

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF WASHINGTON
3 AT SEATTLE

4 BRUCE CORKER d/b/a RANCHO ALOHA;
5 COLEHOUR BONDERA and MELANIE
6 BONDERA, husband and wife d/b/a
7 KANALANI OHANA FARM; ROBERT
8 SMITH and CECELIA SMITH, husband and
9 wife d/b/a SMITHFARMS, and SMITHFARMS,
10 LLC on behalf of themselves and others
11 similarly situated,

12 Plaintiffs,

13 v.

14 L&K COFFEE CO. LLC, and KEVIN KIHNKE,
15 an individual,

16 Defendants.

Case No. 2:19-CV-00290-RSL

**DECLARATION OF JASON L.
LICHTMAN IN SUPPORT OF
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES,
AND SERVICE AWARDS**

The Honorable Robert S. Lasnik

17 I, Jason L. Lichtman, declare as follows:

18 1. I am a partner in the law firm of Lief Cabraser Heimann & Bernstein, LLP
19 ("LCHB"). I am Plaintiffs' counsel of record in this litigation, along with Karr Tuttle Campbell. I
20 am a member in good standing of the bars of Illinois, New York, and the District of Columbia. I
21 respectfully submit this declaration in support of Plaintiffs' Motion for Attorneys' Fees,
22 Reimbursement of Expenses, and Service Awards. Except as otherwise noted, I have personal
23 knowledge of the facts set forth in this declaration and could testify competently to them if called
24 upon to do so.

25 2. I have been involved in all aspects of this litigation since March 2019.

26 3. On April 21, 2021, I submitted a declaration in support of Class Counsel's request
for attorneys' fees, reimbursement of expenses, and service awards in connection with
settlements reached earlier in this case, and a second declaration in connection with a similar
request from a subsequent set of settlements. *See* Dkt. 416 and 655. Those declarations set forth

1 LCHB's work in this matter, the experience and expertise we brought to this case, the core team
2 at LCHB assigned to this litigation, our assessment of the case-specific risks present in this
3 litigation, and LCHB's lodestar and expenses up to that point. I stand by and incorporate all of
4 the statements I made in those prior declarations, and provide updated information about this
5 case that is relevant to the accompanying Motion.

6 **II. LCHB's Work in this Matter**

7 4. My previous declarations explained that LCHB, along with co-Class Counsel
8 Karr Tuttle Campbell, have actively litigated this case since its inception in February 2019. At
9 the time, this Court had adjudicated motions to dismiss filed by all defendants (Dkt. 100, 106,
10 107), a motion for summary judgment (Dkt. 121), a motion to strike (Dkt. 179), several motions
11 to compel or for a protective order (Dkt. 180, 188, 206, 211, 222, 227, 252, 257, 294, 300, 304,
12 317, 330, 355, 372, 433, 621), a motion for sanctions (Dkt. 319), and several motions to amend
13 the pleadings to add new defendants (Dkt. 71, 268, 344). The pace of activity did not relent. By
14 the end of discovery, Plaintiffs had filed additional motions to compel, successfully defended a
15 motion to dismiss for lack of personal jurisdiction (Dkt. 606), filed for class certification against
16 non-settling defendants, and moved for case terminating sanctions against one defendant
17 (Mulvadi).

18 5. Fact discovery ended on March 11, 2022. During discovery, Plaintiffs served 781
19 requests for production and 177 interrogatories and Plaintiffs ultimately received and reviewed
20 more than 106,000 documents including 341,000 pages (including large spreadsheets of data).
21 Plaintiffs have now taken seventeen depositions, including experts.

22 6. The parties also engaged in extensive third-party discovery, collectively serving
23 52 subpoenas, which have yielded 7,248 documents and more than 123,000 pages.

24 7. Expert discovery closed on November 18, 2022. Plaintiffs served seven expert
25 reports, six of whom were deposed, and deposed all five of the experts disclosed by the now
26

1 single remaining non-bankrupt non-settling defendant. Plaintiffs filed a summary judgment
2 motion and *Daubert* motions on December 15, 2022.

3 8. Attorneys from LCHB (principally myself, Daniel Seltz, and Andrew Kaufman)
4 have continued to play a significant and active role in virtually every aspect of this case,
5 including:

6 a. Authored or edited the briefs and motions that have been presented in the
7 litigation to date, including oppositions to motions to dismiss and discovery motions;

8 b. drafted and propounding dozens of requests for production,
9 interrogatories, and requests for admissions;

10 c. oversaw the production of tens of thousands of documents;

11 d. assisted with the preparation of the depositions of five named plaintiffs;

12 e. identified and worked with numerous consulting experts in preparation for
13 mediation and litigation, on issues such as damages, marketing, consumer behavior, and
14 accounting;

15 f. developed numerous settlement proposals and negotiated extensively with
16 previous settling defendants and now L&K, including traveling to Los Angeles for an in-person
17 with the mediator who ultimately brought the parties to this settlement;

18 g. drafted class certification papers;

19 h. worked with numerous experts in connection with class certification and
20 expert discovery;

21 i. deposed three of the non-settling defendants' experts; and

22 j. drafted summary judgment and *Daubert* motions.

23 **III. LCHB's Lodestar Cross-Check Submission**

24 9. Attached as **Exhibit A** is a true and correct summary by individual of the hours,
25 billing rate, and lodestar for each biller's work on this matter from its inception to December 15,
26 2022. The time for any billers who submitted fewer than 40 hours has been removed. During this

1 period of time, the firm expended **9,157.20** hours on this matter, with work still continuing.
2 Calculated at current rates and taking into consideration excluded time, for purposes of the cross-
3 check, the lodestar invested in this case by LCHB during this period comes to **\$5,458,423**.

4 10. The rates set forth in **Exhibit A** are my firm's current billing rates for 2022. The
5 hourly rates charged by timekeepers are the firm's regular rates for contingent cases and those
6 generally charged to clients for their services in non-contingent/hourly matters. While LCHB
7 principally works on contingency, our rate structure is occasionally paid to our firm by hourly-
8 paying clients.

9 11. Over its five decades, LCHB's rate structure has been approved by countless
10 courts, sometimes as the basis for a lodestar fee, other times on cross-check. The following are a
11 small sample of more recent matters:

- 12 • *Vianu v. AT&T Mobility LLC*, No. 19-cv-3602, Dkt. 164 (N.D. Cal. Nov. 8,
13 2022);
- 14 • *Nashville Gen. Hosp. v. Momenta Pharms., Inc.*, No. 15-1100, Dkt. 520 (M.D.
15 Tenn. May 29, 2020);
- 16 • *In re Samsung Top-Load Washing Machine Marketing, Sales Practices &*
17 *Products Liability Litig.*, No. 17-2792, Dkt. 256 (W.D. Okla. June 11, 2020);
- 18 • *Seaman v. Duke Univ.*, No. 15-462, 2019 WL 4674758, at *1 (M.D.N.C. Sept. 25,
19 2019);
- 20 • *Hale v. State Farm Mut. Auto. Ins. Co.*, No. 12-660, 2018 WL 6606079, at *13-14
21 (S.D. Ill. Dec. 16, 2018)
- 22 • *In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prods. Liab. Litig.*,
23 No. 2672 CRB (JSC), 2017 WL 1047834, at *5 (N.D. Cal. Mar. 17, 2017);
- 24 • *Allaga v. BP Solar Int'l, Inc.*, No. 14-560, Dkt. 201 (N.D. Cal. Dec. 22, 2016);
25
26

- 1 • *In re: Sears, Roebuck & Co. Front-Loading Washer Prods. Liab. Litig.*, No. 06-
2 7023, Dkt. 598 (N.D. Ill. Sept. 13, 2016)
- 3 • *In re High-Tech Emp. Antitrust Litig.*, No. 11-CV-02509-LHK, 2015 WL
4 5158730, at *9 (N.D. Cal. Sept. 2, 2015);
- 5 • *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. M 07-1827 SI, 2013 WL 149692
6 (N.D. Cal. Jan. 14, 2013);
- 7 • *In re Bank of Am. Credit Prot. Mktg. & Sales Practices Litig.*, No. 11-MD-2269
8 TEH, 2013 WL 174056 (N.D. Cal. Jan. 16, 2013);
- 9 • *Brazil v. Dell Inc.*, No. C-07-01700 RMW, 2012 WL 1144303, at *1 (N.D. Cal.
10 Apr. 4, 2012);
- 11 • *White v. Experian Info. Sols., Inc.*, No. SACV 05-1070 DOC, 2011 WL 2971957,
12 at *3 (C.D. Cal. July 15, 2011);
- 13 • *Lonardo v. Travelers Indem. Co.*, 706 F. Supp. 2d 766, 793–94 (N.D. Ohio 2010);
- 14 • *Pelletz v. Weyerhaeuser Co.*, 592 F. Supp. 2d 1322, 1326–27 (W.D. Wash. 2009);
- 15 • *Grays Harbor Adventist Christian Sch. v. Carrier Corp.*, No. 05-05437 RBL,
16 2008 WL 1901988, at *3 (W.D. Wash. Apr. 24, 2008);
- 17 • *Fleming v. Kemper Nat’l Servs., Inc.*, 373 F. Supp. 2d 1000, 1012 (N.D. Cal.
18 2005).

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20
21
22 12. LCHB attorneys and staff enter their time contemporaneously. The *Firm Policy*
23 *Manual*, “Time-Keeping Policy,” requires timekeepers to keep time sheets on a daily basis, and
24 to submit them by the close of each business week. LCHB’s accounting department runs a
25 regular time report that lists timekeepers without time in the system for any given week. Kelly
26

1 M. Dermody, managing partner of the San Francisco office of the firm, receives that report and
2 personally follows up with tardy attorney timekeepers, and instructs staff managers to follow up
3 with any tardy staff. The firm does not abide late timekeeping, and we advise employees,
4 “Failure to comply with the Firm’s timekeeping policy may be taken into account in connection
5 with promotions, raises, and bonuses, and may subject the delinquent timekeeper to discipline,
6 up to and including termination.”

7 13. LCHB has devoted, and will continue to devote, its time and resources to
8 prosecute the class action claims in this matter on a contingent-fee basis.

9 **IV. LCHB’s Expenses Submission**

10 14. LCHB has to date incurred \$1,572,301.52 in expenses in connection with the
11 investigation, prosecution, and settlement of this case, as set forth in the table attached as
12 **Exhibit B**, of which **\$952,301.52** is unreimbursed. The expenses listed in **Exhibit B** are reflected
13 in the books and records LCHB maintains in the ordinary course of business, which books and
14 records are prepared from expense vouchers and check records. It also reflects partial
15 reimbursement of costs received in connection with the Court’s prior order concerning fees and
16 costs.
17

18 15. These costs were reasonable and necessary to prosecute this matter, and include
19 typical litigation costs such as expert work, filing fees, electronic database research, and travel.
20

21 I declare under penalty of perjury that the forgoing is true and correct. Executed this 20th
22 day of December 2022, in Salt Lake City, Utah.

23 
24 _____
25 Jason L. Lichtman
26

EXHIBIT A

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
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Report created on

12/15/2022 02:00:54 PM

From: Inception

To: 12/15/2022

Case Number: 4013**PARTNER**

NAME	HOURS	RATE	TOTAL
MICHAEL SOBOL	122.00	1,180.00	143,960.00
ANDREW KAUFMAN	406.90	675.00	274,657.50
JASON LICHTMAN	1,644.70	795.00	1,307,536.50
DANIEL SELTZ	1,443.40	870.00	1,255,758.00
	3,617.00		2,981,912.00

ASSOCIATE

NAME	HOURS	RATE	TOTAL
ANDREW KAUFMAN	163.30	510.00	83,283.00
FRANK WHITE	156.00	560.00	87,360.00
	319.30		170,643.00

STAFF ATTORNEY

NAME	HOURS	RATE	TOTAL
MICHELLE BAKER	128.80	475.00	61,180.00
BRITT CIBULKA	93.20	475.00	44,270.00
KELLY GRALEWSKI	1,545.90	475.00	734,302.50
KAREN JONES	202.80	475.00	96,330.00
ELLA KRAINSKY	693.60	415.00	287,844.00
PHIANH NGUYEN	149.00	475.00	70,775.00
ALIX PUSTILNIK	1,354.30	415.00	562,034.50
PETER ROOS	136.90	475.00	65,027.50
RYAN STURTEVANT	137.40	475.00	65,265.00
	4,441.90		1,987,028.50

LAW CLERK

NAME	HOURS	RATE	TOTAL
NICHOLAS LEE	67.70	370.00	25,049.00
	67.70		25,049.00

PARALEGAL/CLERK

NAME	HOURS	RATE	TOTAL
JANE BALKOSKI	187.10	360.00	67,356.00
JILLIAN KRAVATZ	49.50	415.00	20,542.50
EMILY LOVELL	44.90	455.00	20,429.50
HANNAH SELHORST	257.60	395.00	101,752.00
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	539.10		210,080.00

LITIGATION SUPPORT / RESEARCH

NAME	HOURS	RATE	TOTAL
RICHARD ANTHONY	71.50	485.00	34,677.50
MARGIE CALANGIAN	61.00	485.00	29,585.00
ANTHONY GRANT	40.10	485.00	19,448.50
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	172.60		83,711.00

CASE TOTALS	9,157.60		5,458,423.50
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EXHIBIT B

Lieff Cabraser Heimann & Bernstein, LLP
Costs Summary

Costs	Total to Date
In-House Copies	\$96.20
Print	\$1,429.60
Telephone	\$1,285.25
Computer Research	\$8,601.82
Deposition/Transcripts	\$15,487.95
Electronic Database	\$178,542.30
Experts/Consultants	\$1,204,029.10
Federal Express/Messenger	\$3,725.84
Mediation Expenses	\$52,281.52
Research sources	\$1,468.24
Postage	\$175.53
Process Service	\$782.00
Supplies	\$771.49
Travel	\$103,034.58
Previous reimbursements	(\$620,000)
Net Total	\$952,301.52