005

◊   *Play It Straight*, NEW YORK TIMES, October 16, 2004

◊   *Hiding Behind the Constitution*, NEW YORK TIMES, March 20, 2004

◊   *Toward More Perfect Unions,* NEW YORK TIMES, November 20, 2003 (with Brad Sears)

◊   *Don't Ask, Don't Tell, Don't Believe It*, NEW YORK TIMES, July 20, 1993

◊   *AIDS: Illness and Injustice*, WASH. POST, July 26, 1992 (with Nan D. Hunter)

BAR ADMISSIONS

◊   Massachusetts (2008)

◊   California (2004)

◊   District of Columbia (1987) (inactive)

◊   Pennsylvania (1986) (inactive)

◊   U.S. Supreme Court (1993)

◊   U.S. Court of Appeals for the First Circuit (2010)

◊   U.S. Court of Appeals for the Second Circuit (2015)

◊   U.S. Court of Appeals for the Fifth Circuit (1989)

◊   U.S. Court of Appeals for the Ninth Circuit (2004)

◊   U.S. Court of Appeals for the Eleventh Circuit (1993)

◊   U.S. Court of Appeals for the D.C. Circuit (1993)

◊   U.S. District Courts for the Central District of California (2004)

◊   U.S. District Court for the District of the District of Columbia (1989)

◊   U.S. District Court for the District of Massachusetts (2010)

◊   U.S. District Court for the Northern District of California (2010)

EXHIBIT B

Bartz v. Anthropic PBC
Case No. 3:24-cv-05417-WHA
United States District Court for the Northern District of California

EXPERT REPORT OF PROFESSOR WILLIAM B. RUBENSTEIN

EXHIBIT B
List of Documents Reviewed by Professor Rubenstein
(other than case law and scholarship on the relevant issues)

1. Class Action Complaint, ECF No. 1
2. Notice and Order Re Putative Class Actions and Factors to Be Evaluated for Any Proposed Class Settlement and Protocol for Interviewing Putative Class Members, ECF No. 8
3. Supplemental Order to Order Setting Initial Case Management Conference in Civil Cases Before Judge William Alsup, ECF No. 9
4. Anthropic PBC's Answer to Complaint, ECF No. 57
5. First Amended Class Action Complaint, ECF No. 70
6. Anthropic PBC's Answer to First Amended Class Action Complaint, ECF No. 72
7. Technology Tutorial, ECF No. 75-1
8. Technology Tutorial, ECF No. 79-1
9. Defendant Anthropic PBC's Notice of Motion and Motion for Summary Judgement; Memorandum of Points and Authorities in Support, ECF No. 122
10. Plaintiffs' Notice of Motion and Motion for Class Certification, ECF No. 125
11. Declaration of Rachel Geman and Justin A. Nelson in Support of Plaintiffs' Motion for Appointment as Co-Lead Class Counsel, ECF No. 125-1
12. Exhibit A to Geman and Nelson Declaration, ECF No. 125-2
13. Exhibit B to Geman and Nelson Declaration, ECF No. 125-3
14. Exhibit C to Geman and Nelson Declaration, ECF No. 125-4
15. Exhibit D to Geman and Nelson Declaration, ECF No. 125-5
16. Expert Declaration of Ben Y. Zhao, PHD in Support of Plaintiffs Motion for Class Certification, ECF No. 125-6
17. Exhibit A to Zhao Declaration, ECF No. 125-7
18. Exhibit B to Zhao Declaration, ECF No. 125-8
19. Slip Sheets to Exhibits C and D to Zhao Declaration, ECF No. 125-9
20. Declaration of Jacob S. Miller in Support of Class Certification, ECF No. 125-10
21. Slip Sheets for Exhibits 1-26 to Miller Declaration, ECF No. 125-11
22. Exhibit 27-31 to Miller Declaration, ECF No. 125-12
23. Slip Sheets to Exhibits 32-38 to Miller Declaration, ECF No. 125-13
24. Exhibit 39 to Miller Declaration, ECF No. 125-14
25. Proposed Order Granting Class Certification, ECF No. 125-15
26. Questions for Briefing, ECF No. 135
27. Anthropic PBC's Opposition to Plaintiffs' Motion for Class Certification, ECF No. 148
28. Plaintiffs' Reply in Support of Class Certification, ECF No. 172
29. Declaration of Jacob S. Miller in Support of Plaintiffs' Reply in Support of Class Certification, ECF No. 172-1
30. Slip Sheets for Exhibits 40-50 to Miller Declaration, ECF No. 172-2

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31.   Exhibit 51 to Miller Declaration, ECF No. 172-3
32.   Exhibit 52 to Miller Declaration, ECF No. 172-4
33.   Exhibit 53 to Miller Declaration, ECF No. 172-5
34.   Exhibit 54 to Miller Declaration, ECF No. 172-6
35.   Exhibit 55 to Miller Declaration, ECF No. 172-7
36.   Exhibit 56 to Miller Declaration, ECF No. 172-8
37.   Exhibit 57 to Miller Declaration, ECF No. 172-9
38.   Exhibit 58 to Miller Declaration, ECF No. 172-10
39.   Exhibit 59 to Miller Declaration, ECF No. 172-11
40.   Exhibit 60 to Miller Declaration, ECF No. 172-12
41.   Exhibit 61 to Miller Declaration, ECF No. 172-13
42.   Declaration of Charles Graeber in Support of Reply to Plaintiffs' Motion for Class Certification, ECF No. 172-14
43.   Anthropic PBC's Reply in Support of Motion for Summary Judgement, ECF No. 181
44.   Questions for Supplemental Briefing Re Class Certification, ECF No. 199
45.   Plaintiffs' Response to Court's Question at Class Certification Hearing, ECF No. 200
46.   Defendant Anthropic PBC's Supplemental Brief in Support of Opposition to Motion for Class Certification, ECF No. 201
47.   Anthropic PBC's Response to the Court's Request for Supplemental Briefing Regarding Class Certification, ECF No. 202
48.   Plaintiffs' Supplemental Briefing Regarding Class Definition and Notice, ECF No. 203
49.   Permission to Negotiate Class Settlement, ECF No. 210
50.   Plaintiffs' Supplemental Briefing Regarding *Google Books*, ECF No. 215
51.   Order on Fair Use, ECF No. 231
52.   Order on Class Certification, ECF No. 244
53.   Order Denying Motion to Stay, ECF No. 296
54.   Notice of Association of Additional Counsel, ECF No. 298
55.   Motion to Approve Class Notice, ECF No. 317
56.   Declaration of Jennifer Keough Regarding Proposed Class Notice Plan, ECF No. 319
57.   Exhibit A to Keough Declaration, ECF No. 319-1
58.   Exhibit B to Keough Declaration, ECF No. 319-2
59.   Exhibit C to Keough Declaration, ECF No. 319-3
60.   Exhibit D to Keough Declaration, ECF No. 319-4
61.   Exhibit E to Keough Declaration, ECF No. 319-5
62.   Exhibit F to Keough Declaration, ECF No. 319-6
63.   Exhibit G to Keough Declaration, ECF No. 319-7
64.   Anthropic PBC's Response to Plaintiffs' Motion to Approve Class Notice, ECF No. 329
65.   Order Re Notice Form and Distribution Plan, ECF No. 330
66.   Anthropic's Response to Plaintiffs' Motion to Approve Class Notice, ECF No. 334
67.   Reply in Support of Motion to Approve Class Notice, ECF No. 350
68.   Notice of Settlement, Joint Stipulation for Stay, and Proposed Order, ECF No. 354
69.   Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 362
70.   Exhibit A to Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 362-1
71.   Declaration of Court Appointed Class Counsel Rachel Geman and Justin A. Nelson in Support of Motion for Preliminary Approval of Settlement Agreement, ECF No. 362-2
72.   Class Action Settlement Agreement, ECF No. 362-3

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73. Exhibit B to Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 362-4
74. Exhibit C to Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 362-5
75. Exhibit D to Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 362-6
76. Exhibit E to Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 362-7
77. Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 363
78. Exhibit A to Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 363-1
79. Declaration of Court Appointed Class Counsel Rachel Geman and Justin A. Nelson in Support of Motion for Preliminary Approval of Settlement Agreement, ECF No. 363-2
80. Class Action Settlement Agreement, ECF No. 363-3
81. Exhibit B to Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 363-4
82. Exhibit C to Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 363-5
83. Exhibit D to Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 363-6
84. Exhibit E to Unopposed Motion for Preliminary Approval of Class Settlement, ECF No. 363-7
85. Declaration of Robert Mills in Support of Plaintiffs' Motion for Preliminary Approval, ECF No. 363-8
86. Declaration of Maria A. Pallante in Support of Motion for Preliminary Approval of Class Settlement, ECF No. 363-9
87. Declaration of Mary E. Rasenberger, ECF No. 363-10
88. Declaration of the Hon. Layn R. Phillips (Ret.), ECF No. 363-11
89. Declaration of Jennifer Keough Regarding Proposed Settlement Notice Plan, ECF No. 363-12
90. Exhibits A-F to Keough Declaration, ECF No. 363-13
91. Proposed Order Granting Preliminary Approval of Class Action Settlement, ECF No. 363-14
92. Order Re Hearing on Motion for Preliminary Approval of Settlement, ECF No. 364
93. Letter to the Court, ECF No. 365
94. Questions for Preliminary Approval Hearing on September 25, ECF No. 375
95. Further Questions for Preliminary Approval Hearing on September 25, ECF No. 383
96. Declaration of Andrea Bartz, ECF No. 385
97. Declaration of Publishers' Coordination Counsel Jay Edelson and Matthew J. Oppenheim in Support of Supplemental Brief in Support of Motion for Preliminary Approval of Class Settlement, ECF No. 398
98. Supplemental Declaration of Court Appointed Class Counsel Rachel Geman and Justin A. Nelson in Support of Motion for Preliminary Approval of Settlement Agreement, ECF No. 400
99. Supplemental Brief in Support of Motion for Preliminary Approval of Class Settlement, ECF No. 401
100. Exhibit 1 to Supplemental Brief in Support of Motion for Preliminary Approval of Class

Settlement, ECF No. 401-1

101. Joint Response to Court's Questions for Preliminary Approval Hearing on September 25, 2025, ECF No. 418

102. Notice of Compliance with Directives at the Preliminary Approval Hearing and Request for April 23, 2026 Final Approval Hearing, ECF No. 432

103. Memorandum Opinion on Preliminary Approval of Class Action Settlement, ECF No. 437

104. Objection to Proposed Settlement, ECF No. 438

105. Notice of Compliance and First Report on Settlement Implementation, ECF No. 440

106. Plaintiffs' Notice of Motion and Motion for Order Limiting Third Party's Communications with Class Members and for Other Relief Pursuant to Fed. R. Civ. P.23(d), ECF No. 442

107. Plaintiffs' Ex Parte Application for an Order Shortening Time to Hear Plaintiffs' Motion for an Order Limiting Third Party's Communications with Class Members and for Other Relief Pursuant to Fed. R. Civ. P. 23(d), ECF No. 446

108. Plaintiffs' Response and Notice of Compliance Regarding Court's Order On Changes to Class Notice and the Appointment of a Special Master, ECF No. 455

109. Declaration of Rachel Geman in Support of Plaintiffs' Notice of Compliance, ECF No. 455-1

110. Exhibit A to Geman Declaration, ECF No. 455-2

111. Exhibit B to Geman Declaration, ECF No. 455-3

112. Exhibit C to Geman Declaration, ECF No. 455-4

113. Exhibit D to Geman Declaration, ECF No. 455-5

114. Exhibit E to Geman Declaration, ECF No. 455-6

115. Exhibit F to Geman Declaration, ECF No. 455-7

116. Exhibit G to Geman Declaration, ECF No. 455-8

117. Exhibit J to Geman Declaration, ECF No. 455-9

118. Revised Exhibit J to Geman Declaration, ECF No. 455-10

119. Exhibit K to Geman Declaration, ECF No. 455-11

120. Defendant Anthropic PBC's Statement Regarding Plaintiffs' Motion for An Order Limiting Communications with Class Members and for Other Relief Pursuant to Fed. R. Civ. 23(d), ECF No. 459

121. Third Party Claimshero Holdings LLC's Opposition to Plaintiffs' Motion for Order Limiting Third Party's Communications with Class Members and Other Relief Pursuant to Fed. R. Civ. P. 23(d), ECF No. 460

122. Declaration of Matthew Freund in Support of Claimshero's Opposition to Plaintiffs' Motion for Order Limiting Third Party's Communications with Class Members and Other Relief Pursuant to Fed. R. Civ. P. 23(d), ECF No. 461

123. Expert Declaration of Martin H. Redish in Support of Claimshero Holdings LLC's Opposition to Plaintiffs' Motion for Order Limiting Third Party Communications with Class Members and Other Relief, ECF No. 468

124. Exhibit 1 to Redish Declaration, ECF No. 468-1

125. Reply Brief in Support of Plaintiffs' Motion for Order Limiting Third Party's Communications with Class Members and Other Relief Pursuant to Fed. R. Civ. P. 23(d), ECF No. 477

126. Declaration of Rachel Geman in Support of Plaintiff's Reply Brief for Order Limiting Third Party's Communications with Class Members and Other Relief Pursuant to Fed.

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R. Civ. P. 23(d), ECF No. 477-1

127. Exhibit A to Geman Declaration, ECF No. 477-2
128. Exhibit B to Geman Declaration, ECF No. 477-3
129. Amended Proposed Order Limiting Third Party's Communications with Class Members and Granting Other Relief, ECF No. 477-4
130. Request for Information, ECF No. 485
131. Plaintiffs' Response to Request for Information, ECF No. 486
132. Plaintiffs' Errata Regarding Plaintiffs' Response to Request for Information, ECF No. 487
133. Exhibit A to Plaintiffs' Errata Regarding Plaintiffs' Response to Request for Information, ECF No. 487-1
134. Further Order Re Request for Information, and Order to Preserve Communications, ECF No.488
135. Further Order on Status Report Re Changes to Class Notice, ECF No. 490
136. Order on Joint Motion to Extend the Notice Deadline, ECF No. 496
137. Joint Stipulation and Order Referring Claimant Disputes to Special Master Theodore K. Cheng, ECF No. 501

EXHIBIT C

Bartz v. Anthropic PBC
Case No. 3:24-cv-05417-WHA
United States District Court for the Northern District of California

EXPERT REPORT OF PROFESSOR WILLIAM B. RUBENSTEIN

EXHIBIT C
List of Cases with Multipliers of 4 or More

1. *In re Merry-Go-Round Enters., Inc.*, 244 B.R. 327, 335–45 (Bankr. D. Md. 2000) ("Based on Fidelity's analysis which assumes a $300 blended hourly rate would be reasonable, the contingent fee requested by Snyder, Weiner, as modified, of $71.2 million would be 19.6 times the lodestar starting point . . . . Snyder, Weiner will be awarded its requested fee in the amount of $71.2 million for professional services as special litigation counsel for the Chapter 7 Trustee.") (bankruptcy).

2. *Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.*, No. CIV.A. 03-457, 2005 WL 1213926, at *18 (E.D. Pa. May 19, 2005) ("The Court further notes that the high lodestar multiplier (15.6) which results from the Court's award of attorneys' fees in this case is neutralized with respect to the reasonableness of a percentage fee award of 20% by the extraordinary support Plaintiffs have shown for counsel's request for fees.").

3. *Vidrio v. United Airlines, Inc.*, No. CV 15-7985 PSG (MRWX), 2023 WL 11932248, at *11 (C.D. Cal. June 29, 2023) ("Comparing the lodestar with the requested fee, the resulting multiplier is approximately 15. . . . The Court finds that Class Counsel has achieved an extraordinary result, which justifies their attorneys' fees request and the exceptional lodestar multiplier.").

4. *Glendora Cmty. Redevelopment Agency v. Demeter*, 155 Cal. App. 3d 465, 479 (Ct. App. 1984) ("The contention of [appellant] is that the fee sought is more than 12 times the fee for which services at an hourly rate would have been obtained from an attorney specializing in condemnation (including $8,000 for costs on appeal). Such calculations are based upon hindsight rather than reasonable expectation.") (condemnation proceeding).

5. *In re Doral Fin. Corp. Sec. Litig.*, No. 1:05-md-01706, ECF No. 107 at 5 (S.D.N.Y. July 17, 2007) ("Lead Plaintiff's counsel's total lodestar is $1,917,094.50. A 15.25% fee represents a reasonable multiplier of 10.26. Given the public policy and judicial economy interests that support the expeditious settlement of cases . . . the requested fee is reasonable.").

6. *Farrell v. Bank of Am. Corp., N.A.*, 827 Fed. Appx. 628, 636 (9th Cir. 2020) (J. Kleinfeld dissenting) ("A lodestar calculated using class counsel's own submitted numbers . . . amounted to $1,428,047.50. . . . [The] court awarded about ten times that much to class counsel").

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7. *Health Republic Ins. Co. v. United States*, 173 Fed. Cl. 508, 527 (2024), *amended*, No. 16-259, 2025 WL 1565024 (Fed. Cl. June 3, 2025) ("[A] 2.5-percent fee award is reasonable, and the corresponding 9.56 multiplier based on a reduced lodestar is justified under the circumstances of these cases.").

8. *Weiss v. Mercedes-Benz*, 899 F. Supp. 1297 (D. N.J. 1995), *aff'd*, 66 F.3d 314 (3d Cir. 1995), as reported in *In re Prudential Ins. Co. of Am. Sales Pracs. Litig.*, 962 F. Supp. 572, 592 (D.N.J. 1997) (stating that *Weiss* court had "award[ed] fee that resulted in a multiple of 9.3 times the lodestar and an average hourly rate of $2,779.63"), *vacated on other grounds sub nom. In re Prudential Ins. Co. Am. Sales Prac. Litig. Agent Actions*, 148 F.3d 283 (3d Cir. 1998).

9. *Skochin v. Genworth Fin., Inc.*, No. 3:19-CV-49, 2020 WL 6536140, at *11 (E.D. Va. Nov. 5, 2020) (awarding fees of $2 million and 15% of the Settlement Class's net damage awards with a cap of $24.5 million, representing 9.05 multiplier).

10. *Conley v. Sears, Roebuck & Co.*, 222 B.R. 181, 182 (D. Mass. 1998) ("If a lodestar approach were used, the actual amount of attorney's fees of class counsel calculated by multiplying the number of hours worked by the hourly billing rate totals $826,665.00, such that the requested attorney's fees would constitute a lodestar multiplier of 8.9 percent. After hearing, and some hand-wringing, the Court concludes that the fee is not unreasonable under the common fund doctrine.") (class action within bankruptcy).

11. *Cosgrove v. Sullivan*, 759 F. Supp. 1667, 167 n.1 (S.D.N.Y. 1991) ("Under these circumstances, we set the prevailing counsel's fee at $1,000,000.00…[t]he total 'lodestar' in this case, which represents hours worked multiplied by a reasonable hourly rate, is $114,398.00.") (8.74 multiplier).

12. *Halcom v. Genworth Life Ins. Co.*, No. 3:21-CV-19, 2022 WL 2317435, at *13 (E.D. Va. June 28, 2022) ("Taking all of these considerations into account, the 8.4x multiplier is acceptable and the requested attorney fees are reasonable.").

13. *Muchnick v. First Fed. Sav. & Loan Ass'n of Phila.*, No. CIV.A. 86-1104, 1986 WL 10791, at *1 (E.D. Pa. Sept. 30, 1986) ("Although the lodestar in this case is approximately $30,000.00, counsel seeks an attorneys' fee of $250,000.00 . . . I conclude that the requested fee is eminently reasonable under the circumstances of this case and can be justified under the lodestar method of calculation") (8.33 multiplier).

14. *New England Carpenters Health Benefits Fund v. First Databank, Inc.*, Civil Action No. 05-11148-PBS, 2009 WL 2408560, at *2 (D. Mass. Aug. 3, 2009) ("Balancing all the factors under the crosscheck approach, I award the amount of $70,000,000, which represents a multiplier of about 8.3 times lodestar, and about 20 percent of the common fund.").

15. *Santos v. Camacho*, No. CIV. 04-00006, 2008 WL 8602098, at*39 (D. Guam Apr. 23, 2008) ("Based on the significant results achieved through the efforts of Class Counsel in

creating the funds for settlement and in light of case law, the court should find that this factor weighs strongly in favor of granting counsel a multiplier of 8."), *aff'd Simpao v. Gov't of Guam,* 369 F. App'x 837, 840 (9th Cir. 2010).

16. *Yuzary v. HSBC Bank USA, N.A.*, No. 12 CIV. 3693 PGG, 2013 WL 5492998, at *11 (S.D.N.Y. Oct. 2, 2013) ("Here, the lodestar sought by Class Counsel, approximately 7.6 times, falls within the range granted by courts and equals the 31.7% being sought. While this multiplier is near the higher end of the range of multipliers that courts have allowed, this should not result in penalizing plaintiffs' counsel for achieving an early settlement, particular where, as here, the settlement amount is substantial.").

17. *Hainey v. Parrott*, No. 1:02-CV-733, 2007 WL 3308027, at *1-2 (S.D. Ohio Nov. 6, 2007) ("[C]ounsel's lodestar fee calculation is approximately $241,000…[i]n consideration of the above factors, the Court finds that an award of attorney's fees of 30% of the common fund, or $1.8 million, is appropriate in this case.") (7.47 effective multiplier).

18. *In re Dell Techs. Inc. Class V S'holders Litig.*, 300 A.3d 679, 715 (Del. Ch. 2023), *as revised* (Aug. 21, 2023), *aff'd*, 326 A.3d 686 (Del. 2024) (observing that the "multiple to lodestar of 7x in this case would not raise a federal eyebrow").

19. *In re Boston & Maine Corp. v. Sheehan, Phinney, Bass & Green, P.A.*, 778 F.2d 890 (1st Cir. 1985) (awarding a "final fee of $232,310" contrasted with "hourly fees of $33,110," implying a ~7.0 multiplier) (bankruptcy).

20. *In re Rite Aid Corp. Sec. Litig.*, 362 F. Supp. 2d 587, 589 (E.D. Pa. 2005) ("Based on the $31,660,328.75 proposed fee award and the $4,549,824.75 lodestar, we conclude that plaintiffs' counsel requests approval of a fee award with a 6.96 multiplier.").

21. *Steiner v. Amer. Broad. Co., Inc.*, 248 F. App'x 780, 783 (9th Cir. 2007) ("Based on class counsel's total hours, the lodestar multiplier was approximately 6.85. Although this multiplier is higher than those in many common fund cases, it still falls well within the range of multipliers that courts have allowed.") (internal citations omitted).

22. *Ramirez v. Lovin' Oven Catering Suffolk, Inc.*, No. 11 CIV. 0520 JLC, 2012 WL 651640 (S.D.N.Y. Feb. 24, 2012) (granting fees equal to 6.8 times lodestar).

23. *Riveras v. Bilboa Rest. Corp.*, No. 17-CV-4430-LTS-BCM, 2018 WL 8967112, at *1 (S.D.N.Y. Dec. 14, 2018) (finding 6.7 multiplier reasonable in FLSA action).

24. *Elec. Welfare Tr. Fund v. United States*, 171 Fed. Cl. 362, 388–89 (2024) ("Class Counsel's proposed fee of 25% net expenses 'represents a multiplier of approximately 6.63 on Counsel's total lodestar.' Though a 6.63 multiplier is higher than the normal 'range of 1 to 4' acknowledged in *Health Republic Ins. Co.*, it is nonetheless reasonable and consistent with the principles established by the Federal Circuit.") (internal citations and footnote omitted).

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25. *In re UnitedHealth Grp. Inc. PSLRA Litig.,* 643 F. Supp. 2d 1094, 1106 (D. Minn. 2009) ("Using the Court-calculated lodestar, this fee would represent a multiplier of nearly 6.5. The Court finds this multiplier appropriate.").

26. *Nieman v. Duke Energy Corp.*, No. 312CV00456MOCDSC, 2015 WL 13609363, at *2 (W.D.N.C. Nov. 2, 2015) ("The amount of the settlement and the efficiency of counsel in reaching such a resolution reinforce an upward variance from a 4.5 multiplier, but not an 8.0 multiplier. Considering all of the arguments presented, the court finds that the work accomplished in this case—which was substantial—is reasonably compensated by an 18% fee when the *Johnson* factors are considered and then crosschecked.") (6.43 multiplier).

27. *Beckman v. KeyBank, N.A.*, 293 F.R.D. 467, 482 (S.D.N.Y. 2013) ("Here, the lodestar sought by Class Counsel, approximately 6.3 times, falls within the range granted by courts and equals the one-third percentage being sought. While this multiplier is near the higher end of the range of multipliers that courts have allowed, this should not result in penalizing plaintiffs' counsel for achieving an early settlement, particular where, as here, the settlement amount is substantial.").

28. *Spartanburg Reg'l Health Servs. Dist., Inc. v. Hillenbrand Indus., Inc.*, No. 7:03-cv-02141, ECF Nos. 377 (D. S.C. Aug. 15, 2006) (approving fee request noting multiplier "slightly above six"); ECF No. 338-5 (providing data showing 6.22 multiplier).

29. *Stevens v. SEI Invs. Co.*, No. CV 18-4205, 2020 WL 996418, at *13 (E.D. Pa. Feb. 28, 2020) ("Class Counsel's request for $2,266,666.00 (one-third of the settlement amount) will result in Class Counsel receiving approximately 6.16 times the lodestar. Courts frequently approve attorneys' fees awards for amounts in excess of the calculated lodestar. Indeed, multiples ranging from 1 to 8 are often used in common fund cases.").

30. *Kane Cty., Utah v. United States*, 145 Fed. Cl. 15, 20 (2019) ("In order to equal one third of the total recovery, this lodestar amount must be subjected to a multiplier of approximately 6.13, which is within the range courts have approved in common fund cases.").

31. *Wenzel v. Colvin*, No. EDCV 11-0338 JEM, 2014 WL 3810247, at *4 (C.D. Cal. Aug. 1, 2014) ("The $1,000 per hour rate constitutes a multiplier of 6.06 over counsel's normal hourly rate, consistent with cases that reward excellent results.").

32. *In re Credit Default Swaps Antitrust Litig.*, No. 13MD2476 (DLC), 2016 WL 2731524, at *17 (S.D.N.Y. Apr. 26, 2016) ("The loadstar calculation submitted by Class Counsel totals over $41 million as of April 1, reflecting over 93,000 hours of work by Class Counsel. This amount is equivalent to a loadstar multiple of just over 6.").

33. *In re Cardinal Health Inc. Sec. Litig.*, 528 F. Supp. 2d 752, 768 (S.D. Ohio 2007) ("From the Court's analysis of the previous factors, the Court has found that approximately 18%

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is a reasonable award, which would yield a lodestar multiplier of six.").

34. *In re Krispy Kreme Doughnuts, Inc. Sec. Litig.*, No. 1:04-cv-00416, ECF No. 203 (M.D. N.C. Feb. 15, 2007) (approving fee request); ECF No. 193 at 17 (stating fee request embodied multiplier of "approximately 6").

35. *Ladewig v. Ariz. Dep't of Revenue*, 204 Ariz. 352, 359, 63 P.3d 1089, 1096 (Ariz. Tax Ct. 2003) ("In this case, the Court believes that in light of the lengthy delay in recovery, and the high risks assumed by counsel, that a lodestar multiplier of 6 is appropriate.").

36. *In re RJR Nabisco, Inc. Sec. Litig.*, No. 88 Civ. 7905(MBM), 1992 WL 210138, at *5–6 (S.D. N.Y. Aug. 14, 1992) ("[T]he requested fees total six times the value of the time spent by plaintiffs' counsel, what is referred to as the lodestar amount, which amount he says equals the total fees of all defense counsel. . . . [T]he award of a percentage fee in common fund cases such as this is consistent with the better and increasingly prevailing view in such cases, the requested percentage lies well within the limits awarded in similar cases, plaintiffs' counsel have not taken a free ride on the efforts of a government agency and the settlement was skillfully negotiated.").

37. *Perera v. Chiron Corp.*, No. 95-20725-SW, (N.D. Cal. 1999) (ECF. No. 108) ("[T]his Court believes that a multiplier of 5.96 is not unreasonable given the riskiness of this litigation . . . .").

38. *Bekker v. Neuberger Berman Grp. 401(k) Plan Inv. Comm.*, 504 F. Supp. 3d 265, 271 (S.D.N.Y. 2020) ("Class Counsel's requested fee represents a lodestar multiplier of 5.85, which is within the range of acceptable multipliers.").

39. *Williams v. Rohm & Haas Pension Plan*, No. 04-0078-SEB, 2010 WL 4723725 (S.D. Ind. Nov. 12, 2010), *aff'd*, 658 F.3d 629 (7th Cir. 2011) (awarding fees of $43.5 million, representing 5.85 multiplier).

40. *Rogowski v. State Farm Life Ins. Co.*, No. 4:22-CV-00203-RK, 2023 WL 5125113, at *5 n.8 (W.D. Mo. Apr. 18, 2023). ("Accepting Class Counsel's updated lodestar multiplier of 5.75 . . . while high, the lodestar multiplier is not unreasonably so.").

41. *In re Mercedes-Benz Emissions Litig.*, No. 216CV881KMESK, 2021 WL 7833193, at *16 (D.N.J. Aug. 2, 2021) ("The requested fee award results in applying a multiplier of 5.67, within the range of multipliers typically awarded in the Third Circuit."), *adopted in full*, *In re Mercedes-Benz Emissions Litig.*, No. 2:16-cv-00881 (D.N.J. Sept. 20, 2021), ECF No. 345.

42. *Athale v. Sinotech Energy Ltd.*, No. 11 CIV. 05831 (AJN), 2013 WL 11310686, at *9 (S.D.N.Y. Sept. 4, 2013) ("This amounts to a lodestar multiplier of 5.65, which although high, is not unreasonable under the particular facts of this case.").

43. *In re Charter Commc'ns, Inc., Sec. Litig.*, No. 4:02-CV-1186 CAS, 2005 WL 4045741,

at *22 (E.D. Mo. June 30, 2005) ("Here fees of 20% of the settlement yield a 5.61 multiplier, which is within the range of multipliers awarded in comparable complex cases.").

44. *Roman v. Jan-Pro Franchising Int'l, Inc.*, No. 3:16-CV-05961-WHA, 2024 WL 2412387, at *5 (N.D. Cal. May 23, 2024) ("[I]n light of the strong result achieved for the class, this order finds that an upward deviation from the 25% benchmark is appropriate such that class counsel should be awarded 30% of the common fund settlement which would result in a lodestar multiplier of 5.59.").

45. *Roberts v. Texaco, Inc.*, 979 F. Supp. 185, 198 (S.D.N.Y. 1997) ("Under such circumstances, a 5.5 times lodestar based on the $3,482,571.75 time charges appears reasonable.").

46. *Kang v. Wells Fargo Bank, N.A.*, No. 17-CV-06220-BLF, 2021 WL 5826230, at *18 (N.D. Cal. Dec. 8, 2021) (awarding fees of $21,053,146.92, representing 5.49 multiplier).

47. *Geneva Rock Prod., Inc. v. United States*, 119 Fed. Cl. 581, 595 (2015), *rev'd on other grounds*, *Longnecker Prop. v. United States*, No. 2015-5045, 2016 WL 9445914 (Fed. Cir. Nov. 14, 2016) ("In this case, an award 5.39 times the lodestar is reasonable under RCFC 23(h), given the complexity of the litigation, the diligent and skillful work by class counsel, and the pendency of the case for over six years.").

48. *Arrington v. Optimum Healthcare IT, LLC.*, No. CV 17-3950, 2018 WL 5631625, at *10 (E.D. Pa. Oct. 31, 2018) ("When calculated against the requested fee of $1,633,333.33, the lodestar multiplier is 5.3. . . . However, in this case, class counsel undertook significant risk to achieve a substantial settlement amount, and should not be penalized for settling the case early in the litigation. We are satisfied with the reasonableness of the requested fee and we will approve class counsel's request for $1,633,333.33 in attorneys' fees.").

49. *Rawa v. Monsanto Co.*, No. 4:17CV01252 AGF, 2018 WL 2389040, at *9 (E.D. Mo. May 25, 2018), on appeal (noting that fee award had "corresponding lodestar multiplier of 5.3" that was "quite high compared to similar cases in this circuit" but finding it not "too high").

50. *Davis v. J.P. Morgan Chase & Co.*, 827 F. Supp. 2d 172, 185 (W.D.N.Y. 2011) ("In this case, dividing the $14 million fee request by the lodestar figure yields a multiplier of about 5.3. A review of the case law indicates that while that figure is toward the high end of acceptable multipliers, it is not atypical for similar fee-award cases.").

51. *Merkner v. AK Steel Corp.*, No. 1:09-CV-423-TSB, 2011 WL 13202629, at *5 (S.D. Ohio Jan. 10, 2011) ("Applying the rates requested with regard to the hours reflected in the Declarations of Mr. Coleman and Ms. Wallace yields a lodestar figure of $1,699,467. In light of the $9.1 million sought, the 'lodestar multiplier' would be 5.3. This multiplier

is acceptable under the facts and circumstances of this case.").

52. *Di Giacomo v. Plains All Am. Pipeline*, No. CIV.A.H-99-4137, 2001 WL 34633373, at *11 (S.D. Tex. Dec. 19, 2001) ("This court finds that 5.3 is an acceptable multiplier in light of the particular facts of this case, discussed more fully below.").

53. *Arp v. Hohla & Wyss Enters., LLC*, No. 3:18-CV-119, 2020 WL 6498956, at *7 (S.D. Ohio Nov. 5, 2020) ("The multiplier on Class Counsel's lodestar is approximately 5.29 before accounting for any additional work. This is within the acceptable range.").

54. *Pinzon v. Jony Food Corp.*, No. 18-CV-105 (RA), 2018 WL 2371737, at *3 (S.D.N.Y. May 24, 2018) ("Although it is a close question, the settlement here falls within a reasonable range. According to the documentation and calculations submitted by Plaintiff's counsel, their lodestar amounts to $5,053. Even accepting the hours and fees requested by Plaintiff's counsel as accurate and reasonable, the fee award requested here has a lodestar multiplier of 5.23. This multiplier is on the high end of those generally allowed in this Circuit, but it is not unheard of … The Court thus approves the proposed attorneys' fees under the percentage of the fund method.").

55. *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F. Supp. 3d 344, 347 (S.D.N.Y. 2014) (noting that, "A fee award of 25% of the fund or $11,475,000 would represent a multiplier of 5.2 of the lodestar" and approving 25% award).

56. *Craft v. Cnty. of San Bernardino*, 624 F. Supp. 2d 1113, 1123 (C.D. Cal. 2008) ("The plaintiffs' request in this case for 25% of the class fund would result in a fee of $6,375,000, which is a multiplier of approximately 5.2 times the $1.2 Million lodestar in this case. The Court has concluded that it will award Class Counsel 25% of the class fund, and addresses the reasons for doing so below.").

57. *In re Enron Corp. Sec., Derivative & ERISA Litig.*, 586 F. Supp. 2d 732, 791 (S.D. Tex. 2008) ("[T]he Court finds that the exceptional obstacles to recovery that were present here, and the remarkable success obtained by Lead Counsel's skill and experience make this a rare and exceptional case warranting the application of the requested 5.2 multiplier under a lodestar cross-check or enhancement under a lodestar analysis.") (internal quotation marks and citation omitted).

58. *Zeltser v. Merrill Lynch & Co.*, No. 13 CIV. 1531 FM, 2014 WL 4816134, at *10 (S.D.N.Y. Sept. 23, 2014) (stating that "the lodestar sought by Class Counsel, approximately 5.1 times the fees sought, falls within the range granted by courts" and approving award).

59. *Ferrick v. Spotify USA Inc.*, No. 16-CV-8412 (AJN), 2018 WL 2324076, at *10 (S.D.N.Y. May 22, 2018) (finding that fee amounting to a 5.02 multiplier would "adequately compensate Class Counsel, and it recognizes the complexity of the case, the risks involved in the litigation, the efforts of Class Counsel and the quality of representation provided, and the benefits to the class from the settlement").

60. *In re Fernald Litig.*, No. C-1-85-149, 1989 WL 267038, at *5 (S.D. Ohio Sept. 29, 1989) ("We conclude, therefore, that plaintiffs' class counsel are entitled to twenty (20%) percent of the common fund created or an equivalent multiplier of five.").

61. *Fleisher v. Phoenix Life Ins. Co.*, No. 11-CV-8405 (CM), 2015 WL 10847814, at *18 (S.D.N.Y. Sept. 9, 2015) ("Based on the requested fee ($13,500,000), class counsel's aggregate lodestar yields a 'crosscheck' multiplier of 4.87. This is well within the range of crosscheck multipliers awarded in this circuit.").

62. *Perez v. Rash Curtis & Assocs.*, No. 4:16-CV-03396-YGR, 2021 WL 4503314, at *5 (N.D. Cal. Oct. 1, 2021) ("That said, and given the recovery to the class, the Court will authorize distribution of thirty-seven percent of the Settlement Amount to account for the fact that one of the two cases did in fact go to trial and under the agreement with plaintiff Perez, class counsel could have sought authorization of forty percent for that matter. Thirty-seven percent totals $27,972,000 which increases class counsel's lodestar to 4.8 and will address, in part, class counsel's independent decision to enter into a litigation funding agreement.").

63. *Meijer, Inc. v. 3M*, No. CIV.A. 04-5871, 2006 WL 2382718, at *24 (E.D. Pa. Aug. 14, 2006) ("[T]he Court finds that, given the facts of this case, the requested lodestar multiplier of 4.77 is acceptable and does not call for a reduction in Plaintiffs' Counsel's requested attorneys' fees award.").

64. *In re Facebook Biometric Info. Priv. Litig.*, 522 F. Supp. 3d 617, 633 (N.D. Cal. 2021), *appeal dismissed*, No. 21-15555, 2021 WL 2660668 (9th Cir. June 22, 2021), and *aff'd*, No. 21-15553, 2022 WL 822923 (9th Cir. Mar. 17, 2022) ("Reducing the fee here to $97,500,000, reduces the multiplier to 4.71. This is more in line with comparable settlements, still sufficiently and appropriately generous, and more reasonable in the circumstances here. The results obtained and the risks at trial warrant a higher-end multiplier of 4.71, but not more.").

65. *Cornwell v. Credit Suisse Grp.*, No. 08-CV-03758(VM), 2011 WL 13263367, at *2 (S.D.N.Y. July 20, 2011) ("Lead Plaintiffs' counsel's total lodestar is $4,049,631.50. A 27.5% fee represents a multiplier of 4.7. Given the public policy and judicial economy interests that support the expeditious settlement of cases, the requested fee is reasonable.") (citation omitted).

66. *In re Xcel Energy, Inc., Sec., Derivative & "ERISA" Litig.*, 364 F. Supp. 2d 980, 999 (D. Minn. 2005) (approving lodestar multiplier of 4.7 for securities class action component, because "[u]nder these circumstances, the court concludes that the 25% attorney fee, when cross-checked against a lodestar multiplier of 4.7, is reasonable"; also approving lodestar multiplier of 2.16 for ERISA component).

67. *Bodnar v. Bank of Am., N.A.*, No. CV 14-3224, 2016 WL 4582084, at *6 (E.D. Pa. Aug. 4, 2016) ("The collective lodestar for Class Counsel is $1,933,795.95. Accordingly,

an award of 33% of the Settlement Fund or $9,075,000 results in a multiplier here of 4.69. Given the nature, complexity, and potential duration of this Action, as detailed above, the risk of non-recovery, the value of the social benefit, and the extraordinary results in light of the obstacles, the court finds that the multiplier is appropriate and reasonable, including when compared to awards in other cases in this court and Circuit.").

68. *Maley v. Del Glob. Techs. Corp.*, 186 F. Supp. 2d 358, 371 (S.D.N.Y. 2002) ("Finally, in 'cross-checking' the percentage fee against the lodestar-multiple, it clearly appears that the modest multiplier of 4.65 is fair and reasonable.").

69. *Flores v. Express Servs., Inc.*, No. CV 14-3298, 2017 WL 1177098, at *4 (E.D. Pa. Mar. 30, 2017) ("The counsel fee request of $1,895,362.33 results in a multiplier of 4.6 . . . . This multiplier is reasonable . . .").

70. *In re Alphabet, Inc. Sec. Litig.*, No. 18-CV-06245-TLT, 2024 WL 4354988, at *7 (N.D. Cal. Sept. 30, 2024) ("Here, the lodestar multiplier is approximately 4.58, which the Court finds reasonable.").

71. *Holleran v Rita Medical Sys., Inc.*, No. RG06302394, 2007 WL 7759253 (Cal. Super. Oct. 04, 2007) ("Counsel for Plaintiffs seek fees in the total amount of $290,000, which represents a multiplier of 4.57. The agreed fees sought are substantially higher than the lodestar, but presumably reflect the contingent risk of the case to class counsel, the benefits of certainty and of limiting its own attorneys' fees to Angiodynamics, and other factors.").

72. *Gutierrez v. Wells Fargo Bank, N.A.*, No. C 07-05923 WHA, 2015 WL 2438274, at *7 & 8 n.3 (N.D. Cal. May 21, 2015) (stating that, "[c]onsidering all of the facts and circumstances, the Court, in its discretion, concludes that [one firm] deserves a multiplier of 2 and [second firm] deserves a multiplier of 5.5" and noting that net result is a total multiplier of 4.53).

73. *Mun. Auth. of Bloomsburg v. Pennsylvania*, 527 F. Supp. 982, 1000 (M.D. Pa. 1981) ("The multiplier of 4.5 requested by Petitioners will be applied to the lodestar fee despite the facts that such a multiplier is extremely high and appears to be probably without precedent. It is warranted only because of the peculiar facts of this case.").

74. *Deloach v. Philip Morris Cos.*, No. 1:00CV01235, 2003 WL 23094907, at *11 (M.D.N.C. Dec. 19, 2003) ("A multiplier of 4.45, in conjunction with an adjusted lodestar of $15,914,905.50, results in a fee award of $70,821,329.48. This figure represents a reasonable fee for the services provided by Plaintiffs' Co–Lead Counsel in this case.").

75. *Carrigan v. Xerox Corp.*, No. 3:21-CV-1085 (SVN), 2024 WL 1639535, at *7 (D. Conn. Apr. 16, 2024) ("While even the 4.423 multiplier is at the higher end of what courts have found to be reasonable, this Court finds that it is reasonable in this case . . . .").

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76. *Rabin v. Concord Assets Grp., Inc.*, No. 89 Civ. 6130, 1991 WL 275757 (S.D. N.Y. Dec. 19, 1991) ("The requested attorneys' fees of $2,544,122.78 represents a multiplier of 4.4 to the lodestar figure based on time (which this Court finds to have been reasonably expended) and at various hourly rates (which this Court finds to be reasonable for the particular attorneys performing services).").

77. *Krakauer v. Dish Network, L.L.C.*, No. 1:14-CV-333, 2018 WL 6305785, at *6 (M.D.N.C. Dec. 3, 2018) ("In sum, a 4.39 multiplier is reasonable for this case.").

78. *Johnson v. Fujitsu Tech. & Bus. of Am., Inc.*, No. 16-CV-03698-NC, 2018 WL 2183253, at *7 (N.D. Cal. May 11, 2018) ("This amount requires a risk multiplier of 4.375 to reach the $3.5 million Plaintiffs seek. Though on the high end, this multiplier falls within the range of reasonableness.").

79. *Monserrate v. Tequipment, Inc.*, No. 11 CV 6090 RML, 2012 WL 5830557, at *4 (E.D.N.Y. Nov. 16, 2012) ("In sum, I find that a fee award of $465,000 which provides a 4.34 multiplier of the reduced lodestar and constitutes fifteen percent of the $3,100,000.00 Settlement Fund, is a fair and reasonable fee under *Goldberger* and related cases and should adequately compensate class counsel for its time and effort, for the risk it faced in this case, and for the high quality of its representation. Moreover, that reduced fee award will allow additional monies to be distributed to class members.").

80. *Demaria v. Horizon Healthcare Servs., Inc.*, No. 2:11-CV-07298 (WJM), 2016 WL 6089713, at *5 (D.N.J. Oct. 18, 2016) ("Although a lodestar multiplier of 4.3 is large, it is not unreasonable.").

81. *In re VeriFone Holdings, Inc. Sec. Litig.*, No. C-07-6140 EMC, 2014 WL 12646027, at *2 (N.D. Cal. Feb. 18, 2014) ("[A]lthough the lodestar cross-check though reveals a high multiplier—4.3 compared to the Ninth Circuit's observation that over 80% of multipliers fall between 1.0 and 4.0—other courts have awarded multipliers in excess of 4.0, and the Court finds that the multiplier here is acceptable in light of the very substantial risks involved and Lead Plaintiff's risk and extensive work on the case.").

82. *Buccellato v. AT & T Operations, Inc.*, No. C10-00463-LHK, 2011 WL 3348055, at *2 (N.D. Cal. Jun. 30, 2011) ("The resulting multiplier of 4.3 is reasonable in light of the time and labor required, the difficulty of the issues involved, the requisite legal skill and experience necessary, the excellent and quick results.").

83. *In re AremisSoft Corp. Sec. Litig.*, 210 F.R.D. 109, 135 (D.N.J. 2002) ("Even assuming a value of one dollar per share, the 4.3 lodestar multiplier would be proper in this case.").

84. *Patti's Pitas, LLC v. Wells Fargo Merch. Servs., LLC*, No. 1:17-CV-04583 (AKT), 2021 WL 5879167, at *5 (E.D.N.Y. July 22, 2021) ("Dividing the $12 million fee request by Class Counsel's lodestar yields an implied 'multiplier' of approximately 4.26. This is within the range of multipliers approved during lodestar cross checks of percentage-of-

fund awards.").

85. *Shannon v. Hidalgo Cnty. Bd. of Comm'rs*, No. 6:08-cv-00369, ECF No. 35 at 3 (D. N.M. June 4, 2009) ("Class Counsel are awarded reasonable attorneys' fees, costs and gross receipts tax in the total amount of $333,333, to be paid forthwith from the settlement fund.") (4.2 multiplier).

86. *In re Twitter Inc. Sec. Litig.*, No. 416CV05314JSTSK, 2022 WL 17248115, at *1–2 (N.D. Cal. Nov. 21, 2022) (awarding a 22.5% fee in a $809.5 million settlement, implying a 4.15 multiplier given the "lodestar value of $43,931,080.75").

87. *King Drug Co. of Florence, Inc. v. Cephalon, Inc.*, No. 2:06-CV-01797-MSG, 2015 WL 12843830, at *6 (E.D. Pa. Oct. 15, 2015) ("A 27.5% fee award would equate to a lodestar multiplier of approximately 4.12. Such a multiplier is within the range of those frequently awarded in common fund cases.").

88. *In re GSE Bonds Antitrust Litig.*, No. 19-CV-1704 (JSR), 2020 WL 3250593, at *5 (S.D.N.Y. June 16, 2020) ("A fee award of 20% of the settlement fund, or $77.3 million, thus represents a multiplier of 4.09 of this lodestar. Although on the high end, a 4.09 multiplier is within the range of what has considered reasonable by courts.").

89. *Koch v. Desert States Emps. & UFCW Unions Pension Plan*, No. CV-20-02187-PHX-DJH, 2021 WL 6063534, at *7 (D. Ariz. Dec. 22, 2021) ("For the reasons stated in the Court's Order approving the Settlement Agreement and herein, a 4.0 multiplier of the Court's calculated lodestar is appropriate for Class Counsel in this particular case.").

90. *Uschold v. NSMG Shared Servs., LLC*, No. 18-CV-01039-JSC, 2020 WL 3035776, at *16 (N.D. Cal. June 5, 2020) ("A multiplier of 4 is warranted here based on the contingent nature of the fee agreement and Mr. Benjamin's explanation at the final approval hearing that this action required the majority of his firm's resources and attention since January 2018. The high end multiplier is warranted because it would result in a percentage of recovery of 12.9% of the Gross Settlement Amount, which is below "the usual range" awarded in common fund cases.").

91. *Hillson v. Kelly Servs. Inc.*, No. 2:15-CV-10803, 2017 WL 3446596, at *6 (E.D. Mich. Aug. 11, 2017) ("Here, as discussed, the risk in this case was considerable but not extraordinary. A multiplier of 4 would seem to adequately account for that risk.").

92. *Columbus Drywall & Insulation, Inc. v. Masco Corp.*, No. 1:04-CV-3066-JEC, 2012 WL 12540344, at *5 (N.D. Ga. Oct. 26, 2012) ("Here, the requested fee would represent a multiplier of approximately four times lodestar, which is well within the range of approved fees.").

93. *In re WorldCom, Inc. Sec. Litig.*, 388 F. Supp. 2d 319, 359-60 (S.D.N.Y. 2003) ("When combined with the attorneys' fees awarded pursuant to the Citigroup Settlement, the amount sought is equivalent to a lodestar multiple of 4.0. . . . As no objection remains

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to the amount of costs sought by Lead Counsel, and the expenses do not appear facially unreasonable, the application for reimbursement of expenses is approved.").

94. *In re Cenco Inc. Sec. Litig.*, 519 F. Supp. 322, 327 (N.D. Ill. 1981) ("Accordingly, the lodestar rate and expenses sought are reasonable. Further, the court finds that a multiple of 4 accurately takes into account the factors discussed above and awards Sachnoff attorneys' fees in the amount of $893,450.00 plus $41,300.00 for paralegals and $24,783.32 in expenses.").

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

ANDREA BARTZ and KIRK WALLACE JOHNSON, individually, and ANDREA BARTZ, INC., CHARLES GRAEBER, and MJ + KJ, INC., individually and as representatives of the class,	Case No. 3:24-cv-05417-WHA
Plaintiffs,	**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES, AND PLAINTIFF SERVICE AWARDS**
v.	
ANTHROPIC PBC,	
Defendant.	

1   This matter is before the Court on Plaintiffs' motion for attorneys' fees, reimbursement of

2   expenses, and plaintiff service awards. Having considered the moving papers and the record in this

3   matter, the Court **GRANTS** the motion for attorneys' fees, reimbursement of expenses, and

4   plaintiff service awards.

5   **I.   BACKGROUND**

6   ***Pleading and Case Schedule.*** Plaintiffs alleged Anthropic unlawfully downloaded

7   copyrighted works from pirated datasets and then commercially exploited them by training its

8   Large Language Models (LLMs). Dkt. 1. Plaintiffs filed their complaint on August 19, 2024. Dkt.

9   1. Anthropic answered on October 21, 2024, asserting 13 affirmative defenses, including fair use.

10   Dkt. 57. The Court set an expeditious schedule, with March 6, 2025 as the deadline for Plaintiffs'

11   class certification motion and August 29, 2025, as the fact discovery cutoff and deadline for

12   Plaintiffs' expert reports. Dkt. 50 at 16–18.

13   ***Intensive Fact Discovery Efforts.*** Class Counsel pursued intensive discovery, including:

14   • Reviewing more than 80,000 documents and two million pages of materials produced by

15   Anthropic;

16   • Serving 186 requests for production, 29 interrogatories, and 65 requests for admission;

17   • Inspecting hundreds of gigabytes of training data, Slack exports, Notion wikis, and Google

18   Vault data;

19   • Spending nearly one thousand hours inspecting source code, training data, and books data;

20   • Litigating 17 discovery motions, relating to topics such as the timing and scope of document

21   productions, privilege challenges, and issues related to depositions and dataset inspections;

22   • Engaging in extensive third-party discovery, including subpoenas to major publishers,

23   OpenAI, Google, Amazon, Shawn Presser (creator of a books dataset), and Anna's Archive

24   (creator of PiLiMi);

25   • Taking and defending 20 depositions, with deposition transcripts spanning more than 4,300

26   pages;

27   • Preparing for six additional depositions set to occur in the final days of the fact-discovery

28   period;

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1   • Responding to 263 requests for production, 75 interrogatories, and 395 requests for

2   admission;

3   • Revealing Anthropic's piracy via LibGen and PiLiMi, which Class Counsel then

4   successfully incorporated into their class certification brief in just six days' time; and

5   • Assisting Plaintiffs with the production of more than 20,000 pages of documents, including

6   manuscript drafts, publishing contracts, registration certificates, and sales statements.

7   Dkt. 363-2 at 6–8.

8   ***Expert Discovery.*** Class Counsel worked closely with experts on a range of relevant topics

9   in advance of the August 29, 2025 deadline for expert reports. Those topics included economics;

10   market harm and piracy; large language models; the books in the relevant datasets; Anthropic's use

11   of Class Works; torrenting, seeding, and leeching; and topics related to fair use. Dkt. 363-2 at 8.

12   Those expert reports were in addition to the several expert reports that Plaintiffs submitted in

13   connection with Anthropic's motion for summary judgment and Plaintiffs' motion for class

14   certification. See Dkts. 125, 155, 156. In particular, Class Counsel worked intensely with experts

15   to develop the Works List, which required thousands of hours of attorney and expert labor to parse

16   Anthropic's data, much of it spent in a secure environment while performing numerous levels of

17   analysis and quality checks. *See* Declaration of Justin A. Nelson (Nelson Decl.) ¶ 10.

18   ***Motion Practice.*** In parallel with the fast-moving tasks described above, Class Counsel also

19   litigated major motions, many of which addressed issues with little or no precedent.

20   *First*, Anthropic moved for summary judgment, arguing that its acquisition of copyrighted

21   books for large language model training qualified as fair use. Dkt. 122. On April 3, 2025, the Court

22   posed hypothetical written questions concerning fair use to both sides to be addressed in the Parties'

23   briefing. Dkt. 135. Plaintiffs filed their opposition on April 25, 2025, and Anthropic replied on May

24   8, 2025. Dkts. 158, 181. The summary judgment record was extensive: 65 pages of briefs, 96

25   exhibits comprising hundreds of pages, multiple depositions, and five expert witnesses. Dkt. 363-

26   2 at 9. The Court heard argument on the summary judgment motion on May 22, 2025, and the

27   Parties submitted supplemental briefing on May 23, 2025. Dkts. 214–15. On June 23, 2025, the

28   Court issued its Order on Fair Use, granting Anthropic's motion for summary judgment in part and

1   denying it in part. Dkt. 231. The Court denied summary judgment on Plaintiffs' copyright-

2   infringement claims related to the initial acquisition of works Anthropic obtained from pirated

3   sources like Library Genesis and Pirate Library Mirror. *Id.* at 19, 31.

4   *Second*, Plaintiffs moved for class certification on March 27, 2025, six days after they first

5   received access to the LibGen and PiLiMi datasets that formed the core of this case. Anthropic

6   opposed on April 17, and Plaintiffs replied on May 1. Dkts. 125, 146, 172. The record on class

7   certification included 65 pages of briefs, 96 exhibits amounting to hundreds of pages, and four

8   declarations. Dkt. 363-2 at 9. The Court held a hearing on May 15, 2025, and pursuant to the Court's

9   order at the hearing, the Parties submitted supplemental briefs the next day. Dkts. 199, 201, 202,

10   203. The Court certified a Rule 23(b)(3) "LibGen & PiLiMi Pirated Books Class." Dkt. 244 at 19,

11   31.

12   *Third*, Anthropic sought leave to appeal the Court's summary judgment and class

13   certification rulings, arguing that the Court's fair use order addressed "novel and consequential

14   legal questions about the proper fair-use standard in the context of copyright infringement

15   challenges to groundbreaking generative artificial intelligence . . . technology." Dkt. 241 at 1. The

16   parties litigated Anthropic's motion for leave to appeal pursuant to 28 U.S.C. § 1292(b) or, in the

17   alternative, for reconsideration pursuant to Civ. L.R. 7.9, Dkt. 241; Rule 23(f) petition with the

18   Ninth Circuit, seeking interlocutory appeal of the Court's class certification ruling, CA9, Dkt. 1;

19   motion for a stay of this Court's proceedings, Dkt. 272; and emergency motion in the Ninth Circuit

20   for a stay pending resolution of its Rule 23(f) petition. CA9, Dkt. 18.

21   ***Additional Counsel.*** On August 11, 2025, Class Counsel notified the Court that they

22   associated with additional counsel to assist in representing the Class. Dkt. 298. Edelson PC and

23   Oppenheim + Zebrak, LLP ("O+Z") have represented the interests of publishers as Publishers'

24   Coordination Counsel ("PCC"), and Cowan, DeBaets, Abrahams & Sheppard LLP ("CDAS") has

25   served as Authors Coordination Counsel ("ACC"). Declaration of Jay Edelson and Matthew

26   Oppenheim (PCC Decl.) ¶¶ 32–44; Declaration of Nancy Wolff (ACC Decl.) ¶¶9–18.

27   ***Mediation.*** Following the Court's order permitting the parties to discuss settlement, the

28   parties engaged in mediation. Dkt. 210. The parties executed a binding term sheet late on the night

1   of August 25 and notified this Court and the Ninth Circuit the following morning. Dkt. 363-2 at 12.

2   ***Preliminary Approval.*** Class Counsel submitted a motion for preliminary approval on

3   September 5, 2025, supported by six separate declarations and a dozen exhibits. Dkt. 363. The

4   Court held an initial hearing on preliminary approval on September 8, 2025, and ordered additional

5   briefing. Dkt. 372. Following the hearing, the Court submitted 34 questions for Class Counsel to

6   answer in collaboration with Anthropic, regarding *inter alia* the claims, opt-out, and distribution

7   processes. Dkts. 375, 383. Class Counsel timely responded to those questions, filing a 53-page

8   submission. Dkt. 418. Class Counsel also submitted a 34-page supplemental brief in support of

9   preliminary approval, Dkt. 401, with a detailed Plan of Allocation that flowed from contractual

10   arrangements, Dkt. 401-1, and backed by sixteen declarations, Dkts. 385–400.

11   ***Administering the Settlement.*** Since preliminary approval, Class Counsel, PCC, and ACC

12   have maintained active coordination with the Settlement Administrator to monitor claim

13   processing. Geman Decl. ¶ 6; PCC Decl. ¶¶ 42–44; ACC Decl. ¶ 18. The Settlement Administrator

14   has received over 29,000 claims for 95,000 works, reflecting robust class participation at this early

15   stage. In addition, Class Counsel have answered hundreds of Class Member inquiries via phone

16   and email, and conducted targeted research to locate and validate contact information for Class

17   Members. Geman Decl. ¶ 6. Class Counsel have also overseen the issuance of comprehensive

18   claimant communications to promote accessibility and fairness across the Class, and conducted

19   several town hall webinars for publishers, authors, and agents to inform Class Members about the

20   Court-approved notice materials and website. Geman Decl. ¶ 6.

21   **II.   ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARDS**

22   **A.   Attorneys' Fees**

23   Class Counsel's requested fee of 20% is reasonable under the percentage-of-fund method.

24   The requested fee is significantly less than the presumptively reasonable 25% benchmark employed

25   in this Circuit. The fee also reflects the non-monetary relief secured: a tailored, past-only release

26   and the destruction of the pirated datasets. The 20% fee is well below the market rate for non-class

27   contingency cases as well, to say nothing of this highly risky and significantly expensive case. Each

28   of the factors that courts consider in the percentage-of-fund method strongly support the fee that

1   Counsel request here. Further, Class Counsel's request for reimbursement of expenses totaling

2   $1,969,421.75 plus $17,030,000 for future costs, and $50,000 in Service Awards to the three Class

3   Representatives is also reasonable.

1.   Percentage-of-the-Common Fund Method

5   To calculate fees in common fund cases, "the majority of courts [apply] the percentage-of-

6   recovery method." *Ward v. United Airlines, Inc.*, 2024 WL 269149, at *5 (N.D. Cal. Jan. 24, 2024)

7   (Alsup, J.); *Roman v. Jan-Pro Franchising Int'l, Inc.*, 2024 WL 2412387, at *4 (N.D. Cal. May 23,

8   2024) (Alsup, J.) (same). "Under the percentage-of-recovery method, the attorneys' fees equal [a]

9   percentage of the common settlement fund." *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d

10 934, 949 (9th Cir. 2015). "For more than two decades, the Ninth Circuit has set the 'benchmark for

11 an attorneys' fee award in a successful class action [at] twenty-five percent of the entire common

12 fund.'" *In re Wells Fargo & Co. Shareholder Derivative Litig.*, 445 F. Supp. 3d 508, 519 (N.D.

13 Cal. 2020) (quoting *Williams v. MGM Pathe Commc'ns Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997));

14 *see also Roman*, 2024 WL 2412387, at *5 ("[A]wards tend to adhere to our court of appeals'

15 benchmark."). To calculate the percentage-of-recovery award, "courts generally start with the 25

16 percent benchmark and adjust upward or downward depending on:

17
> The extent to which class counsel 'achieved exceptional results for the class,'
> whether the case was risky for class counsel, whether counsel's performance
18 > 'generated benefits beyond the cash fund,' the market rate for the particular field
> of law (in some circumstances), the burdens class counsel experienced while
19 > litigating the case (*e.g.*, cost, duration, foregoing other work), and whether the case
> was handled on a contingency basis."

20

21 *In re Wells Fargo & Co. Shareholder Derivative Litig.,* 445 F. Supp. 3d at 519 (cleaned up) (quoting

22 *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 954–55 (9th Cir. 2015)). "Foremost among

23 these considerations, however, is the benefit obtained for the class." *In re Bluetooth Headset Prods.*

24 *Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011); *see Hensley v. Eckerhart*, 461 U.S. 424, 434–36

25 (1983); *McCown v. City of Fontana*, 565 F.3d 1097, 1101–02 (9th Cir. 2009) ("reasonableness of

26 the fee "is determined primarily by reference to the level of success achieved by the plaintiff").

27 ***Results for the Class.*** As the Court noted in its Opinion on Preliminary Approval, the

28 Settlement is "the largest copyright class action settlement in history." Dkt. 437 at 6. The size of

1   the $1.5 billion non-reversionary settlement is extraordinary, both from an aggregate and per-work

2   perspective, with the settlement fund equating to more than $3,000 per work. That per-work amount

3   is "an order of magnitude more than the maximum proposed for books in the *Google Books*

4   settlement that was rejected for releasing future claims." *Id.* at 5–6 (citing *Authors Guild v. Google,*

5   *Inc.*, 770 F. Supp. 2d 666, 672 (S.D.N.Y. 2011)). It is also more than "four times the statutory

6   minimum for ordinary infringement, which is also the most common award in copyright cases,"

7   and more than "fifteen times the statutory minimum for innocent infringement of $200." *Id.* at 5.

8   Class Counsel also secured valuable non-monetary relief. The Settlement requires

9   Anthropic to "destroy all the original files of works torrented/downloaded from Library Genesis or

10   Pirate Library Mirror, and any copies that originate from the torrented copies," subject to certain

11   legal preservation obligations. Dkt. 363-3 ¶ 2.2. This destruction is a victory for Class Members,

12   given Anthropic's intent to retain the pirated works "forever." Dkt. 244 at 3.

13   ***Risk of Litigating this Action on Contingency.*** Before this litigation, no court had ever

14   (a) found an AI company liable for copyright infringement, (b) held that piracy by an AI company

15   constituted copyright infringement, or (c) certified a class in a copyright infringement action against

16   an AI company or for owners of book copyrights. Class Counsel also litigated against experienced

17   attorneys from five different, major law firms.

18   ***Market Rates.*** Class Counsel's requested fee award of 20 percent is within the relevant

19   market rate for contingency representations. "'Market rates' are a question of 'lawyers' reasonable

20   expectations for recovery of contingent fees, which are based on the circumstances of the case and

21   the range of fee awards out of common funds of comparable size.'" *In re Capacitors Antitrust*

22   *Litig.*, 2018 WL 4790575, at *5 (N.D. Cal. Sept. 21, 2018) (internal brackets omitted) (quoting

23   *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1050 (9th Cir. 2002)). Both Class Counsel firms seek

24   fees well below the market rate contingency fee charged to private clients, which is often 40%,

25   twice the requested amount here. Nelson Decl. ¶ 7. The requested fee is reasonable relative to

26   percentages awarded in other class actions, copyright class cases, and megafund cases. Courts

27   routinely award up to 30% of the settlement fund in copyright class cases. *See Ferrick v. Spotify*

28   *USA Inc.*, No. 16-CV-8412 (AJN), 2018 WL 2324076 (S.D.N.Y. May 22, 2018) (awarding 30% of

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the $43.45 million cash fund); *In re Napster, Inc. Copyright Litig.*, No. 3:00-MD-00-1369, Dkt. 1324 (N.D. Cal. Feb. 14, 2008) (awarding 22.1% of the $130 million settlement); *Flo & Eddie, Inc. v. Sirius XM Radio, Inc.*, No. 13-5693, 2017 WL 4685536 (C.D. Cal. May 8, 2017) (awarding 30% of the settlement fund of between $25.5 million and $73 million, depending on future royalty payments); *see also* Fitzpatrick, *An Empirical Study*, at 833 (finding that every federal class action settlement in 2006 and 2007 showed an average fee award of 25.4% and a median award of 25%). Compared to other "megafund" settlements ranging in value from $410 million to more than $2.5 billion, Class Counsel's request for 20% is right in line. *See In re: Blue Cross Blue Shield Antitrust Litig.*, No. 2:13-CV-20000-RDP, 2022 WL 4587617 (N.D. Ala. Aug. 9, 2022) (awarding ~23.5% of the $2.67 billion settlement fund); *In re: College Athlete NIL Litig.*, No. 20-cv-3919 CW, Dkt. 1001 (N.D. Cal. July 11, 2025) (awarding 20% of the $1.976 billion NIL claims settlement fund plus 10% of the $600 million additional compensation settlement fund plus $20,000,000 upfront injunctive fee and 0.75% to 1.25% of future amounts); *Lawrence E Jaffe Pension Plan v. Household Int'l. Inc.*, No. 1:02-cv-05893, Dkts. 2222, 2265 (N.D. Ill. Nov. 10, 2016) (awarding ~24.7% of the $1.575 billion settlement fund); *In re Syngenta AG MIR 162 Corn Litig.*, 357 F. Supp. 3d 1094 (D. Kan. 2018), *aff'd* 61 F.4th 1126 (10th Cir. 2023) (awarding 33.3% of the $1.51 billion settlement fund); *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. 2013 WL 1365900 (N.D. Cal. Apr. 3, 2013) (awarding 28.6% of the $1.08 billion settlement fund); *Allapattah Servs. Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185 (S.D. Fla. 2006) (awarding ~31.3% of the $1.075 billion settlement fund).[1]

B.   Litigation Expenses

"There is no doubt that an attorney who has created a common fund for the benefit of the class is entitled to reimbursement of reasonable litigation expenses from that fund." *Roman v. Jan-Pro Franchising Int'l, Inc.*, 2024 WL 2412387, at *5 (N.D. Cal. May 23, 2024) (Alsup, J.); *see also* Fed. R. Civ. P. 23(h).

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[1] Where "the court achieves a reasonable result using the method it selects"—here, by awarding a below-market-rate contingency fee to class counsel—the lodestar "cross-check is not required." *Senne v. Kansas City Royals Baseball Corp.*, 2023 WL 2699972, at *18 (N.D. Cal. Mar. 29, 2023); *see In re Coll. Athlete NIL Litig.*, 2025 WL 3171376, at *1 (N.D. Cal. July 11, 2025) (approving, without conducting crosscheck analysis, attorneys' fees equivalent to 20% of the $1.976 billion NIL Claims Settlement Fund (or $395.2 million in fees)).

1   Class Counsel have incurred $1,969,421.75 in unreimbursed litigation expenses, including

2   costs related to experts, discovery, mediation, legal research, filing fees, document hosting services,

3   copying and mailing, and other customary litigation expenses. Geman Decl. ¶¶ 48–63 (detailing

4   the litigation expenses that Class Counsel incurred by category). Class Counsel do not seek

5   reimbursement of several costs—namely hotels, meals, and fees paid to experts Mr. Rubenstein

6   and Mr. Fitzpatrick. *Id.* ¶ 57. Class Counsel further anticipate an additional $17,030,000 in expenses

7   related to the administration and finalization of the settlement. Geman Decl. ¶ 58.

8   The expenses for which Class Counsel seek reimbursement are "typically [] billed

9   to paying clients in non-contingency matters" and are recoverable. *Katz-Lacabe v. Oracle Am.,*

10   *Inc.*, 2024 WL 4804974, at *5 (N.D. Cal. Nov. 15, 2024), *appeal dismissed*, 2025 WL 1703624

11   (9th Cir. Apr. 3, 2025); *see Flo & Eddie, Inc. v. Sirius XM Radio, Inc.*, 2017 WL 4685536, at *10

12   (C.D. Cal. May 8, 2017) (reimbursing in copyright class action expenses incurred in "conjunction

13   with discovery, the services of experts and specialist appellate counsel, mediation, travel,

14   technology support costs, a mock trial, and the cost of computer research and services."); *Hofstetter*

15   *v. Chase Home Fin., LLC*, 2011 WL 5545912, at *1 (N.D. Cal. Nov. 14, 2011) (Alsup,

16   J.) (approving same plus "costs associated with class notice and settlement mailings").

17   Class Counsel seeks reimbursement for litigation expenses that were reasonable and

18   necessary to competently represent the Class. Therefore, the Court **GRANTS** the request for

19   reimbursement of $1,969,421.75 in incurred expenses, and a cost reserve of $17,030,000 in

20   anticipated expenses.

21   **C.   Service Awards for Class Representatives**

22   "Incentive awards are fairly typical in class action cases." *Rodriguez v. W. Publ'g Corp.*,

23   563 F.3d 948, 958-59 (9th Cir. 2009) (emphasis omitted) (citing 4 William B. Rubenstein et al.,

24   *Newberg on Class Actions* § 11:38 (4th ed.2008)). While such "awards are discretionary," they are

25   commonly issued because of the many benefits they provide: "compensat[ing] class representatives

26   for work done on behalf of the class"; making "up for financial or reputational risk undertaken in

27   bringing the action"; and recognizing class representatives' "willingness to act as a private attorney

28   general." *Id.*

1   The requested service awards for the three Settlement Class Representatives—Andrea

2 Bartz, Inc., Charles Graeber, and MJ+KH, Inc.—are reasonable and appropriate in light of their

3 critical contributions to the case, the significant out-of-pocket expenditures each tendered as part

4 of their involvement, and the overwhelming monetary recovery provided to the class by the

5 settlement here. All three Class Representatives expended considerable time and effort to assist in

6 the investigation and litigation of this case. In particular, all three Class Representatives (i)

7 reviewed filings; (ii) responded to extensive discovery requests; (iii) prepared for and sat for

8 depositions; (iv) traveled to San Francisco for multiple hearings; (v) participated heavily in the

9 negotiation of the Settlement, including the plan of allocation; (vi) submitted detailed declarations

10 in support of preliminary approval; (vii) reviewed and contributed edits to the notice materials and

11 claim form; and (viii) worked to implement the Settlement by speaking to other authors and

12 stakeholders. *See* Dkts. 385–87. All three Class Representatives were committed to ensuring that

13 the Settlement was fair to class members, and that class members could understand it, and treated

14 their responsibilities to the Class as their jobs. *See id.*

15   Service awards to the Class Representatives are well warranted in these circumstances, and

16 Courts have repeatedly issued the requested awards. *See Van Vranken v. Atl. Richfield Co.*, 901 F.

17 Supp. 294, 300 (N.D. Cal. 1995) ($50,000 to one class representative); *Wright v. Stern*, 553 F.

18 Supp. 2d 337, 342 (S.D.N.Y. 2008) ($50,000 to each of eleven class representatives); *In re Dun &*

19 *Bradstreet Credit Servs. Customer Litig.*, 130 F.R.D. 366, 374 (S.D. Ohio 1990) ($35,000-55,000

20 each to five class representatives); *Kifafi v. Hilton Hotels Ret. Plan*, 999 F. Supp. 2d 88, 106

21 (D.D.C. 2013) ($50,000 award); *McCoy v. Health Net, Inc.*, 569 F. Supp. 2d 448, 479-80 (D.N.J.

22 2008) ($60,000 award); *Brotherton v. Cleveland*, 141 F. Supp. 2d 907, 914 (S.D. Ohio 2001)

23 ($50,000 to lead plaintiff); *In re Revco Sec. Litig., Nos. 851, 89cv593*, 1992 WL 118800, *7 (N.D.

24 Ohio 1992) ($200,000 award); *Enterprise Energy Corp. v. Columbia Gas Transmission Corp.*, 137

25 F.R.D. 240, 250-51 (S.D. Ohio 1991) ($50,000 awards to each of six named plaintiffs); *Beaver v.*

26 *Tarsadia Hotels*, 2017 WL 4310707, at *8 (S.D. Cal. Sept. 28, 2017) ($50,000 award to four

27 representatives); *In re High-Tech Employee Antitrust Litig.*, 2015 WL 5158730, at *18 (N.D. Cal.

28 Sept. 2, 2015) (authorizing $80,000 and $120,000 awards in case with $415,000,000 settlement

fund); *In re Titanium Dioxide,* 2013 WL 6577029, at *1 (D. Md. Dec. 13, 2013) ($125,000 award to lead class representative out of $163.5 million settlement).

Therefore, the Court concludes that the requested service awards are reasonable and **GRANTS** $50,000 to each of the three Class Representatives, for a total of $150,000.

III.   CONCLUSION

The Court **GRANTS** Plaintiffs' motion for: (1) attorneys' fees of 20% of the non-reversionary Settlement Fund, consisting of $1.5 billion plus interest paid by Anthropic or accrued in the Settlement Fund, (2) reimbursement of expenses totaling $1,969,421.75 and a cost reserve of $17,030,000 in anticipated expenses, and (3) service awards of $50,000 for each of the three Settlement Class Representatives (totaling $150,000).

IT IS SO ORDERED.

DATED: _____ _____, 2025

_____
WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE