

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY, and
JEREMY KEEL, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**PLAINTIFFS' MOTION FOR ATTORNEYS' FEES, COSTS, EXPENSES AND
SERVICE AWARDS AND SUGGESTIONS IN SUPPORT THEREOF**

INTRODUCTION

After years of hard-fought litigation in two separate jurisdictions, Plaintiffs achieved nationwide settlements with three Defendants: Anywhere, RE/MAX and Keller Williams (the “Settlements”). Plaintiffs reached settlements with Anywhere and RE/MAX on October 5, 2023 (“the initial settlements”). Subsequently, Plaintiffs reached a settlement with Keller Williams on February 1, 2024.

Combined, the Settlements provide a non-reversionary common fund of \$208,500,000. To achieve this result, Class Counsel worked over the past five years filing and prosecuting two separate lawsuits pending in different jurisdictions, *Moehrl* and *Burnett*. Class Counsel faced large risk representing the Settlement Class. They worked on a fully contingent basis, investing over 96,500 hours of labor— through the date of the last of the three settlements —and advancing nearly \$13 million in out-of-pocket costs without any guarantee of success. They did so despite this case having no roadmap or pre-established path to a recovery. Indeed, far from any guarantee that they would be paid for their work or reimbursed their expenses, Class Counsel faced off against well-funded and entrenched opponents represented by *at least twenty* of the top defense firms in the country.

Class Counsel performed a massive amount of legal work leading to the Settlements, including more than 100 motions and responses, such as motions to dismiss, motions to transfer, motions to stay, motions to compel arbitration (and related appeals), class certification, Rule 23(f) appeal petitions, summary-judgment motions, *Daubert* motions, trial motions, and over 180 depositions. Class Counsel did not rely on any governmental prosecution or litigation by other private attorneys. To the contrary, Class Counsel are comprised of a diverse group of well-respected antitrust, complex litigation, and trial lawyers who spearheaded the litigation. This

Settlement therefore represents the culmination of their wholly contingent, risky, costly, and time-intensive work seeking a recovery against Defendants, not the work of anyone else.

Under well-established precedent, Class Counsel is entitled to an award of attorneys' fees representing one-third of the settlement fund and their case expenses. In the Eighth Circuit, a fee based on a percentage of the fund recovered is the favored approach for calculating attorney's fees in contingent representation, including class actions. Such a fee provides an incentive for attorneys like Class Counsel to pursue claims for those whose individual claims are otherwise too small to justify the costs of litigation. And a percentage-based recovery allows individuals without the means to pay counsel by the hour to nonetheless assert their claims. A percentage-based recovery also aligns Class Counsel's interests with those of their clients because the greater the recovery Class Counsel obtains, the greater the fee to which Class Counsel is entitled.

FACTUAL BACKGROUND

A background of the litigation and Settlements is well-known to the Court and can be found in Plaintiffs' Motion for Preliminary Settlement Approval (Doc. 1192 at ECF 8-19; ECF 1371). The Settlements are non-reversionary meaning the entire amount will be distributed and no amount will revert to the Settling Defendants. Moreover, the Settlements include substantial injunctive relief aimed at ending the Defendants' support for the challenged restraints, including their enforcement of the Mandatory Offer of Compensation Rule. To achieve this result for the Class, Class Counsel performed more than 96,500 hours through the date of the Keller Williams settlement (January 31, 2024) and invested almost \$13 million of their own money. Counsel continue to work on behalf of the Class even after these settlements, defending a verdict in *Burnett* and continuing to press forward to trial in *Moehrl* against the remaining Defendants.

I. CLASS COUNSEL PERFORMED EXTRAORDINARY WORK AND ASSUMED SIGNIFICANT RISK ON A CONTINGENT BASIS ON BEHALF OF THE SETTLEMENT CLASS TO OBTAIN THE SETTLEMENTS.

Plaintiffs alleged that various participants in the residential real estate industry, including Anywhere, RE/MAX, and Keller Williams carried out a conspiracy to inflate or stabilize broker commissions by following and enforcing NAR's Mandatory Offer of Compensation Rule as well as associated restraints promulgated by NAR and its members. Defendants have fought this litigation at every conceivable step.¹ To date, Defendants have been represented by at least twenty defense firms – including many of the most highly-regarded defense firms in the world. Dirks Dec. at ¶ 13. Defendants contested every aspect of the cases – including through jurisdictional challenges, motions to compel arbitration, to motions to dismiss, to *Daubert* motions, class certification, summary judgment motions, and—in the case of Keller Williams and other co-Defendants—even a jury trial. *Id.* at ¶¶ 14, 20. Anywhere and RE/MAX fully litigated the cases right up to the courthouse steps, with the settlements only reached on the precipice of trial. *Id.* at ¶ 23. Keller Williams went even further, litigating the case through a jury trial; and settlement was not achieved until after the verdict in *Burnett*. *Id.*

Moreover, in undertaking this substantial commitment on behalf of the Settlement Class, Class Counsel assumed significant risk. There was no roadmap of previous cases or settlements, and no assistance from governmental entities or regulators through parallel litigation. *Id.* at ¶¶ 12, 14. Despite the odds, Class Counsel was successful in their efforts on behalf of the Settlement Class in the Litigation. They obtained favorable rulings on key issues including class-certification,

¹ See generally Declaration of Eric L. Dirks (“Dirks Decl.”) for an overview of the procedural history and efforts to reach the Settlements. Attached as Ex. 1. Also attached are the declarations of Michael S. Ketchmark (Ex. 2), Brandon J.B. Boulware (Ex. 3), Steve W. Berman Ex. 4), Marc M. Seltzer (Ex. 5), Robert A. Braun (Ex. 6), Daniel C. Hedlund (Ex. 7), George Farah (Ex. 8), Benjamin D. Elga (Ex. 9), Vildan A. Teske (Ex. 10), Russell E. Marsh (Ex. 11). These declarations cover many of the same topics set out in the Dirks Decl. as well as each firm’s individual lodestar and expense amounts.

summary judgment, and *Daubert*. *Id.* at ¶¶ 14, 20, 23. But it took years of briefing, review of over 5 million pages of documents, retention of at least 20 experts and consultants, and approximately 180 depositions to achieve this result. *Id.* at ¶ 14. Reflecting these efforts, *Burnett* and *Moehrl* have over 1,800 docket entries as of the date of this filing.

Complex litigation, especially against experienced and sophisticated defense counsel, takes extra skill and effort, and that was true here. *Id.* at ¶ 36. Despite the work required and the risk in light of Defendants' stalwart defense, Class Counsel did not waver in their investment of time and money on behalf of the Settlement Class. Class Counsel pushed the Settling Defendants for the best possible settlement they could pay, which included at least three unsuccessful mediations. *Id.* at ¶¶ 24-26. During the subsequent settlement negotiations with Anywhere and RE/MAX which were ultimately successful, Class Counsel had completed all pretrial work in *Burnett* and were on the precipice of the trial. There was no guarantee whatsoever of success at trial and the Settlements represent the culmination of years of work.

Despite the uncertainty, Class Counsel's work necessarily hampered their ability to take on other work. *Id.* at ¶¶ 17-18. That was time and money spent and invested on behalf of the Settlement Class that could have been spent on less risky cases, where liability or damages were more certain, or where the claims had been advanced by previous litigation, government prosecutions or public admissions. *Id.* And even after a trial victory, risks remain given the Defendants' stated inability to pay a judgment – not to mention any risks on appeal.

ARGUMENT

I. THE REQUESTED ATTORNEY'S FEES ARE REASONABLE UNDER THE FACTS AND CIRCUMSTANCES PRESENTED HERE.

Under well-established Eighth Circuit law, a fee equal to one-third of the Settlement Fund should be approved.

A. Contingent Fees Are Awarded Using the Percentage-of-the-Fund Approach.

Courts typically use the “percentage-of-the-fund method” to award attorneys’ fees from a common fund. *See, e.g., Rawa v. Monsanto Co.*, 934 F.3d 862, 870 (8th Cir. 2019). “In the Eighth Circuit, use of a percentage method of awarding attorney fees in a common-fund case is not only approved, but also ‘well established,’” *In re Xcel Energy, Inc., Sec., Derivative & “ERISA” Litig.*, 364 F. Supp. 2d 980, 991 (D. Minn. 2005) (quoting *Petrovic v. Amoco Oil Co.*, 200 F.3d 1140, 1157 (8th Cir. 1999)), or even “preferable,” *Barfield v. Sho-Me Power Elec. Co-op.*, No. 11-CV-4321, 2015 WL 3460346, at *3 (W.D. Mo. June 1, 2015) (quoting *West v. PSS World Med., Inc.*, No. 13-CV-574, 2014 WL 1648741, at *1 (E.D. Mo. Apr. 24, 2014)). The percentage method aligns the interests of the attorneys and the class members by incentivizing counsel to maximize the class’s recovery. *See Johnston v. Comerica Mortg. Corp.*, 83 F.3d 241, 245 (8th Cir. 1996) (“[T]he Task Force [established by the Third Circuit] recommended that the percentage of the benefit method be employed in common fund situations.”) (citing *Court Awarded Attorneys Fees, Report of the Third Circuit Task Force*, 108 F.R.D. 237, 255 (3rd Cir. 1985))).² The Court should therefore use the percentage approach to award fees in this case.

B. A Fee Equal to One-third of the Fund is Reasonable.

This Court and other courts within the Eighth Circuit confirm that one-third of the common fund is an appropriate amount for class counsels’ fees in complex class actions, including antitrust litigation. Eighth Circuit and Missouri courts “have frequently awarded attorney fees between twenty-five and thirty-six percent of a common fund in other class actions.” *Huyer v. Buckley*, 849

² In contrast, undue focus on hours or hourly rates “creates an unanticipated disincentive to early settlements, tempts lawyers to run up their hours, and compels district courts to engage in a gimlet-eyed review of line-item fee audits.” *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 121 (2d Cir. 2005) (cleaned up).

F.3d 395, 399 (8th Cir. 2017) (quoting *In re Xcel*, 364 F. Supp. 2d at 998); *see also Rawa*, 934 F.3d at 870 (“courts have frequently awarded attorneys’ fees ranging up to 36% in class actions”) (quoting *Huyer*, 849 F.3d at 399); *Yarrington v. Solvay Pharm., Inc.*, 697 F. Supp. 2d 1057, 1064 (D. Minn. 2010) (holding fee award of 33% reasonable); *In re U.S. Bancorp Litig.*, 291 F.3d 1035, 1038 (8th Cir.2002) (affirming fee award representing 36% of the settlement fund as reasonable)); *In re Xcel*, 364 F.Supp.2d at 998 (collecting cases demonstrating that district courts routinely approve fee awards between 25% and 36%).

Just recently, this District approved one-third of the fund in a settlement valued at \$325 million. *See Rogowski v. State Farm Life Ins. Co.*, No. 22-CV-203, 2023 WL 5125113, *4-5 (W.D. Mo. April 18, 2023). Thus, judges in the Western District of Missouri and the Eighth Circuit routinely apply the one-third-of-the-fund fee calculation, even to large settlements.

In doing so, courts typically consider some or all of the relevant factors listed in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717–19 (5th Cir. 1974). *See In re Target Corp. Customer Data Security Breach Litig.*, 892 F.3d 968, 977 (8th Cir. 2018). The *Johnson* factors are:

- (1) the time and labor required;
- (2) the novelty and difficulty of the questions;
- (3) the skill requisite to perform the legal service properly;
- (4) the preclusion of employment by the attorney due to acceptance of the case;
- (5) the customary fee;
- (6) whether the fee is fixed or contingent;
- (7) time limitations imposed by the client or the circumstances;
- (8) the amount involved and the results obtained;
- (9) the experience, reputation, and ability of the attorneys;
- (10) the “undesirability” of the case;
- (11) the nature and length of the professional relationship with the client; and
- (12) awards in similar cases.

In re Target, 892 F.3d at 977 n.7. To be sure, “[m]any of the *Johnson* factors are related to one another and lend themselves to being analyzed in tandem.” *Swinton v. SquareTrade, Inc.*, 454 F. Supp. 3d 848, 886 (S.D. Iowa 2020). Therefore, courts in the Eighth Circuit often focus on the most relevant *Johnson* factors in evaluating fee requests. *See Huyer*, 849 F.3d at 398–400 (affirming trial court’s award of one-third of the common fund after review of *Johnson* factors 1-

5 only); *In re Xcel*, 364 F. Supp. 2d at 993; *Tussey v. ABB, Inc.*, No. 06-CV-4305, 2019 WL 3859763, at *2 (W.D. Mo. Aug. 16, 2019); *Yarrington*, 697 F. Supp. 2d at 1062; *Hardman v. Bd. of Educ. of Dollarway, Arkansas Sch. Dist.*, 714 F.2d 823, 825 (8th Cir. 1983).

Class Counsel worked on a contingent basis, despite the numerous risks and time commitments.
(Factors 1, 4, 6-7 and 10)

Here, Class Counsel's time and labor invested was substantial and necessarily precluded other work. Dirks Decl. (Ex. 1) at ¶ 18. Prosecuting the Litigation required over \$80,000,000 in lodestar through January 31, 2024. Dirks Decl. at ¶ 41. In addition to the substantial number of hours it took to reach the Settlements, Class Counsel were also required to expend \$12,923,266.48 of their own money toward the litigation through the date of the initial settlements. All that work, which precluded other less-risky employment, was the result of Class Counsel's efforts undertaken without any guarantee of payment. Dirks Decl. at ¶ 10, 17-18, 27. Moreover, this case faced low odds of early settlements given the attack on practices that were central to the real estate brokerage industry. *See, e.g., How the \$1.8 Billion Real-Estate Commissions Lawsuit Came to Be*, Wall Street Journal, November 26, 2023 ("Antitrust cases almost always settle before trial, giving attorneys some assurance they will get paid something. But in this case, the damages were so high and the threat to the industry so existential that plaintiff attorneys thought it unlikely NAR would settle."). Indeed, from the outset, NAR took the position that the cases were "baseless." *See, e.g., Realtor Group Moves to Dismiss Class Action Lawsuit Alleging Collusion*, Forbes, May 21, 2019 ("According to John Smaby, president of NAR, all three claims have no merit. 'In today's complex real estate environment, REALTORS and Multiple Listing Services promote a pro-consumer, pro-competitive market for home buyers and sellers, contrary to the baseless claims of these class

action attorneys,' he said. 'Our filing today shows the lawsuit is wrong on the facts, wrong on the economics and wrong on the law.'").

"Courts have recognized that the risk of receiving little or no recovery is a major factor in awarding attorney fees." *Yarrington*, 697 F. Supp. 2d at 1062 (quoting *In re Xcel*, 364 F. Supp. 2d at 994); Theodore Eisenberg & Geoffrey Miller, *Attorney Fees In Class Action Settlements: An Empirical Study*, 1 J. Emp. L. Studies 27, 27, 38 (2004) ("Fees are also correlated with risk: the presence of high risk is associated with a higher fee, while low-risk cases generate lower fees [This] is widely accepted in the literature.")). "Unless that risk is compensated with a commensurate award, no firm, no matter how large or well-financed, will have the incentive to consider pursuing a case such as this." *Tussey*, 2019 WL 3859763, at *3. "Courts agree that a larger fee is appropriate in contingent matters where payment depends on the attorney's success." *Been v. O.K. Industries, Inc.*, No. 02-CV-285, 2011 WL 4478766, at *9 (E.D. Okla. Aug. 16, 2011). And critically, "[t]he risks plaintiffs' counsel faced must be assessed as they existed in the morning of the action, not in light of the settlement ultimately achieved at the end of the day." *In re Xcel*, 364 F. Supp. 2d at 994.

This was the riskiest case some Class Counsel have ever prosecuted, due not only to the possibility of no recovery but also due to the amount of time and money they were required to expend in order to be in a position to reach the Settlements (or judgment) against entrenched defendants. Dirks Decl. at ¶22; Berman Dec. at ¶ 5. *See also Caligiuri v. Symantec Corp.*, 855 F.3d 860, 866 (8th Cir. 2017) (affirming fee award where lower court reasoned, in part, that "[p]laintiffs' counsel, in taking this case on a contingent fee basis, was exposed to significant risk"); *In re Equifax Inc. Customer Data Sec. Breach Litig.*, No. 17-md-2800, 2020 WL 256132, at *33 (N.D.

Ga. Mar. 17, 2020) (“This action was prosecuted on a contingent basis and thus a larger fee is justified.”).

The claims were difficult to prosecute.
(Factor 2)

Because antitrust claims are especially complex, expensive, and difficult to prosecute, courts have recognized that antitrust settlements should result in attorneys’ fees equal to one-third of the fund. *See In re Peanut Farmers Antitrust Litig.*, No. 19-CV-00463, 2021 WL 9494033, at *6 (E.D. Va. Aug. 10, 2021) (“[A]n award of one-third is also common in antitrust class actions.”) (citing cases);³ *In re Urethane Antitrust Litig.*, No. 04-CV-1616, 2016 WL 4060156, at *5 (D. Kan. July 29, 2016) (awarding one-third of \$835 million settlement, noting “a one-third fee is customary”); *In re Flonase Antitrust Litig.*, 291 F.R.D. 93, 100, 106 (E.D. Pa. 2013) (awarding one-third of the settlement fund as attorneys’ fees in which court relied upon the fact that class counsel had litigated a number of hotly contested *Daubert* challenges).

Here it is undeniable that the antitrust claims at issue in these cases were challenging to prosecute. As the Court saw, no stone was left unturned by Defendants and challenges were made at every stage (*i.e.* motions to dismiss, motions for summary judgment, *Daubert* motions, efforts to appeal from class certification orders, appeals on arbitration issues, and trial). *See Dirks Decl.* at ¶¶ 14, 23.

Class Counsel’s reputation and skillful resolution of the Litigation supports the award.
(Factors 3 and 9)

Courts often judge class counsel’s skill against the “quality and vigor of opposing counsel” *In re Charter Commc’ns, Inc.*, MDL No. 1506 All Cases, No. 02-CV-1186, 2005

³ And observing that “[o]ther courts have determined that a higher percentage rate is appropriate where discovery has been completed and the case is ready for trial.” *Id.*

WL 4045741, at *29 (E.D. Mo. June 30, 2005) (citing *In re IBP, Inc. Sec. Litig.*, 328 F. Supp. 2d 1056, 1064 (D.S.D. 2004)).

Here, Class Counsel faced off against no fewer than *twenty* highly-respected law firms over the course of the litigation. Although Class Counsel's team included some of the country's most accomplished class action and trial lawyers, Defendants also hired some of the country's most prominent and respected defense attorneys. This weighs heavily in favor of the requested award.

Class Counsel in their own right are well-known on both a national level and local level. *See generally* Exhibits 1-6. Indeed, trial counsel for the *Burnett* case was named as this year's Missouri Lawyer of the Year. *See Ketchmark named Lawyer of the Year*, Missouri Lawyers Weekly, December 7, 2023. And Class Counsel for the *Moehrl* case have been repeatedly recognized for their skill and expertise in antitrust litigation. *See, e.g.*, Berman Dec. at ¶ 2; Seltzer Dec. at ¶ 3; Braun Dec. at ¶ 2.

The percentage requested is supported by other awards under the facts and circumstances of this Litigation.
(Factors 5 and 12)

In the Eighth Circuit, courts have “frequently awarded attorneys’ fees ranging up to 36% in class actions.” *Huyer*, 849 F.3d at 399.⁴ Courts have recognized that prosecution of antitrust claims should result in a one-third-of-the-fund fee award. *See In re Peanut Farmers*, 2021 WL 9494033, at *6 (“[A]n award of one-third is also common in antitrust class actions.”) (citing cases); *In re Urethane*, 2016 WL 4060156, at *5 (awarding one-third of \$835 million antitrust settlement, noting “a one-third fee is customary”).

⁴ *See also supra* pp. 5-6.

Moreover, the requested one-third fee award is equal to or less than what the actual named plaintiffs—those with the most on the line and most involved in the case—agreed to at the outset of the case. Class representative in the *Burnett* case agreed to at least 35%. Dirks Decl. at ¶27. Class representative in the *Moehrl* case agreed to up to 33.3%. Berman Dec. at ¶ 16.

The amount involved and results obtained for the Settlement Class given the risks of the Litigation support the percentage requested.
(Factor 8)

Here, the Fund is pure cash and non-reversionary; so, the Settlements, plus interest earned until its distribution, requires no further valuation.⁵ In requesting a fee as a percentage of the Fund, Class Counsel necessarily seeks a fee proportionate to the degree of monetary success obtained.

Equally important, the Settlements include significant injunctive relief which require the Settling Defendants, among other things, to not enforce the Mandatory Offer of Compensation Rule and to train their agents that commissions are negotiable. *See also National Association of Realtors Verdict Will Send “Shock Waves” Through the Industry*, The Wall Street Journal, November 1, 2023 (“There is no question that Tuesday's nearly \$1.8 billion verdict against the National Association of Realtors and brokerage firms is going to send shock waves through the industry. Commissions have stayed pretty stable at about 5% to 6% of the sales price for decades now, despite major technological upheaval in the industry. We may finally start to see those costs for home buyers and sellers go down quite a bit.”). Counsel is not seeking any additional fee for this valuable relief in this motion, but the value of that relief is substantial in itself and should be considered when evaluating the fee that is sought.

This factor supports a contingency percentage of one-third, particularly given the benefits achieved. Importantly, success—including “exceptional success”—is not measured solely by the

⁵ The value of the injunctive relief obtained is also substantial.

maximum damages alleged but must be evaluated against any “unusually difficult or risky circumstances and the size of plaintiffs’ recovery.” *Allapattah Servs., Inc. v. Exxon Corp.*, 454 F. Supp. 2d 1185, 1204–05 (S.D. Fla. 2006). Here, the request is supported by both the size of the recovery and the results obtained as compared to the risk of a lesser recovery or none at all. Moreover, the Settlements represent the first recovery on behalf of the class. Rather than stop at these settlements and move on to less risky litigation, Class Counsel have continued to prosecute these joint and several liability claims against other Defendants. Thus, any future settlements or judgments will also benefit the Class.

Finally, the Settlements represent the most Anywhere, RE/MAX and Keller Williams can reasonably pay. Dirks Decl. at ¶ 26.

C. The Requested Fee Is Reasonable Under a Lodestar Crosscheck.

Although a lodestar crosscheck is “not required” in the Eighth Circuit, *Keil v. Lopez*, 862 F.3d 685, 701 (8th Cir. 2017); *PHT Holdings II, LLC v. N. Am. Co. Life & Health Ins.*, 2023 WL 8522980, *7 (S.D. Iowa November 30, 2023)—and should be disfavored⁶—performing such a crosscheck here confirms that the requested fee is reasonable and should be approved. As noted above, Class Counsel have spent over 96,500 hours through January 31, 2024. These hours result in an overall lodestar through January 31, 2024 of \$80,354,706.40. Dirks Decl. at ¶ 41.

Thus, under these Settlements, class counsel’s lodestar exceeds the fee request.

⁶ “[T]o overly emphasize the amount of hours spent on a contingency fee case would penalize counsel for obtaining an early settlement and would distort the value of the attorneys’ services.” *Rawa*, 934 F.3d at 870 (quoting *In re Charter Commc’ns*, 2005 WL 4045741, at *18).

II. THE COURT SHOULD APPROVE CLASS COUNSEL'S REQUEST FOR REIMBURSEMENT OF REASONABLY INCURRED EXPENSES.

“Reasonable costs and expenses incurred by an attorney who creates or preserves a common fund are reimbursed proportionately by those class members who benefit by the settlement.” *Yarrington*, 697 F. Supp. 2d at 1067 (quoting *In re Media Vision Tech. Sec. Litig.*, 913 F. Supp. 1362, 1366 (N.D. Cal. 1996)). Under the Settlements, Class Counsel are entitled to recover their expense reimbursement. The costs and expenses through January 31, 2024 were reasonable and necessary in order to reach these Settlements. Dirks Decl. ¶ 42; see also Exhibits 2-11.

The largest components of these costs are for experts, class notice and administration, depositions and mediations, travel and online research. See *Tussey*, 2019 WL 3859763, at *5 (“Reimbursable expenses include many litigation expenses beyond those narrowly defined ‘costs’ recoverable from an opposing party under Rule 54(d), and includes: expert fees; travel; long-distance and conference telephone; postage; delivery services; and computerized legal research.”) (citing *Alba Conte*, 1 Attorney Fee Awards § 2:19 (3d ed.))). Here, the litigation required a large number of depositions due to the complex nature of the claims, the size of the case, and the number of relevant witnesses. Experts were critical because they are virtually essential in antitrust cases. The *Moehrl* and *Burnett* cases were partly coordinated but litigated separately, involving different geographical regions and case schedules, and therefore it was necessary for Class counsel in each case to retain separate experts. A platform for storing documents and facilitating their review was required given the large volume of documents produced. Class notice administration was required under Rule 23. Legal research was required given the innumerable legal disputes and briefs. When possible, the *Moehrl* and *Burnett* plaintiffs coordinated in order to reduce expenses. For example,

Class Counsel shared document repositories and coordinated numerous depositions to occur on the same day. Dirks Decl. at ¶ 45.

All of the expenses submitted were reasonable expenses in such a large litigation. The Court should thus approve Class Counsel's expense reimbursement request.

III. THE COURT SHOULD APPROVE THE REQUESTED SERVICE AWARDS.

Courts routinely approve service awards to compensate class representatives for the services they provide and the risks they incur on behalf of the class. The factors for deciding whether the service awards are warranted are: “(1) actions the plaintiffs took to protect the class's interests, (2) the degree to which the class has benefited from those actions, and (3) the amount of time and effort the plaintiffs expended in pursuing litigation.” *Caligiuri*, 855 F.3d at 867.

Here, Plaintiffs seek a service award of \$15,000 per Settlement Class Representative and \$25,000 for Class Representatives who testified at trial. The Settlement Class Representatives performed important work on the case, including time-consuming gathering of facts and documents, assisting Class Counsel with the specifics of their transactions, preparing for and sitting for depositions, reviewing the Settlement Agreements, and for some, attending and testifying at trial. Dirks Decl. at ¶ 46. That work materially advanced the litigation and protected the Settlement Class's interests. *Id.* Indeed, without their time and effort, these Settlements would have been impossible. Finally, the requested service awards are consistent with other awards approved in the Eighth Circuit. *Tussey*, 850 F.3d 951, 961–62 (8th Cir. 2017) (approving \$25,000 service awards); *Rogowski*, 2023 WL 5125113, *6 (approving \$25,000 service awards for named plaintiffs); *Wolfert v. UnitedHealth Group, Inc.*, No. 08-CV-01643 (E.D. Mo. Aug. 21, 2009), ECF No. 38 at 4–5 (approving a service award of \$30,000).

Accordingly, Plaintiffs' request falls within a fair range of service awards—this is

especially so given the landmark nature of this litigation. The Court should therefore approve the requested service awards for each Settlement Class Representative.⁷

CONCLUSION

Class Counsel respectfully request that the Court approve the requested fee of one-third of the Settlement Fund, reimbursement of current expenses in the amount of \$12,923,266.48 (subject to being updated before the final approval hearing), and service awards of \$15,000-25,000 to each of the Settlement Class Representatives.

Respectfully Submitted,

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⁷ To the extent a Settlement is reached with the additional defendants, Plaintiffs may seek additional service awards for class representatives who further participated.

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Attorneys for the Settlement Class

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY, and
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KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF ERIC L. DIRKS IN SUPPORT OF
CLASS COUNSEL'S MOTION FOR ATTORNEY'S FEES, COSTS, EXPENSES
AND SERVICE AWARDS**

I, Eric L. Dirks, hereby declare as follows:

1. I am a partner at the law firm of Williams Dirks Dameron LLC in Kansas City, Missouri, and counsel for the Plaintiff and the Class in the *Burnett* action. I submit this declaration in support of Plaintiff's Motion for Attorneys' Fees, Expenses and Service Awards. I make this statement of my own personal knowledge, and if called to testify, would testify competently thereto.

2. The following is a brief description of my professional background. I am a founding partner of the law firm of Williams Dirks Dameron LLC, in Kansas City, Missouri where I focus my practice on complex litigation, including nationwide class actions. Before my involvement in this case, I have acted as counsel on over four dozen class and collective actions,

I have settled numerous class actions, tried a class action to verdict and through appeal in federal court (prior to the *Burnett* trial), and successfully argued the issue of class certification before the Missouri Supreme Court. As the Court is aware, my firm and our co-counsel in this case successfully navigated this case from its infancy to a \$1.785 Billion jury verdict.

3. I am AV rated with Martindale Hubbell, am routinely selected as a Super Lawyers Top 50 in Kansas City and have been selected to Kansas City's Best of the Bar on multiple occasions. I have publicly spoken on numerous occasions the topic of complex litigation, including class actions.

4. I spent the majority of my time over the past three years working on the *Burnett* matter and am intimately familiar with all aspects of the case.

5. Based on my experience prosecuting this case and our research, the Settlements represent the largest known consumer class settlement involving the real estate brokerage industry.

6. The Settlements are more than a large financial recovery for the class. The injunctive relief set out in the Settlements is a substantial victory for class members and, in my opinion, will ultimately result in cost savings for future home sellers.

7. Based on my experience in handling class action litigation for the past two decades, I can say without a doubt that the Settlements constitute a fair and reasonable—indeed excellent—result for the class.

8. Our firm and co-counsel filed *Burnett* in 2019 and have collectively dedicated more resources to the prosecution of this litigation than any other case in our firms' history. Prior to *Moehrl* and *Burnett*, there has never been a public or private prosecution or settlement of the Mandatory Offer of Compensation Rule. In other words, our case is the first to obtain monetary or injunctive relief with respect to the Mandatory Offer of Compensation Rule. Throughout the

litigation Anywhere, RE/MAX and Keller Williams took the position that their conduct was lawful and that the cases lacked merit.

9. *Burnett* and *Moehrl* represent the only certified classes of plaintiffs involving the Mandatory Offer of Compensation Rule. Our firm and co-counsel, along with class counsel in *Moehrl* (collectively “Class Counsel” or “co-counsel”), litigated the only cases involving the Mandatory Offer of Compensation Rule until other plaintiffs began filing similar cases once they had the opportunity to observe our successes in the litigation.

10. As discussed in greater detail below, to achieve this result for the Settlement Class, we, along with our co-counsel, performed a massive amount of work—more than 96,500 hours through the date of the Keller Williams Settlement—in the Litigation, on a contingent basis, working for more than five years. We also spent over \$12,923,266.48 in reasonable and necessary expenses through the date of the Keller Williams Settlement.

11. After we reached Settlements with Anywhere and RE/MAX, we continued litigating against Keller Williams and other defendants. In *Burnett*, we litigated all the way through trial and in *Moehrl*, summary judgment briefing is ongoing and trial is nearing.

12. Based on my two decades of experience prosecuting class actions and serving as class counsel in numerous class actions, I can say that this Litigation was the most unique and hotly-contested I have experienced. Moreover, the result came after years of work in not one, but two, litigious class actions: *Burnett* and *Moehrl*.

13. In each case, Defendants mounted a comprehensive and independent defense, requiring us to give an equally forceful prosecution. Defendants were represented by no less than twenty well-respected defense firms during the course of the *Burnett* litigation including: Cooley, Quinn Emanuel Urquhart Sullivan, Arent Fox Schiff, Jones Day, Holland & Knight, Faegre Baker

Daniels, Morgan Lewis & Bockius, Foley & Lardner, MacGill PC, Gibson Dunn & Crutcher, Barnes & Thornburg, MoloLamken, Polsinelli, Stinson, Brown & James, Lathrop GPM, Horn Aylward & Bandy, Armstrong Teasdale.

14. In undertaking such a substantial commitment on behalf of the Settlement Class, we assumed momentous risk because the claims were complex and expensive to prosecute. We defeated two motions to dismiss, three motions to compel arbitration, 5 motions for summary judgment, three appeals, and took and defended over 80 depositions in *Burnett* and over 100 depositions in *Moehrl*. The cases involved at least 20 different experts on liability and damages involving numerous reports and depositions. Damages experts reviewed huge data sets including millions of rows of data. Expert testimony covered a broad array of subject matters.

15. We reviewed more than 5 million pages of documents, and we isolated and reviewed unique documents, which culminated in the parties marking hundreds of deposition and trial exhibits. Both sides issued numerous third-party subpoenas to multiple MLSs and real estate brokerages.

16. Even after prevailing at trial in *Burnett*, Defendants continue to fight nearly every aspect of the case. Nonetheless, we were successful in our efforts on behalf of the Settlement Classes with respect to Anywhere, RE/MAX, and Keller Williams.

17. Our investment of labor and expenses substantially limited the other work my firm and my co-counsel's firms we were able to take on during the last five years. We confronted a much larger defense team with a near endless amounts of resources. The nearly 100,000 hours of work we collectively performed through the date of the Keller Williams Settlement demonstrates this massive undertaking. Given the size and business model of our firms, that was a significant risk for us to take on a purely contingent basis.

18. There were certainly less risky cases we could have devoted those resources to, where either liability or damages or both were more certain, where expert witnesses and other costs of prosecution were cheaper, where payment would come faster, and where the claims had been advanced by previous case law or government prosecution. We nonetheless dedicated our resources to these cases because we believed in the claims and representation of the class.

19. We undertook to represent home sellers when these cases were not only risky, but legally uncharted. There was no favorable precedent on the issue of the Mandatory Offer of Compensation Rule.

20. Liability was also far from the only risk we faced. It was critical to prevail on that point but hardly sufficient to obtain a significant recovery. Defendants levied every conceivable challenge at class certification, expert testimony, and damages.

21. And this case was unusually expensive to prosecute. This is due, in part, to the antitrust nature of the case. But also due to the fact that we were required to engage experts to handle significant data processing and evaluation due to the large number of transactions involved.

22. In terms of the time involved, expenses required, and area of law, I can say that this case was, by far, the riskiest case my firm has ever prosecuted.

23. It was not until the eve of trial, and Defendants exhausting their options at every turn (i.e. motions to dismiss, motions for summary judgment, Daubert motions, appeals from class certification order, and trial continuances), that Anywhere and RE/MAX were prepared to settle. Ultimately, Plaintiffs' decision to settle was based on Anywhere and RE/MAX's financial condition and strategic trial considerations. And we did not reach a settlement with Keller Williams until three months after trial, again based on Keller Williams's financial condition and strategic considerations.

24. The Settlements were not reached until after numerous attempts at mediation and negotiations. The cases were first mediated April of 2020 with Hon. Garrett Brown (Ret.). The parties attended a mediation with Judge Brown as well as several less formal phone calls and meetings. These attempts were unsuccessful. The parties then mediated with Greg Lindstrom in January of 2023, a well-known national antitrust expert and mediator. The attempts were again unsuccessful. Numerous phone calls and emails between Plaintiffs and Mr. Lindstrom and separately between Defendants and Mr. Lindstrom were also unsuccessful. The parties then attended another mediation with Judge Willie Epps in July of 2023. While some progress was made, no settlements were reached. Plaintiffs and Anywhere subsequently attended a mediation with Mr. Lindstrom shortly before trial and ultimately reached a resolution after two full days. Plaintiffs then mediated with RE/MAX using Mr. Lindstrom and reached a resolution after two separate days of negotiations. The parties continued to finalize the Anywhere and RE/MAX settlements and were able to do so prior to trial, with the both Settlements being signed on or around October 5, 2023. Plaintiffs attended another mediation with Keller Williams and Mr. Lindstrom after trial, in addition to numerous calls, meetings and negotiations. The Keller Williams settlement was executed on February 1, 2024.

25. In order to determine that the Settlements are in the best interest of the Class, and in addition to the discovery process and evaluation of data and witnesses, Plaintiffs used forensic accountants to evaluate the internal financial documents of Anywhere, RE/MAX and Keller Williams. Anywhere, RE/MAX, and Keller Williams provided detailed internal financial documentation and made their executives available for questioning by Plaintiffs counsel. It was only after this process of determining each settling Defendant's ability to pay that the parties

reached settlement. In my opinion, the Settlements are fair, reasonable and adequate in light of Anywhere, RE/MAX, and Keller Williams's financial condition.

26. I also believe the Settlement is in the best interests of the Settlement Class given the risks and delay of further litigation. The Settlement represents the most Anywhere, RE/MAX, and Keller Williams could reasonably pay. Moreover, due to the nature of joint and several liability, the Settlements do not constitute a maximum recovery for the class because Settlement Class Members will be eligible to participate in any future settlements. Thus, the Settlements obtained meaningful relief for the classes with the opportunity for additional recovery. Indeed, as Class Counsel, we continue to strenuously litigate on behalf of this Settlement Class.

27. My firm's work on this case was performed on a wholly-contingent basis pursuant to contingency fee contracts with the Named Plaintiffs. Each of these contracts with Named Plaintiffs called for a contingency fee of 35%—higher than the amount requested from the common fund. My firm has not received any amounts in connection with this case, either as fee income, litigation funding or expense reimbursement.

28. The time we spent on this case over the last five years has substantially limited our ability to take on other, potentially profitable work. Because my office is relatively small, any time I spend on this case necessarily reduces the time I have available to work on other matters. I have personally declined to work on numerous promising cases due to my commitments in prosecuting this case.

29. My firm kept contemporaneous track of the time spent on *Burnett* and the Litigation.

30. After an exercise of billing judgment, our firm has expended 9,133 hours of work in connection with this litigation through January 31, 2024 (the date of the Keller Williams

Settlement) and many more since then. Many of our hours in this case were not recorded due to the contingent nature of our Plaintiffs' practice. For example, over the course of this litigation I made and received thousands of case-related calls and emails for which I did not record my time. But we do regularly record contemporaneous daily time records in our computerized database, which occurred in this case and is reported below.

31. My firm's lodestar through January 31, 2024, on the Burnett matter is:

TIMEKEEPER	POSITION	HOURS	RATE	TOTAL
Allen, Alexis	Associate	49.2	\$600	\$29,520.00
Cheung, Katia	Associate	2,139.6	\$600	\$1,283,760.00
Dameron, Matthew	Partner	1,216.4	\$1,250	\$1,520,500.00
Dirks, Eric	Partner	3,310.6	\$1,250	\$4,138,250.00
Flores, Carlos	Paralegal	39.1	\$300	\$11,730.00
Graham, Katie	Paralegal	24.9	\$300	\$7,470.00
Mann, Clinton	Associate	89.4	\$600	\$53,640.00
Stout, Courtney	Associate	2,204.8	\$600	\$1,322,880.00
Strickland, Brittini	Paralegal	41.7	\$300	\$12,510.00
Williams, Michael	Partner	15.5	\$1,250	\$19,375.00
Wren, Jesse	Paralegal	1.8	\$300	\$540.00
	TOTAL HOURS	9,133.0	TOTAL	\$8,400,175.00

32. These rates are consistent with recent lodestar crosschecks in complex litigation in the Kansas City area. *See, e.g., Rogowski v. State Farm Life Ins. Co.*, No. 22-CV-203, 2023 WL 5125113, at *5 n.8 (W.D. Mo. Apr. 18, 2023) (performing lodestar crosscheck on rates of \$1,125 for senior partners, \$775-\$950 for junior partners, \$475-\$700 for associates, and \$275-\$340 for paralegals); *In re T-Mobile Customer Data Security Breach Litigation*, No. 21-MD-3019 (W.D. Mo. June 29, 2023), ECF No. 235 at 37–38 (rejecting need to perform lodestar crosscheck but nonetheless finding the following rates reasonable, senior partners \$1,000-\$1,275, junior partners \$825-\$950, and associates \$475-\$650); Order and Judgment Granting Final Approval of Class Action Settlement, *Jackson County v. Trinity Industries*, No. 1516-CV23684, at 4–5 (Mo. Ct. Cir. Aug. 30, 2022) (approving blended hourly rate of \$662 for firms).

33. Our work in class action litigation has been crosschecked relatively recently by this Court in *Hays v. Nissan N. Am. Inc.*, No. 17-CV-353 (W.D. Mo. Sept. 30, 2022), ECF No. 138 at 3 (\$900 - \$1,125 for partners, \$695 for associates, \$340 for paralegals).

34. A court within the Eighth Circuit recently approved a class action fee petition noting the “median standard billing rate for equity partners of \$1,463 per hour, as reflected by a nationwide survey of the top 50 law firms nationwide.” *PHT Holdings II, LLC v. N. Am. Co. Life and Health Ins.*, No. 18-CV-368, 2023 WL 8522980, *7 (S.D. Iowa November 30, 2023). The court recognized the overall lodestar crosscheck rates were below this average in finding the lodestar crosscheck to result in a reasonable fee. *Id.* at 7–8. The court also observed that, where, as here, prosecuting the case requires particularized legal specialization, the courts may consider a national billing rate. *Id.* at 7. *See also In re Auto Parts Antitrust Litig.*, No. 12-md-2311, 2018 WL 7108072, at *3 (E.D. Mich. Nov. 5, 2018) (“In national markets, partners routinely charge between \$1,200 and \$1,300 an hour, with top rates at several large law firms exceeding \$1,400. In specialties such as antitrust and high-stakes litigation and appeals, for lawyers at the very top of those fields, hourly rates can hit \$1,800 or even \$1,950.” (cleaned up)); *see also Spano v. Boeing Co.*, No. 06-CV-743, 2016 WL 3791123, at *3 (S.D. Ill. Mar. 31, 2016) (using similar rates).

35. The PWC 2024 Billing Rate Survey conducted by PWC reveals that average rate for top firms continues to rise with an average of AMLAW 50 equity partner rates of over \$1,500 per hour. *See 2024 Billing Rate & Associate Salary Survey (BRASS) Initial Release*, PWC, <https://www.pwc.com/us/en/law-firms/surveys/assets/brass24ir/2024-brass-ir-brochure.pdf>.

36. Six of the firms representing Defendants are in the AMLAW Top 30. *See Law Firms*, ALM | LAW.COM, <https://www.law.com/law-firms/>. And three are in the top 11. *Id.*

37. Not only did this litigation require Class Counsel with specialized knowledge of class action antitrust law, it is also a result of national litigation in multiple venues with attorneys from all over the country.

38. Unlike most class cases, this was an antitrust claim with complicated legal issues. This case was also uniquely expensive to prosecute. And *Burnett* went to trial, with *Moehrl* scheduled to be tried by the end of this year. Finally, this litigation occurred during the recent inflationary conditions which have had an impact on law practices – including the rising cost of retaining staff.

39. Additional time and expenses has been and will be incurred for the work that we will be performing on this matter through the conclusion of the settlement and even after final approval of the settlement.

40. The lodestar summary reflects Williams Dirks Dameron LLC's extensive experience in the field, the complexity of the matters involved in this litigation, and the prevailing rate for providing such services.

41. All firms' combined reported lodestar amounts through January 31, 2024, come to **\$80,354,706.40**.

42. Through January 31, 2024, Williams Dirks Dameron has advanced out-of-pocket a total of \$1,036,275.63 in expenses (after the exercise of billing judgment) reasonably and necessarily incurred in connection with the prosecution of this matter. These expenses are reflected in the books and records regularly kept and maintained by my firm. It is my opinion that the Settlements would have never been reached without the expenditure of these expenses. Although there were multiple defendants in this case, due to the joint and several liability nature

of the case, all of the time and expenses spent in furtherance of the case against one defendant applied to the time and expenses against another defendant.

43. My firm's reasonable expenses in *Burnett* through January 31, 2024 are as follows:

ACTIVITY	TOTAL COST
Copy & Print	\$6,385.50
Depositions	\$18,687.95
Document Storage, Production & ESI	\$55,528.18
Experts & Consultants	\$904,125.12
Mediation	\$12,760.60
Postage	\$43.38
Process Service	\$2,055.05
Records & Transcripts	\$176.70
Research	\$12,919.98
Travel & Meals	\$23,593.17
TOTAL	\$1,036,275.63

44. All firms combined expended a total amount of **\$12,923,266.48** through January 31, 2024.

45. These expenses were necessary because the litigation required a multitude of depositions due to the numerous fact and expert witnesses. Experts were critical because they are typically necessary in antitrust cases. Document storage was required given the large volume of documents produced. Class notice administration was required under Rule 23. Legal research was required given the innumerable legal disputes and briefs. When possible, the *Moehrl* and *Burnett* plaintiffs coordinated in order to reduce expenses. For example, we shared document repositories and coordinated numerous depositions to occur on the same day. All of the expenses submitted were reasonable expenses in such a large litigation.

46. The Class Representatives invested significant time and effort on behalf of the class. For most, their participation on this case took them away from their families and their work. Each current and former class representative produced substantial documentation of their real estate transactions and submitted to lengthy depositions, typically a full day of intense

interrogation. Each of the class representatives participated closely with class counsel at all stages of the litigation and through settlement approval (and some testified at the recent *Burnett* trial). All of them were willing to put their names and reputations into the public domain in order to represent not only themselves but the entire class.

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

Executed this 29th day of February 2024.



Eric L. Dirks

Exhibit 2

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY, and
JEREMY KEEL, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF MICHAEL S. KETCHMARK
IN SUPPORT OF CLASS COUNSEL'S MOTION
FOR ATTORNEYS' FEES, COSTS, EXPENSES AND SERVICE AWARDS**

I, Michael S. Ketchmark, hereby declare as follows:

1. I am a partner at Ketchmark & McCreight, P.C. in Kansas City, Missouri, and counsel for the Plaintiffs and the Class in the *Burnett* action. I submit this declaration in support of Plaintiffs' Motion for Attorneys' Fees, Expenses and Service Awards. I make this statement of my own personal knowledge, and if called to testify, would testify competently thereto.

2. The following is a brief description of my professional background. I have practiced law for over 30 years and am a founding partner of Ketchmark & McCreight, where I focus my practice on complex litigation and trial practice. I have obtained many large jury verdicts, including some of the largest in Missouri history. As the Court is aware, my firm and our co-counsel in this case successfully navigated this case from its infancy to a \$1.785 billion jury

verdict. For my role in acting as lead trial counsel in this case, I was named Missouri Lawyer of the Year.

3. The other lawyers in our firm working on this matter are Scott McCreight, Ben Fadler, and Steven Ketchmark. They likewise have each worked on the major cases in which our firm has achieved record-setting results. Mr. McCreight, who clerked for the Honorable John R. Gibson of the United States Court of Appeals for the Eighth Circuit, has extensive experience in complex litigation and took the lead in shaping the legal analysis and drafting the major briefing in this case. Mr. Fadler has tried over 25 jury trials to verdict, including a recent case where he obtained one of the largest personal injury verdicts in Wisconsin history. He second-chaired the trial in this case.

4. Our firm has spent most of its time over the last three years working on the *Burnett* matter. We have played a leading role in virtually every aspect of the case, including the taking of depositions (fact and expert), locating and producing plaintiffs' experts, preparing the briefing for and arguing the major legal issues, conducting settlement negotiations, and acting as trial counsel. I personally took the lead in almost all the depositions.

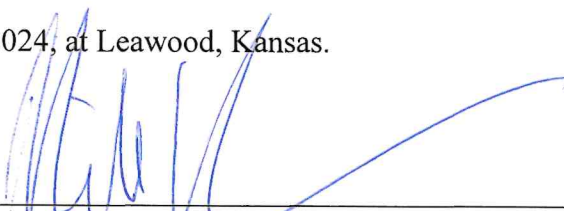
5. All attorneys at our firm were instructed to keep contemporaneous time records reflecting their time spent on the case, and did so. The attached Schedule 1 reports the time spent by our firm's personnel from inception until January 31, 2024. The total for this Schedule is \$22,709,710.00. This submission does not include time relating to this motion. All hourly rates are my firm's usual and customary rates, for this and other similar matters as of January 31, 2024. The rates are based on regular and ongoing monitoring of prevailing market rates for attorneys of comparable skill, experience and qualifications.

6. Our firm has dedicated more resources to the prosecution of this litigation than any other case in our history. The time we have spent on this case over the last three years has substantially limited our ability to take on other profitable work. Because our office is relatively small, any time we spend on this case necessarily reduces the time we have available to work on other matters. I have personally declined to work on numerous promising cases due to my commitments in prosecuting this case.

7. Through January 31, 2024, our firm has advanced out-of-pocket a total of \$5,744,767.68 in expenses (after the exercise of billing judgment) reasonably and necessarily incurred in connection with the prosecution of this matter. These expenses are reflected in the books and records regularly kept and maintained by my firm. It is my opinion that the Settlements would have never been reached without the expenditure of these expenses. Although there were multiple defendants in this case, due to the joint and several liability nature of the case, all of the time and expenses spent in furtherance of the case against one defendant applied to the time and expenses against another defendant. The attached Schedule 2 summarizes these expenses.

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

Executed this 29th day of February, 2024, at Leawood, Kansas.



MICHAEL S. KETCHMARK

SCHEDULE 1

TIMEKEEPER	POSITION	HOURS	RATE	TOTAL
Michael Ketchmark	Partner	6,314.7	\$1,450	\$9,156,315.00
Scott McCreight	Partner	6,121.2	\$1,350	\$8,263,620.00
Ben Fadler	Partner	2,145.5	\$1,250	\$2,681,875.00
Steven Ketchmark	Associate	968.0	\$600	\$580,800.00
Dana Hotchkiss	Paralegal	3,570.0	\$300	\$1,071,000.00
Megan Patrick	Paralegal	3,187.0	\$300	\$956,100.00
	TOTAL	22,306.4	TOTAL	\$22,709,710.00
	HOURS			

SCHEDULE 2

ACTIVITY	TOTAL COST
Class Certification Notice	\$257,561.62
Copy & Print	\$173,790.19
Court Fees	\$403.00
Document Storage, Production & ESI	\$305,461.13
Depositions	\$384,599.91
Experts & Consultants	\$4,124,047.29
Mediation	\$28,677.81
Miscellaneous	\$766.10
Postage	\$6,152.84
Process Service	\$1,138.14
Records & Transcripts	\$138,485.86
Research	\$16,878.04
Travel & Meals	\$265,931.51
Trial	\$40,874.24
TOTAL	\$5,744,767.68

Exhibit 3

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY,
and JEREMY KEEL, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF BRANDON J.B. BOULWARE
IN SUPPORT OF CLASS COUNSEL'S
MOTION FOR ATTORNEY'S FEES, COSTS, EXPENSES AND SERVICE AWARDS**

I, Brandon J.B. Boulware, state under oath, as follows:

1. I am a partner at Boulware Law LLC. I am admitted to this Court and am one of the attorneys for Plaintiffs and the Class. I submit this declaration in support of Plaintiffs' Motion for Attorneys' Fees, Expenses, and Service Awards. I make this statement of my own personal knowledge, and if called to testify, would testify competently thereto.¹

2. The following is a brief description of my professional background and the background of my firm. I am the founding partner of Boulware Law LLC where I focus my practice on complex litigation with an emphasis on antitrust litigation. Before my involvement in

¹ I have reviewed the declarations of co-counsel and adopt—but do not repeat here—their statements.

this case, I previously served as counsel for large corporate direct-action plaintiffs in antitrust matters involving polyurethane foam, containerboard, and rail freight surcharge. My law partner, Jeremy Suhr, and I have also worked as lead defense counsel in multiple antitrust class action matters throughout the country for corporate and individual clients, including MDL class actions. Beyond our antitrust practice, we have significant experience prosecuting and defending—and successfully trying before juries—other complex matters in Missouri, Kansas, and other states. Short biographies of Boulware Law attorneys (Brandon Boulware, Jeremy Suhr, and Erin Lawrence) can be found at www.boulware-law.com.

3. Boulware Law was appointed as Lead Class Counsel, along with Williams Dirks Dameron LLC and Ketchmark & McCreight, P.C. on behalf of the Class in the above-captioned case.

4. This was one of the most complicated antitrust cases in which I have participated. Our case challenged a system that at its core had been in existence for decades, and previous challenges to the system had been unsuccessful. We developed and prosecuted this case based on the central premise that Defendants' anticompetitive conspiracy has resulted in home sellers in Missouri-based markets (and, indeed, across the country) pay supra-competitive real estate broker commissions. The harm caused is in the billions of dollars, as we established at trial.

5. My firm, along with co-counsel, filed the original Class Action Complaint in April 2019. Our firm has been involved in every aspect of the litigation over the last five years, including but not limited to:

- researching the initial theory;
- drafting the original Class Action Complaint;

- briefing early-stage pretrial motions (including multiple attempts by Defendants to transfer, stay, and dismiss the case);
- negotiating ESI discovery;
- drafting written discovery;
- briefing and arguing discovery disputes;
- reviewing and coding millions of pages of documents produced by Defendants and third parties;
- working with class and merits expert witnesses;
- traveling to and taking in-person depositions across the country;
- traveling to and taking in-person depositions of experts across the country;
- preparing for and defending depositions of plaintiffs;
- preparing for and defending depositions of expert witnesses;
- researching and briefing arguments before the Eighth Circuit Court of Appeals;
- researching and briefing class certification;
- researching and briefing dispositive motions;
- researching and briefing pre-trial motions;
- preparing for trial (including multiple mock jury exercises);
- attending and participating in pretrial hearings;
- participating in the trial of the case; and
- participating in formal and informal mediation sessions with various defendants.

6. Boulware Law is a small firm—three attorneys and one paralegal. That means this case was an “all-in” lawsuit for the firm. Each of us at Boulware Law worked tirelessly—late nights and weekends included— for five years for our clients. By dedicating our limited resources

to this case, we risked much. We did so because we believed in the merits of the case and recognized that if we did not stand up for home sellers here, Defendants' anticompetitive scheme would continue. And though we have reached sizable settlements with several Defendants and obtained an historic \$1.78 Billion jury verdict, our firm has not yet been compensated for its work.

7. On the defense side were more than 20 of the best and largest law firms in the country. Defendants' army of lawyers fought vigorously. Almost every motion that could have been filed was filed, at least once. In the last five years, and even before the verdict, we made more than one trip to the Eighth Circuit Court of Appeals to defeat Defendants' attempts to avoid a jury trial.

8. Counsel for the Plaintiffs have expended significant time and resources to achieve the settlements for the class. After an exercise of billing judgment, Boulware Law attorneys and staff expended 14,249 hours pursuing these claims from inception through January 2024, and the total lodestar for our firm is \$12,929,975.00. We devoted our time to this case even when we could have worked on other cases with far less risk. A total summary of the hours and lodestar for our firm is attached hereto as **Exhibit A**.

9. Throughout the litigations, we worked to maximize efficiency and minimize unnecessary or duplicative billing. All firms who have performed work on behalf of the Plaintiffs have been instructed by Co-Lead Counsel to keep detailed time and expense records, including what time would be considered for reimbursement.

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

Executed this 29th day of February 2024, at Kansas City, Missouri.


/s/ 
BRANDON J.B. BOULWARE

EXHIBIT A

Plaintiffs' Lodestar through January 31, 2024
Boulware Law LLC

TIMEKEEPER	POSTITION	HOURS	RATE	TOTAL
Brandon Boulware	Attorney	5,318.7	\$1,250	\$6,648,375.00
Jeremy Suhr	Attorney	3,041.2	\$1,100	\$3,345,320.00
Erin Lawrence	Attorney	2,132.5	\$850	\$1,812,625.00
Kim Donnelly	Paralegal	3,737.6	\$300	\$1,121,280.00
Catherine Henne	Law Clerk	19.0	\$125	\$2,375.00
	TOTAL HOURS	14,249.0	TOTAL	\$12,929,975.00

Exhibit 4

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY,
and JEREMY KEEL, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF STEVE W. BERMAN IN SUPPORT OF CLASS COUNSEL'S
MOTION FOR ATTORNEY'S FEES, COSTS, EXPENSES AND SERVICE AWARDS**

I, Steve W. Berman, state under oath, as follows:

1. I am the managing partner at Hagens Berman Sobol Shapiro LLP. I am admitted to this Court *pro hac vice* and am one of the attorneys for the Plaintiffs in the *Moehrl* action. I submit this declaration in support of Plaintiffs' motion for attorney's fees, costs, expenses, and service awards. I have full knowledge of the matters stated herein and would testify to these facts if called upon.

2. The following is a brief description of my professional background and the background of my firm. I am the founding partner of Hagens Berman Sobol Shapiro LLP. Hagens Berman has been a leader in antitrust class litigation. I have personally taken multiple antitrust cases to trial. For example, in September 2019, I led the trial team in a ten-day trial before former

N.D. Cal. Chief Judge Claudia Wilken, which we brought on behalf of student athletes. The case challenged the National Collegiate Athletic Association (NCAA)'s rules relating to caps on compensation available to college student athletes. At trial, the factfinder imposed an injunction against the NCAA – as a result, student athletes have been able to receive more aid from their schools. The Supreme Court unanimously affirmed the district court's decision. *See Nat'l Collegiate Athletic Ass'n v. Alston*, 141 S. Ct. 2141 (2021). Hagens Berman has been appointed as lead counsel for numerous other antitrust class actions. Hagens Berman has led some of the most complicated antitrust cases of the last decade, resulting in settlement of hundreds of millions of dollars for consumers and businesses nationwide. Hagens Berman's antitrust team has been recognized by Law360 as a Competition Group of the Year for each of the last three years.

3. Hagens Berman, along with Cohen Milstein Sellers Toll LLP and Susman Godfrey LLP, has been appointed as Lead Class Counsel on behalf of the class in the *Moehrl v. National Association of Realtors* action.

4. This case began when a small team of lawyers at Cohen Milstein, Susman Godfrey, my firm, and other counsel in *Moehrl* began investigating anticompetitive practices in the real estate industry centering around certain rules implemented and enforced by the National Association of Realtors in 2018. Unlike many other civil antitrust cases, our investigation was not a “copycat” of a publicly filed government case. Rather, we conducted the investigation ourselves in order to develop the central theory of the case.

5. Prior to our case, there had been no complaint challenging the NAR Rules at issue. This novel theory represented a significant risk, especially considering that we correctly anticipated from the start that litigation of the case would cost millions of dollars in out-of-pocket expenses before we received any chance of reimbursement. Based on my experience, this was one

of the most complicated and risky antitrust cases that my firm has pursued. Nevertheless, we developed and brought this case because we believed in the core theory – Defendants’ conspiracy has stifled competition and resulted in home sellers across America paying too much in real estate broker commissions. The conduct here has resulted in some of the most widespread harm to American consumers of any antitrust case that my firm has litigated.

6. We filed a complaint setting forth the core theory of the case in 2019. Each counsel acting on behalf of the *Moehrl* Plaintiffs has now litigated this case for more than five years on contingency and has not yet received any award or compensation. For an antitrust case of this size and complexity, counsel for the *Moehrl* Plaintiffs has worked hard to litigate the case with a dedicated team. The same lawyers who conducted the extensive pre-filing investigation have drafted much of the briefing, negotiated the discovery, conducted the depositions, briefed class certification, and are currently briefing summary judgment. and will conduct the depositions. Our focused team knows the case well and understands the complexity and nuances of the litigation.

7. Counsel for the *Moehrl* Plaintiffs have successfully progressed the litigation through multiple stages – including motions to dismiss and class certification that were hotly contested by each of the now settling Defendants. Plaintiffs are currently briefing summary judgment against the remaining Defendants. Accompanying the briefing process at class certification and summary judgment, Plaintiffs' counsel has worked closely with six different experts, including two economists, to develop the analyses necessary to support class certification and prevail on the merits.

8. Throughout the discovery process, we worked to coordinate efficiently and effectively with counsel for the *Burnett* Plaintiffs. We jointly negotiated the scope of document productions with each of the Defendants and took numerous depositions jointly in a coordinated

fashion across the two cases. Counsel also worked to share expenses when possible between the two cases, including hosting documents in a coordinated fashion.

9. In total, over 100 fact depositions have been taken of Defendant employees, their alleged co-conspirators, and third parties by attorneys for the *Moehrl* Plaintiffs. During the discovery process, there have been many weeks where multiple depositions were scheduled on the same day, and back-to-back each week. The lean team of attorneys working on this case often had to prepare for and attend several depositions each week, every week, for months at a time. Preparing for these depositions took significant time and effort. Staff attorneys, associates, and partners at each respective firm spent hundreds of hours combing through documents, selecting exhibits and preparing to ask questions at these depositions, many of which will be used as trial testimony in this action. Apart from coordination with the *Burnett* Plaintiffs, no other counsel besides *Moehrl* Plaintiffs participated in the preparation or taking of these depositions.

10. The *Moehrl* matter covers 20 distinct MLSs spread throughout the country. As part of their work on behalf of the class, the *Moehrl* counsel pursued specific document discovery related to those MLSs, negotiated the scope of document productions with third parties that covered those MLSs, and developed expert models for establishing impact and damages in each of those MLSs.

11. Counsel worked closely with the six named class representatives, including reviewing class representatives' documents and responding to Defendants' discovery requests. To respond to Defendants' interrogatories and requests for production, thousands of personal emails for each class representative were searched. Counsel reviewed every single plaintiff document turned over to Defendants. Counsel also helped the class representatives prepare for, and defended them at, their depositions. All of the class representatives' depositions were attended by multiple

defense counsel, and at some depositions, partners—some of whom have more than 15 years of litigation experience—led the questioning.

12. In addition to these tasks, attorneys for the *Moehrl* Plaintiffs have conducted the following work listed below. Each firm for the *Moehrl* Plaintiffs has provided more specific descriptions of the work performed by their firms in their accompanying declarations.

- Drafting and revising the complaint and the amended complaint;
- Drafting and revising the classes' proposed search terms for Defendants' documents
- Drafting and revising the classes' proposed discovery requests for documents and interrogatories
- Drafting and negotiating the production of third-party data that covered each of the MLSs in the *Moehrl* action;
- Negotiating the production of the Defendants' structured data
- Reviewing and analyzing, millions of pages of Defendants' documents
- Preparing deposition chronologies using Defendants' best documents and preparing chronologies of documents likely to be used by experts and at class certification
- Updating class representatives and seeking their documents in response to Defendants' discovery
- Preparing letters to Defendants to memorialize Plaintiffs' positions regarding discovery issues after meet-and-confer sessions
- Drafting settlement demands, organizing mediation, and preparing documents for settlement
- Drafting the settlement agreement, preliminary approval motions, and managing the notice process

13. Apart from limited preliminary settlement discussions, the *Moehrl* counsel have consistently worked jointly with *Burnett* counsel to engage in mediation and settlement discussions with the Defendants. The financial condition of the Settling Defendants, and their ability to pay,

was an essential part of the settlement discussions. As part of those settlement discussions, counsel from Hagens Berman with expertise in forensic accounting meticulously reviewed the financial statements to confirm the financial condition of the Settling Defendants and that the financial terms of the Settlements were fair, reasonable and adequate when considered against the financial condition of the Settling Defendants. Those settlement discussions are summarized in more detail in the Declaration of Eric Dirks.

14. Based on my experience, I believe these Settlements are in the best interests of the Settlement Class given the risks and delays of further litigation. In particular, our rigorous analysis of the financial condition of Anywhere, RE/MAX, and Keller Williams confirmed that the amount obtained was the most that each Defendant could reasonably pay. In addition, each of the Settling Defendants agreed to meaningful injunctive relief that helps address the underlying anticompetitive conduct. Furthermore, significant hurdles in particular remain specifically for the *Moehrl* Plaintiffs, including summary judgment and trial. Counsel for *Moehrl* Plaintiffs are continuing to pursue meaningful relief against the non-settling defendants on behalf of the *Moehrl* litigation class.

15. The named Plaintiffs in *Moehrl* have fulfilled their duties as Class Representatives by actively participating in the litigation. All Class Representatives also remained informed of updates in the case; and importantly, reviewed and gave their approval of the settlements. Each Class Representative bore significant burdens as a result of their participation in the case. They were required to spend significant time responding to discovery requests, including the collection and production of documents that included financial collecting and producing documents – including personal financial records related to the sale of their homes. Class Representatives also spent extensive time preparing for and submitting to lengthy depositions.

16. Class Counsel agreed to work with the named Plaintiffs on a wholly contingent basis pursuant to contingency fee agreements. Each of the contingency fee agreements provided that Class Counsel may seek a fee up to 1/3rd of the total settlement amount. Class Counsel has not received any amounts in connection with this case, either as fee income, litigation funding or expense reimbursement.

17. Counsel for the *Moehrl* Plaintiffs has expended significant time and resources to achieve this benefit for the class. From the cases' inception through January 2024, counsel expended more than 51,046 hours pursuing these claims. These attorneys and staff have devoted their time to this case even when they could have worked on other cases. Each firm has submitted separate declarations attesting to the hours they have worked on behalf of the class.¹ A total summary of the hours and lodestar for each firm is attached hereto as **Exhibit A**. The total lodestar for all counsel for the *Moehrl* Plaintiffs through January 31, 2024 is \$36,314,847.00.

18. The total number of hours reasonably expended on this litigation by my firm, Hagens Berman, from inception through January 31, 2024 is 19,524.80. The total lodestar for my firm at current rates is \$11,771,535.00. Expense items are billed separately and are not duplicated in my firm's lodestar. A detailed breakdown of the hours expended by each employee at my firm and their hourly rate is attached hereto as **Exhibit B**. The rates charged by my firm and that of

¹ See the Declaration of Marc M. Seltzer in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards; the Declaration of Benjamin D. Elga in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards; the Declaration of Daniel C. Hedlund in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards; the Declaration of Russell E. Marsh in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards; the Declaration of Robert Braun in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards; the Declaration of George A. Farah in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards.

other *Moehrl* counsel are consistent with rates charged in comparable cases, as discussed in detail in the accompanying Dirks declaration.

19. Counsel has worked to maximize efficiency and minimize unnecessary or duplicative billing. All firms who have performed work on behalf of the *Moehrl* Plaintiffs have been instructed by Co-Lead Counsel to keep detailed time and expense records, including what time would be considered for reimbursement and how expense requests must be recorded.

20. As Co-Lead Counsel, Hagens Berman, Cohen Milstein, and Susman Godfrey established a common fund that would be used to pay certain large expenses. Counsel contributed money to the common fund that was then used to fund various expenses. My law firm has maintained that fund and recorded and documented the legal expenses paid out of that fund. Through January 2024, a total of \$5,893,050.71 has been paid from that fund, and these payments are included in the total above. A detailed breakdown of these expenses paid from the common fund is attached hereto as **Exhibit C**. These expenses were paid by Counsel for the *Moehrl* Plaintiffs with no guarantee that they would ultimately be recovered. The primary cost associated with the case was the retention of experts in the *Moehrl* litigation. This expense is necessary in an antitrust litigation and was essential to the successful litigation of the case. Furthermore, four of the six experts were specifically retained by *Moehrl* counsel as rebuttal witnesses after Defendants put forward eight different merits experts (several of whom were duplicative of each other). The retention of these experts was necessary to effectively respond to the arguments and reports presented by Defendants. Most of the remaining cost in the case was associated with hosting the voluminous number of documents produced in the case. These costs were shared with the *Burnett* Plaintiffs.

21. In addition to expenses paid through the litigation fund, my firm, Hagens Berman, has advanced and incurred an additional \$43,307.89 in unreimbursed litigation costs since the inception of this case through January 2024. These are reasonable litigation costs that were incurred in this case for the benefit of the settlement class members. A detailed breakdown of these additional expenses paid from the common fund is attached hereto as **Exhibit D**.

22. Each firm has submitted separate declarations attesting to unreimbursed litigation expenses they have incurred on behalf of the class.² A total summary of each firm's unreimbursed litigation costs is attached hereto as **Exhibit E**. Collectively, the firms had a total of \$249,172.46 in expenses. The total unreimbursed expenses, inclusive of both the litigation fund and individual costs expended by each firm, is \$6,142,223.17.

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

Executed this 29th day of February, 2024, at Seattle, Washington.

/s/ Steve W. Berman
STEVE W. BERMAN

² See the Declaration of Marc M. Seltzer in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards; the Declaration of Benjamin D. Elga in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards; the Declaration of Daniel C. Hedlund in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards; the Declaration of Russell E. Marsh in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards; the Declaration of Robert Braun in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards; the Declaration of George A. Farah in Support of Class Counsel's Motion for an Award of Attorneys' Fees, Costs, Expenses, and Service Awards.

EXHIBIT A

Exhibit A

Rhonda Burnett, et al. v. The National Association of Realtors, et al.
Case No. 19-cv-00332-SRB

Plaintiffs' Lodestar Summary Exhibit

FIRM	TOTAL HOURS	TOTAL
Hagens Berman Sobol Shapiro LLP	19,524.8	\$11,771,535.00
Cohen Milstein Sellers & Toll PLLC	14,844	\$11,464,475.00
Susman Godfrey L.L.P.	11,750.1	\$9,503,165.00
Handley Farah & Anderson PLLC	2318.2	\$1,596,737.60
Teske Law PLLC	1,224.75	\$1,016,590.00
Justice Catalyst Law, Inc.	662.6	\$478,079.40
Wright Marsh & Levy	599.6	\$389,740.00
Gustafson Gluek PLLC	121.5	\$94,525.00
Total	51,046	\$36,314,847.00

EXHIBIT B

Exhibit B

Rhonda Burnett, et al. v. The National Association of Realtors, et al.
Case No. 19-cv-00332-SRB

Plaintiffs' Lodestar through January 31, 2024
Hagens Berman Sobol Shapiro LLP

TIMEKEEPER	POSTITION	HOURS	RATE	TOTAL
Steve Berman	Partner	245.7	1350.00	\$331,695.00
Craig Spiegel	Partner	411.2	975.00	\$400,920.00
Rio Pierce	Partner	2292.2	950.00	\$2,177,590.00
Leonard Aragon	Partner	2.5	850.00	\$2,125.00
Daniel Kurowski	Partner	4.7	800.00	\$3,760.00
Chris O'Hara	Partner	204.5	800.00	\$163,600.00
Mark Vazquez	Partner	2	700.00	\$1,400.00
Jeannie Evans	Partner	3071.7	700.00	\$2,150,190.00
Ted Wojcik	Partner	318.2	750.00	\$238,650.00
Karl Barth	Of Counsel	214.8	775.00	\$166,470.00
Shelby Smith	Of Counsel	180.2	650.00	\$117,130.00
Nick Styant-Browne	Of Counsel	75.5	650.00	\$49,075.00
Whitney Siehl	Associate	380.3	550.00	\$209,165.00
Jeff Lang	Staff Attorney	4869	575.00	\$2,799,675.00
Jay Mitchell	Staff Attorney	1602	500.00	\$801,000.00
Sophia Chao	Staff Attorney	24.9	500.00	\$12,450.00
Allan Lundsgaarde	Staff Attorney	259.2	500.00	\$129,600.00
Matthew Rovner	Contract Attorney	255	400.00	\$102,000.00
Shelby Clark	Contract Attorney	1259.5	375.00	\$472,312.50
Samuel Collin	Contract Attorney	648	375.00	\$243,000.00
John Roeser	Contract Attorney	1629	375.00	\$610,875.00
Maureen Flanigan	Contract Attorney	233.9	350.00	\$81,865.00
Tiffani Fox	Contract Attorney	200	350.00	\$70,000.00
Carrie Flexer	Paralegal	5.3	425.00	\$2,252.50
Bill Stevens	Paralegal	17.2	400.00	\$6,880.00
Lisa Napoleon	Paralegal	1.2	400.00	\$480.00
Brian Miller	Paralegal	201.9	400.00	\$80,760.00
Nicolle Huerta	Paralegal	14	400.00	\$5,600.00
Megan Meyers	Paralegal	676.5	400.00	\$270,600.00

Chavay Williams	Paralegal	19.8	400.00	\$7,920.00
Radha Kerzan	Paralegal	64.1	350.00	\$22,435.00
Shelby Taylor	Paralegal	27.7	350.00	\$9,695.00
Jeaneth Decena	Paralegal	56	350.00	\$19,600.00
Don Young	Paralegal	9.9	225.00	\$2,227.50
Noreen Andersen	Law Clerk	7.2	175.00	\$1,260.00
Hannah Song	Law Clerk	29.5	150.00	\$4,425.00
Nancy Duenez	Law Clerk	1.7	125.00	\$212.50
Chan Lovell	Paralegal Asst.	8.8	300.00	\$2,640.00
	TOTAL HOURS	19,524.80	TOTAL	\$11,771,535.00

EXHIBIT C

Exhibit C

Rhonda Burnett, et al. v. The National Association of Realtors, et al.

Case No. 19-cv-00332-SRB

Plaintiffs' Litigation Fund Expenses through October 5, 2023

ACTIVITY	TOTAL COST
Copy & Print	\$6,011.00
Court Fees	\$0.00
Document Storage, Production & ESI	\$612,344.29
Depositions	\$183,396.96
Experts & Consultants	\$4,962,423.21
Mediation	\$122,103.44
Miscellaneous	\$0.00
Postage	\$0.00
Process Service	\$6,771.81
Records & Transcripts	\$0.00
Research	\$0.00
Travel & Meals	\$0.00
TOTAL	\$5,893,050.71

EXHIBIT D

Exhibit D

Rhonda Burnett, et al. v. The National Association of Realtors, et al.
Case No. 19-cv-00332-SRB

Plaintiffs' Unreimbursed Expenses through January 31, 2024
Hagens Berman Sobol Shapiro LLP

ACTIVITY	TOTAL COST
Copy & Print	\$16,402.25
Court Fees	\$450.00
Document Storage, Production & ESI	\$0.00
Depositions	\$0.00
Experts & Consultants	\$0.00
Mediation	\$0.00
Miscellaneous	\$0.00
Postage	\$3,651.40
Process Service	\$2,978.50
Records & Transcripts	\$0.00
Research	\$11,792.53
Travel & Meals	\$8,033.21
TOTAL	\$43,307.89

EXHIBIT E

Exhibit E

Rhonda Burnett, et al. v. The National Association of Realtors, et al.
Case No. 19-cv-00332-SRB

Plaintiffs' Unreimbursed Expenses through January 31, 2024
All firms

FIRM	EXPENSES
Cohen Milstein Sellers & Toll PLLC	\$101,755.13
Hagens Berman Sobol Shapiro LLP	\$43,307.89
Susman Godfrey L.L.P.	\$90,544.83
Teske Law PLLC	\$2,309.92
Justice Catalyst Law, Inc.	\$0
Handley Farah & Anderson PLLC	\$7,893.50
Gustafson Gluek PLLC	\$528.25
Wright Marsh & Levy	2,832.94
Total	\$249,172.46

Exhibit 5

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY,
and JEREMY KEEL, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF MARC M. SELTZER ON BEHALF OF SUSMAN GODFREY
L.L.P. IN SUPPORT OF CLASS COUNSEL'S MOTION FOR ATTORNEY'S FEES,
COSTS, EXPENSES AND SERVICE AWARDS**

I, Marc M. Seltzer, state under oath, as follows:

1. I am a partner at Susman Godfrey L.L.P. I am one of the attorneys for the *Moehrl* Plaintiffs. I submit this declaration in support of Class Counsel's motion for attorney's fees, costs, expenses, and service awards. I have full knowledge of the matters stated herein and would testify to these facts if called upon.

2. During the course of this litigation, my firm has been involved in various activities on behalf of the Plaintiffs, including the following:

- Investigation of the case and preparation of the complaints;

- Drafting briefs, including the opposition to Defendants' motions to dismiss and motions to compel arbitration, the motion in support of class certification, and summary judgment motions;
- Drafting discovery requests to Defendants;
- Responding to Defendants' discovery requests directed to class representatives;
- Negotiating with Defendants and various third parties regarding discovery and nonparty subpoenas;
- Collecting, reviewing, and producing document discovery for class representatives;
- Working with Plaintiffs' experts to prepare class certification and merits expert reports;
- Taking depositions of more than 20 Defendant employees and third party fact witnesses;
- Taking depositions of Defendants' expert David Stevens and defending the deposition of Plaintiffs' expert Richard Green; and
- Taking part in negotiations and numerous mediation sessions with all settling Defendants.

A fuller description of the work undertaken by Class Counsel in this action is set forth in the Declaration of Steve W. Berman, filed concurrently herewith.

3. The following is a brief description of my professional background and the background of my firm. Since the firm's founding in 1980, Susman Godfrey has served as lead counsel in hundreds of antitrust class actions and other complex commercial disputes in courts throughout the country. Susman Godfrey's practice is dedicated exclusively to litigating and trying lawsuits. The firm has represented clients in some of the largest and most complex cases ever

litigated and has demonstrated that it has the ability and resources to handle those cases effectively and efficiently. Susman Godfrey’s experiences, track record of success and staying power are reflected in its wide recognition as one of the nation’s leading trial firms, 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 named in 2014 and 2018 to *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. *Vault* has likewise named Susman Godfrey its #1 Litigation Boutique in America every year since 2011. The firm’s lawyers are consistently recognized as “Super Lawyers” and “Rising Stars” in the states where they practice. Susman Godfrey has approximately two hundred lawyers nationwide in its four offices, over 90% of whom served in federal judicial clerkships after law school. Ten of Susman Godfrey’s attorneys have clerked at the highest level—for Justices of the United States Supreme Court.

4. Susman Godfrey’s success in trying antitrust cases has made the firm one of the most trusted and sought-after firms in the country for antitrust class actions. Susman Godfrey has tried more than a dozen significant antitrust cases to a jury, yielding over \$1 billion in verdicts, and has been appointed to serve as lead or co-lead counsel in numerous antitrust class actions, including the following cases:

<ul style="list-style-type: none"> • <i>In re NFL Sunday Ticket Antitrust Litigation</i> (C.D. Cal.) • <i>In re Automotive Parts Antitrust Litigation</i> (E.D. Mich.) • <i>In re Animation Workers Antitrust Litigation</i> (N.D. Cal.) • <i>In re LIBOR-Based Fin. Instruments Antitrust Litigation</i> (S.D.N.Y.) 	<ul style="list-style-type: none"> • <i>White v. Nat’l Collegiate Athletic Ass’n</i> (C.D. Cal.) • <i>In re Ready-Mixed Concrete Antitrust Litigation</i> (S.D. Ind.) • <i>In re Universal Serv. Fund Tel. Billing Practices Litigation</i> (D. Kan.) • <i>In re Lease Oil Antitrust Litigation</i> (S.D. Tex.)
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<ul style="list-style-type: none"> • <i>In re Municipal Derivatives Antitrust Litigation</i> (S.D.N.Y.) • <i>Behrend v. Comcast Corp.</i> (E.D. Pa.) • <i>In re Korean Air Lines Co. Antitrust Litigation</i> (C.D. Cal.) • <i>In re Processed Egg Products Antitrust Litigation</i> (E.D. Pa.) • <i>In re Vitamin C Antitrust Litigation</i> (E.D.N.Y.) 	<ul style="list-style-type: none"> • <i>In re Vitamins Antitrust Litigation</i> (D.D.C.) • <i>In re Commercial Explosives Antitrust Litigation</i> (D. Utah) • <i>In re Qualcomm Antitrust Litigation</i> (N.D. Cal.)
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5. I have practiced law for more than fifty years, litigating complex business law cases in state and federal courts throughout the United States. I lead the firm’s efforts as co-lead counsel for the end-payor plaintiffs in the *Automotive Parts Antitrust Litigation*, where over \$1.2 billion in settlements has been obtained for the benefit of the classes we represent. I have also represented parties in securities, intellectual property, and other complex commercial litigation. The Los Angeles Daily Journal has repeatedly honored me, naming me as a “Leading Commercial Litigator” and one of California’s “Top Antitrust Lawyers,” “Top Plaintiffs Lawyers,” and “Top 100 Lawyers.” I have also been included in the *International Who’s Who of Competition Lawyers & Economists*, as one of the top antitrust lawyers in the world. I am a Life Member of the American Law Institute and is also a member of the Advisory Board of the American Antitrust Institute.

6. Among the other lawyers working on this matter are Susman Godfrey partners Steven Sklaver, Matthew Berry, and Beatrice Franklin. They likewise collectively enjoy extensive antitrust and class action experience. Mr. Sklaver, along with myself, represented the class in *White, et al. v. NCAA*, an antitrust class action alleging that the NCAA violated the federal antitrust laws by restricting amounts of athletic-based financial aid to student athletes. The NCAA settled and paid made available \$218 million for use by current student-athletes to cover the costs of

attending college and \$10 million to cover educational and professional development expenses for former student-athletes. Mr. Berry served as an integral part of the Susman Godfrey team in the *Animation Workers* action and represents the over-the-counter plaintiffs in the *LIBOR* class action currently pending in the Southern District of New York, where partial settlements totaling \$590 million have been obtained. Ms. Franklin, who joined Susman Godfrey in 2018 after clerking for the Honorable Ruth Bader Ginsburg, has served on the co-lead team in *Moehrl* since her first days at the firm, overseeing fact and expert discovery and class certification motion practice.

7. Susman Godfrey’s lodestar is calculated based on the firm’s current hourly rates of as of January 31, 2024. These hourly rates are based on regular and ongoing monitoring of prevailing market rates for attorneys of comparable skill, experience and qualifications. Our firm’s hourly rates have been approved as reasonable in recent litigation. *See, e.g., PHT Holding II LLC v. N. Am. Co. for Life & Health Ins.*, 2023 WL 8522980, at *7 (S.D. Iowa Nov. 30, 2023); *Flo & Eddie, Inc. v. Sirius XM Radio, Inc.*, 2017 WL 4685536, at *8 (C.D. Cal. 2017); *Fleisher v. Phoenix Life Ins. Co.*, 2015 WL 10847814, at *18 (S.D.N.Y. Sept. 9, 2015). All attorneys and paralegals and other support staff at my firm were instructed to keep contemporaneous time records reflecting their time spent on the case, and they did so. The schedule below reports the time spent by my firm’s attorneys, paralegals and other support staff from inception until January 31, 2024. This submission does not include time relating to this motion.

TIMEKEEPER	POSTITION	HOURS	RATE	TOTAL
Berry, Matthew R.	Partner	970.50	\$1,100	\$1,067,550
Seltzer, Marc M.	Partner	1067.10	\$2,200	\$2,347,620
Sklaver, Steven G.	Partner	15.80	\$1,500	\$23,700
Short, Floyd	Partner	277.20	\$850	\$235,620
Franklin, Beatrice	Partner/Associate	1847.60	\$850	\$1,570,460
Pachman, Krysta K.	Partner/Associate	21.60	\$900	\$19,440

Aiken, Alex	Associate	2641.40	\$800	\$2,113,120
Macy, John	Associate	29.60	\$725	\$21,460
Davis II, Brandon	Staff Attorney	3451.80	\$450	\$1,553,310
Donofrio, Nicholas	Staff Attorney	304.90	\$300	\$91,470
Hayes, Michelle	Staff Attorney	789.40	\$425	\$335,495
Kaminsky, Alex	Staff Attorney	73.00	\$450	\$32,850
Dolan, John F.	Paralegal	260.20	\$350	\$91,070
	TOTAL HOURS	11,750.10	TOTAL	\$9,503,165

8. Susman Godfrey has expended a total of \$90,544.83 in unreimbursed litigation expenses in prosecuting this litigation. They are the type of expenses customarily billed by my firm, and include such costs as expert expenses, computerized research and other services, and coach air travel in connection with this litigation. These expenses are itemized as follows:

ACTIVITY	TOTAL COST
Articles, Books & Reports	\$332.97
Air Travel	\$9,190.52
Color Prints	\$2,214.00
Deposition Expenses	\$1,651.60
Expert Fees	\$51,747.62
Filing Fees	\$601.00
Ground Transportation (Taxis, car service)	\$1,997.05
Messenger/Delivery Services	\$647.50
Telephone & Calling Card Expenses	\$12.66
Hotels (Travel)	\$7,280.68
Meals	\$2,117.98
Mileage (Travel)	\$34.80
Miscellaneous Client Charges	\$150.00
Outside Computerized Document Charges	\$250.00
Outside Photocopy Services	\$195.64
Online Research Services	\$159.00

Court Document Alerts	\$455.70
Parking	\$336.00
In-House Postage Charges	\$13.05
B/W Prints	\$1,728.00
Research charges	\$8,388.86
Secretarial Overtime	\$834.40
Travel Expenses	\$12.00
Trial Transcripts	\$193.80
TOTAL	\$90,544.83

9. The litigation expenses incurred in prosecuting this case are reflected in the books and records of my firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred.

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

Executed this 29th day of February, 2024, at Los Angeles, California.

/s/ Marc. M. Seltzer
MARC M. SELTZER

Exhibit 6

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY,
and JEREMY KEEL, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF ROBERT A. BRAUN ON BEHALF OF COHEN MILSTEIN
SELLERS & TOLL IN SUPPORT OF CLASS COUNSEL'S MOTION FOR
ATTORNEY'S FEES, COSTS, EXPENSES AND SERVICE AWARDS**

I, Robert A. Braun, state under oath, as follows:

1. I am a partner at Cohen Milstein Sellers & Toll, PLLC. I am one of the attorneys for the *Moehrl* Plaintiffs. I submit this declaration in support of Class Counsel's motion for attorney's fees, costs, expenses, and service awards. I have full knowledge of the matters stated herein and would testify to these facts if called upon.

2. Cohen Milstein is one of the oldest, largest, and most successful law firms in the nation dedicated primarily to the prosecution of class actions. Cohen Milstein's antitrust prowess in particular has been recognized by numerous industry associations and legal publications. For instance, Cohen Milstein was chosen: by the Legal 500 for nine straight years as one of the top antitrust class action firms in the country; by American Lawyer Media and The National Trial

Lawyers’ as their Antitrust Law Firm of the Year; as The Legal 500’s Leading Plaintiff Class Action Antitrust Firm; and as the National Law Journal’s Elite Trial Lawyers—Antitrust Law 360’s Competition Practice Group of the Year. Forbes has called Cohen Milstein a “class action powerhouse,” while Inside Counsel has dubbed Cohen Milstein “[t]he most effective law firm in the United States for lawsuits with a strong social and political component.”

3. Before *Burnett*, Cohen Milstein had secured the largest ever price-fixing jury verdict in United States history and obtained a \$1.06 billion judgment. Remarking on Cohen Milstein’s efforts, Judge Lungstrum wrote, “In almost 25 years of service on the bench, this Court has not experienced a more remarkable result.” *In re Urethane Antitrust Litig.*, Memorandum and Order at 10-11, No. 04-md-1616, (D. Kan. July 29, 2018), Dkt. 3273. Other notable Cohen Milstein antitrust wins include its \$575 million settlement on the eve of trial in *Sutter Health Antitrust Litigation* (San Fran. Cnty., Cal.) and its \$560 million settlement in *Electronic Books Antitrust Litigation* (S.D.N.Y.).

4. In connection with representing Plaintiffs in *Moehrl*, my firm did, among other tasks, the following: investigated and developed the original case theory underlying this matter, researched and drafted portions of the original and amended complaints; researched and drafted much of Plaintiffs’ motion for class certification and reply; coordinated and consulted with two testifying expert economists, Prof. Einer Elhauge and Prof. Nicholas Economides, and several additional testifying and consulting experts, including on expert reports and testimony; negotiated discovery with defendants and more than two dozen third parties; reviewed and assessed documents produced in discovery; discussed and decided upon case strategy with co-counsel; attended court hearings and participated in oral argument; took, defended, and attended numerous depositions; regularly communicated with proposed class representatives, including regarding

Defendants' discovery requests and settlement negotiations; communicated and coordinated with defense counsel and counsel for *Burnett* litigation class regarding case management issues; and negotiated and drafted settlement agreements with the settling defendants.

5. Cohen Milstein's lodestar is calculated based on the firm's current hourly rates. All attorneys and paralegals and other support staff at my firm were instructed to keep contemporaneous time records reflecting their time spent on the case, and they did so. The schedule below reports the time spent by my firm's attorneys, paralegals, and other support staff from inception until January 31, 2024. This submission does not include time relating to this motion. All hourly rates are my firm's usual and customary rates, for this and other similar matters as of January 31, 2024.

TIMEKEEPER	POSTITION	HOURS	RATE	TOTAL
Braun, Robert	Partner	5,022.50	\$850.00	\$4,269,125.00
Brown, Benjamin, D.	Partner	875.5	\$1,125.00	\$984,937.50
Pierson, Kit, A.	Partner	839.25	\$1,150.00	\$965,137.50
Silverman, Daniel	Partner	1,064.25	\$800.00	\$931,218.75
Small, Daniel	Partner	657.25	\$1,240.00	\$814,990.00
Bracken, John, A.	Discovery Counsel	2,514.25	\$595.00	\$1,495,978.75
Chingcuanco, Leonardo	Associate	982.5	\$680.00	\$668,100.00
Farah , George, F.	Partner	365.75	\$675.00	\$246,881.25
Gilden, Carol, V.	Partner	11.5	\$1,240.00	\$14,260.00
Johnson, Brent	Partner	29.5	\$1,030.00	\$30,385.00
Clarke, Suzanne	Investigator	271.5	\$645.00	\$175,117.50
Clayton, Jay	Paralegal	48.5	\$300.00	\$14,550.00
Deich, Alison	Partner	58.75	\$785.00	\$46,118.75
Dickstein, Nathaniel	Paralegal	39.5	\$335.00	\$13,232.50
Elgart, Courtney	Associate	130.75	\$420.00	\$54,915.00
Ballentine, Stephen	Legal Fellow	20.5	\$385.00	\$7,892.50
Vike, Marit	Paralegal	901	\$335.00	\$301,835.00
Uganbayar, Boloroo	Associate	66.5	\$380.00	\$25,270.00
Miller, Brooke A.	Paralegal	24	\$380.00	\$9,120.00
Selzer, Rachel	Paralegal	33	\$335.00	\$11,055.00
McBride, Harrison	Paralegal	653.75	\$380.00	\$248,425.00
Jaffe-Geffner, Nina	Associate	30	\$485.00	\$14,550.00
Gifford, Daniel	Associate	19.75	\$595.00	\$11,751.25
Merold, Sabrina	Associate	184.25	\$595.00	\$109,628.75
	TOTAL HOURS	14,844.00	TOTAL	\$11,464,475.00

6. In addition to litigation fund contributions, Cohen Milstein has expended a total of \$101,755.13 in unreimbursed litigation expenses in prosecuting this litigation. They are the type of expenses customarily billed by my firm, and include such costs as expert expenses, computerized research and other services, and coach air travel in connection with this litigation. These expenses are itemized as follows:

ACTIVITY	TOTAL COST
Copy & Print	\$160.70
Court Fees	\$1,625.00
Document Storage, Production & ESI	\$0.00
Depositions	\$6,962.35
Experts & Consultants	\$488.00
Mediation	\$0.00
Miscellaneous	\$3,172.43
Postage	\$1,241.72
Process Service	\$2,702.75
Records & Transcripts	\$0.00
Research	\$53,052.17
Travel & Meals	\$32,350.01
TOTAL	\$101,755.13

7. The litigation expenses incurred in prosecuting this case are reflected in the books and records of my firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred.

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

Executed this 29th day of February, 2024, in Washington, DC.

/s/ Robert A. Braun
 ROBERT A. BRAUN

Exhibit 7

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY,
and JEREMY KEEL, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF DANIEL C. HEDLUND ON BEHALF OF
GUSTAFSON GLEUK PLLC IN SUPPORT OF CLASS COUNSEL'S MOTION
FOR ATTORNEY'S FEES, COSTS, EXPENSES AND SERVICE AWARDS**

I, Daniel C. Hedlund, state under oath, as follows:

1. I am a partner at Gustafson Gluek PLLC. I am one of the attorneys for the *Moehrl* Plaintiffs. I submit this declaration in support of Class Counsel's motion for attorney's fees, costs, expenses, and service awards. I have full knowledge of the matters stated herein and would testify to these facts if called upon.

2. During the course of this litigation, my firm has been involved in various activities on behalf of the Plaintiffs, including the following:

- Investigation of the case and preparation of the complaints;
- Communications with client;
- Conferences with Lead Counsel regarding case status and strategy;

- Conduct legal and factual research regarding class certification motion.

3. All attorneys and paralegals and other support staff at my firm were instructed to keep contemporaneous time records reflecting their time spent on the case and did so. The schedule below reports the time spent by my firm's attorneys, paralegals and other support staff from inception until January 31, 2024. This submission does not include time relating to this motion. All hourly rates are my firm's usual and customary rates, for this and other similar matters as of January 31, 2024.

TIMEKEEPER	POSTITION	HOURS	RATE	TOTAL
Daniel C. Hedlund	Partner	20.50	\$1,100.00	\$22,500.00
Jason S. Kilene	Partner	22.75	\$1,000.00	\$22,750.00
Michelle J. Looby	Partner	5.00	\$975.00	\$4,875.00
Daniel J. Nordin	Partner	3.00	\$800.00	\$2,400.00
Kaitlyn L. Dennis	Associate	49.75	\$700.00	\$34,825.00
Jamie L. Holzer	Paralegal	17.5	\$350.00	\$6,125.00
Diana Jakubauskiene	Paralegal	3.00	\$350.00	\$1,050.00
	TOTAL HOURS	121.5	TOTAL	\$94,525.00

4. The schedule below reports a total of \$528.25 in unreimbursed expenses that my firm incurred.

ACTIVITY	TOTAL COST
Copy & Print	\$0.00
Court Fees	\$450.00
Document Storage, Production & ESI	\$0.00
Depositions	\$0.00
Experts & Consultants	\$0.00
Mediation	\$0.00
Miscellaneous - Long Distance	\$1.05
Postage	\$0.00
Process Service	\$0.00
Records & Transcripts	\$0.00
Research	\$77.20
Travel & Meals	\$0.00
TOTAL	\$528.25

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

Executed this 28th day of February, 2024, at Minneapolis, Minnesota.

/s/ Daniel C. Hedlund
DANIEL C. HEDLUND

Exhibit 8

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY,
and JEREMY KEEL, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF GEORGE FARAH ON BEHALF OF HANDLEY FARAH &
ANDERSON PLLC IN SUPPORT OF CLASS COUNSEL'S MOTION FOR
ATTORNEY'S FEES, COSTS, EXPENSES AND SERVICE AWARDS**

I, George F. Farah, state under oath, as follows:

1. I am a partner at Handley Farah & Anderson PLLC. I am one of the attorneys for the *Moehrl* Plaintiffs. I submit this declaration in support of Class Counsel's motion for attorney's fees, costs, expenses, and service awards. I have full knowledge of the matters stated herein and would testify to these facts if called upon.

2. During the course of this litigation, my firm has been involved in various activities on behalf of the Plaintiffs, including the following:

- Investigation of the case;
- Drafting of the complaints;
- Opposing motions to dismiss;

- Drafting discovery requests to Defendants;
- Responding to Defendant discovery requests directed to class representatives;
- Collecting, reviewing, and producing document discovery for class representatives;
- Defending depositions of class representatives;
- Assisting with preparation of expert reports;
- Defending depositions of experts.

3. All attorneys and paralegals and other support staff at my firm were instructed to keep contemporaneous time records reflecting their time spent on the case, and did so. The schedule below reports the time spent by my firm’s attorneys, paralegals and other support staff from inception until January 31, 2024. This submission does not include time relating to this motion. All hourly rates are my firm’s usual and customary rates, for this and other similar matters as of January 31, 2024.

TIMEKEEPER	POSTITION	HOURS	RATE	TOTAL
George Farah	Partner	636.1	\$878	\$558,495.80
William Anderson	Partner	144.4	\$878	\$126,783.20
Matthew Handley	Partner	5	\$1057	\$5,285
Nicholas Jackson	Senior Associate	277.4	\$777	\$215,539.80
Rebecca Chang	Senior Associate	228.4	\$777	\$177,466.80
Rachel Nadas	Senior Associate	2.9	\$777	\$2,253.30
Stephen Pearson	Associate	78.1	\$508	\$39,674.80
Marth Guarnieri	Associate	1.7	\$538	\$914.60
Simon Wiener	Associate	1.3	\$538	\$699.40
Fern Sarpy	Staff Attorney	0.5	\$575	\$287.50
Jonathan Abetti	Investigator	912.6	\$504	\$459,950.40
Anthony Rojas	Paralegal	29.8	\$315	\$9,387
	TOTAL HOURS	2318.2	TOTAL	\$1,596,737.60

4. The schedule below reports a total of \$9,330.02 in unreimbursed expenses that my firm incurred.

ACTIVITY	TOTAL COST
Copy & Print	

Court Fees	\$750.00
Document Storage, Production & ESI	
Depositions	\$576.64
Experts & Consultants	
Mediation	
Miscellaneous	\$62.89
Postage	
Process Service	\$1,955.00
Records & Transcripts	
Research	\$1,195.43
Travel & Meals	\$3,353.54
TOTAL	\$7,893.50

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

Executed this 29th day of February, 2024, at New York, NY.

/s/ George F. Farah _____
George F. Farah

Exhibit 9

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY,
and JEREMY KEEL, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF BENJAMIN D. ELGA ON BEHALF OF JUSTICE CATALYST
LAW IN SUPPORT OF CLASS COUNSEL'S MOTION FOR ATTORNEY'S FEES,
COSTS, EXPENSES AND SERVICE AWARDS**

I, Benjamin D. Elga, state under oath, as follows:

1. I am Executive Director of Justice Catalyst Law, Inc. I am one of the attorneys for the *Moehrl* Plaintiffs. I submit this declaration in support of Class Counsel's motion for attorney's fees, costs, expenses, and service awards. I have full knowledge of the matters stated herein and would testify to these facts if called upon.

2. During the course of this litigation, my firm has been involved in various activities on behalf of the Plaintiffs, including the following:

- Investigation of the case, including extensive strategic discussion and analysis of national conduct;
- Conducted survey of economic literature on the residential real estate market;

- Consultation with economic and subject matter experts as to case;
- Preparation of the complaints;
- Conducted numerous witness interviews through the investigation and pendency of the case;
- Provision of strategic input and factual background at meetings throughout the case.

3. All attorneys and paralegals and other support staff at my firm were instructed to keep contemporaneous time records reflecting their time spent on the case, and did so. The schedule below reports the time spent by my firm’s attorneys, paralegals and other support staff from inception until January 31, 2024. This submission does not include time relating to this motion. All hourly rates are my firm’s usual and customary rates, for this and other similar matters as of January 31, 2024.

TIMEKEEPER	POSITION	HOURS	RATE	TOTAL
Elga, Benjamin	Executive Director	322.5	780.00	\$251,550.00
Shearer, Brian	Legal Director (former)	222.2	695.00	\$154,429.00
Herold, Janet	Legal Director (current)	2	1260.00	\$2520.00
Briskin, Craig	Senior Counsel	46.6	945.00	\$44,037.00
Iachán, Melissa	Staff Attorney	5.3	740.00	\$3922.00
Freeman, Emma	Associate	10.6	609.00	\$6455.40
Dismore, Laura	Legal Fellow	14.2	470.00	\$6674.00
Farley, Rose	Legal Investigator	2.1	220.00	\$462.00
Rahmoune, Jessica	Paralegal	6.5	220.00	\$1430.00
Class, Jessenia	Paralegal	30	220.00	\$6600.00
	TOTAL HOURS	662.6	TOTAL	\$478,079.40

4. The schedule below reports a total of \$0 in unreimbursed expenses that my firm incurred.

ACTIVITY	TOTAL COST
Copy & Print	\$

Court Fees	\$
Document Storage, Production & ESI	\$
Depositions	\$
Experts & Consultants	\$
Mediation	\$
Miscellaneous	\$
Postage	\$
Process Service	\$
Records & Transcripts	\$
Research	\$
Travel & Meals	\$
TOTAL	\$

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

Executed this 29th day of February, 2024, at New York, New York.

/s/ Benjamin D. Elga
Benjamin D. Elga

Exhibit 10

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY,
and JEREMY KEEL, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF VILDAN A. TESKE ON BEHALF OF TESKE LAW PLLC (F/K/A
TESKE KATZ, PLLP) IN SUPPORT OF CLASS COUNSEL'S MOTION FOR
ATTORNEY'S FEES, COSTS, EXPENSES AND SERVICE AWARDS**

I, Vildan A. Teske, state under oath, as follows:

1. I am the founder/owner of Teske Law PLLC, formerly known as Teske Katz, PLLP.

I am one of the attorneys for the *Moehrl* Plaintiffs. I submit this declaration in support of Class Counsel's motion for attorney's fees, costs, expenses, and service awards. I have full knowledge of the matters stated herein and would testify to these facts if called upon.

2. During the course of this litigation, my firm has been involved in various activities on behalf of the Plaintiffs, including the following:

- Extensive pre-suit investigation of the industry, its practices, the companies and organizations which are main actors within the market;

- Identifying and analyzing specific practices and violations of the law in preparation for formulating case strategy;
- Contact with potential class representatives; identifying and selecting the appropriate class representative;
- Gathering all relevant information as to the class representative's transactions;
- Researching relevant law and potential causes of action to plead;
- Identifying and researching potential class counsel and plaintiff's side antitrust firms to represent the class;
- Preparation of the complaints;
- Assisting with drafting of discovery requests to Defendants, determining information to request;
- Staying abreast of developments in the industry in order to assist lead counsel with strategy;
- Responding to Defendant discovery requests directed to class representatives;
- Preparing class representative for deposition;
- Collecting, reviewing, and producing document discovery for class representative;
- Continuing throughout the litigation to collect, review and provide analysis to lead counsel regarding ongoing business practices in the brokerage industry that might impact the case;
- Continuing throughout the litigation to collect, review and provide analysis to lead counsel regarding forms and communications in the brokerage industry that might impact the case;

- Continuing throughout the litigation to collect, review and provide analysis to lead counsel regarding consumer white papers, media reports, and other similar cases in the brokerage industry that might impact the case;
- Participating in litigation strategy discussions and decisions at various points in the litigation; and,
- Ongoing communications with class representative and keeping him abreast of the litigation.

3. All attorneys and paralegals and other support staff at my firm were instructed to keep contemporaneous time records reflecting their time spent on the case, and did so. The schedule below reports the time spent by my firm’s attorneys and paralegal from inception until January 31, 2024. This submission does not include time relating to this motion. All hourly rates are my firm’s usual and customary rates, for this and other similar matters as of January 31, 2024.

TIMEKEEPER	POSITION	HOURS	RATE	TOTAL
Vildan Teske	Owner/Partner	203	\$825.00	\$164,475.00
Marisa Katz	Of Counsel (and Former Partner)	185.75	\$700.00	\$130,025.00
Doug Miller	Of Counsel	797	\$895.00	\$713,315.00
Cassandra Ely	Paralegal	39	\$225.00	\$8,775.00
	TOTAL HOURS	1,224.75	TOTAL	\$1,016,590

4. The schedule below reports a total of \$2309.92 in unreimbursed expenses that my firm incurred.

ACTIVITY	TOTAL COST
Court Fees	\$300
Miscellaneous	\$244
Research	\$1765.92
TOTAL	\$2,309.92

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

Executed this 29th day of February, 2024, at Minneapolis, Minnesota.

/s/ Vildan Teske
Vildan A. Teske

Exhibit 11

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

RHONDA BURNETT, JEROD BREIT,
HOLLEE ELLIS, FRANCES HARVEY,
and JEREMY KEEL, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF
REALTORS, REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 19-CV-00332-SRB

**DECLARATION OF RUSSELL E. MARSH ON BEHALF OF WRIGHT MARSH &
LEVY IN SUPPORT OF CLASS COUNSEL'S MOTION FOR
COSTS, EXPENSES AND SERVICE AWARDS**

I, Russell E. Marsh, state under oath, as follows:

1. I am the managing partner at Wright Marsh & Levy. I am one of the attorneys for the *Moehrl* Plaintiffs. I submit this declaration in support of Class Counsel's motion for attorney's fees, costs, expenses, and service awards. I have full knowledge of the matters stated herein and would testify to these facts if called upon.

2. During the course of this litigation, my firm has been involved in various activities on behalf of the Plaintiffs, including the following:

- Investigation of the case and preparation of the complaints;
- Interviews of and collection of documents from industry participants regarding industry practices and proof thereof;

- Negotiating with various third parties regarding discovery and nonparty subpoenas; and
- Collecting, reviewing, and producing document discovery for class representatives.

3. All attorneys at my firm who worked on this matter were instructed to keep contemporaneous time records reflecting their time spent on the case, and did so. The schedule below reports the time spent by my firm’s attorneys on this matter from inception until February 27, 2024. This submission does not include time relating to this motion. All hourly rates are my firm’s usual and customary rates, for this and other similar matters, as of February 1, 2024.

TIMEKEEPER	POSTITION	HOURS	RATE	TOTAL
Monte N. Stewart	Of Counsel	472.2	650	\$306,930
Richard A. Wright	Partner	72.6	650	\$47,190
Russell E. Marsh	Partner	54.8	650	\$35,620
	TOTAL HOURS	599.6	TOTAL	\$389,740

4. The schedule below reports a total of \$2,832.94 in unreimbursed expenses that my firm incurred.

ACTIVITY	TOTAL COST
Research	\$501.88
Travel & Meals	\$2,3331.07
TOTAL	\$2,832.94

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

Executed this 29th day of February, 2024, at Las Vegas, Nevada.

/s/ Russell E. Marsh
 RUSSELL E. MARSH