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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

KIMBERLY BANKS and CAROL
CANTWELL, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

R.C. BIGELOW, INC., a corporation;
and DOES 1 through 10, inclusive,

Defendants.

THE WAND LAW FIRM, P.C.
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Case No.: 2:20-cv-06208-DDP (RAOx)

**DECLARATION OF AUBRY WAND
IN SUPPORT OF PLAINTIFFS'
MOTION FOR ATTORNEYS' FEES
AND COSTS AND SERVICE
AWARDS**

DECLARATION OF AUBRY WAND

I, Aubry Wand, hereby declare as follows:

1. I am an attorney at law, licensed to practice in the State of California. I am the principal of the Wand Law Firm, P.C. (“WLF”). WLF serves as co-counsel of record for Plaintiffs and the Class in the above-captioned action.

2. I make this declaration based on personal knowledge. If called as a witness, I could and would readily and competently testify to all matters stated within.

3. I make this declaration in support of Plaintiffs’ Motion for Attorneys’ Fees and Costs and Service Awards.

BACKGROUND

4. This Motion is made following the conference of counsel pursuant to Civil Local Rule 7-3, which took place on April 16, 2025. Counsel for Defendant R.C. Bigelow, Inc. (“Bigelow”) informed me that Bigelow intends to oppose this Motion.

5. Plaintiffs tried to settle this case over the course of two mediations. The first mediation was pursuant to the Court’s ADR Procedure No. 2 with Kim Zeldin (a Panel Mediator) on October 5, 2022, which was after Plaintiffs’ motion for class certification had been briefed, but before the Court had ruled on the motion. The mediation was unsuccessful. The second mediation was with Judge Morton Denlow (Ret.) on November 7, 2023, which was after the Court granted class certification and ruled on *Daubert* motions, but before the Parties had briefed summary judgment. Substantive discussions were held with the mediator leading up to the mediation and detailed mediation briefs were exchanged. This second mediation was also unsuccessful.

6. Most recently, at the conclusion of the October 11, 2024 hearing, the Court offered to assist the Parties to resolve this case, but Bigelow rejected the Court’s offer. A true and correct copy of an email Bigelow’s counsel sent to the

1 Court Deputy Clerk is attached hereto as **Exhibit A**.

2 **QUALIFICATIONS**

3 7. I received a B.A. from the University of Pennsylvania in 2007 in
4 English and Political Science. I received a J.D. from UC Law San Francisco
5 (formerly UC Hastings) in 2011. I became a member of the State Bar of California
6 in December 2011, and I have been an active member in good standing continuously
7 since then.

8 8. In 2012, I completed a judicial clerkship for the Honorable Colette Y.
9 Garibaldi, of the First Circuit Court, State of Hawaii.

10 9. I have been litigating cases in Los Angeles, primarily on behalf of
11 employees and consumers, and frequently in the class action context, continuously
12 for the past twelve years.

13 10. I worked for several years as an associate at a law firm that was almost
14 exclusively dedicated to representing the rights of employees.

15 11. I have been named a “Rising Star” from 2018 to 2025 for the *Southern*
16 *California Super Lawyers* magazine.

17 12. I founded WLF in 2016. Over the past nine years, WLF has
18 successfully recovered meaningful compensation and other relief on behalf of
19 employees and consumers in single-plaintiff, class, and representative actions.

20 13. WLF represents employees in single-plaintiff wrongful termination,
21 FEHA, and related matters. For example, in 2018 my office prevailed on a
22 discrimination claim on behalf of an employee in a private arbitration after
23 completing a six-day hearing.

24 14. On September 10, 2020, Judge Vasquez of the Sacramento Superior
25 Court, appointed my firm, along with another firm, liaison counsel for the Plaintiff
26 in the Judicial Council Coordination Proceeding, *Western Dental Wage and Hour*
27 *Cases*, JCCP No. 5079.
28

15. WLF has served as lead counsel or co-counsel in wage-and-hour class action and PAGA representative actions, summarized below:

Case Name	Case Number
<i>Yee, et al. v. Wong & Lau, Inc., et al.</i>	Los Angeles Cty. Sup. Ct. Case No. BC600087
<i>Aguilar v. Hook Burger, LLC</i>	Los Angeles Cty. Sup. Ct. Case No. BC608694
<i>Morales v. OPARC</i>	San Bernardino Cty. Sup. Ct. Case No. CIVDS1622051
<i>Hopper-Porter, et al. v. Desert Regional Medical Center, Inc.</i>	Riverside Cty. Sup. Ct. Case No. RIC 1610095
<i>Matthews v. Red Hill Country Club</i>	San Bernardino Cty. Sup. Ct. Case No. CIVDS1706187
<i>Vinnitsky v. L.A. Overnight, LLC</i>	Los Angeles Cty. Sup. Ct. Case No. BC655314
<i>Delgado, et al. v. Cienega Medical Spa, Inc.</i>	Los Angeles Cty. Sup. Ct. Case No. BC637702
<i>Backus v. Schireson Bros, Inc.</i>	San Bernardino Cty. Sup. Ct. Case No. CIVDS1809620
<i>Carrillo v. Merchant of Tennis, Inc.</i>	Los Angeles Cty. Sup. Ct. Case No. BC707896
<i>Fonseca, et al. v. United Ag Personnel Management, Inc., et al.</i>	Kern Cty. Sup. Ct. Case No. BCV-17-100791
<i>Abelar v. American Residential Services, LLC</i>	C.D. Cal. Case No. 19-cv-00726-JAK (JPRx)
<i>Abbott, et al. v. Vitco Distributors, Inc.</i>	San Bernardino Cty. Sup. Ct. Case No. CIVDS1820214
<i>Machorro-Fernandez v. Tacos La Bufadora, Inc.</i>	San Bernardino Cty. Sup. Ct. Case No. CIVDS1831535
<i>Araujo v. Dealer Solution Service, Inc., et al.</i>	Los Angeles Cty. Sup. Ct. Case No. BC720944
<i>Arteaga, et al. v. B.W. Hotel, LLC</i>	Los Angeles Cty. Sup. Ct. Case No. BC708551
<i>Hurtado v. CitiStaff Solutions, Inc., et al.</i>	Los Angeles Cty. Sup. Ct. Case No. 19STCV02853
<i>Revels v. Bottling Group, LLC</i>	Orange Cty. Sup. Ct. Case No. 30-2018-01031810-CU-OE-CXC

<i>Scott, et al. v. Kuehne+Nagel, Inc.</i>	San Bernardino Cty. Sup. Ct. Case No. CIVDS1707477
<i>Green, et al. v. Material Supply, Inc.</i>	San Bernardino Cty. Sup. Ct. Case No. CIVDS1928214
<i>Western Dental Wage and Hour Cases</i>	JCCP No. 5079
<i>Zamarripa v. Superior Talent Resources, Inc.</i>	Orange Cty. Sup. Ct. Case No. 30-2019-01060339-CU-OE-CXC
<i>Villazon v. Saddleback Roofing, Inc.</i>	San Bernardino Cty. Sup. Ct. Case No. CIVSB2307262
<i>Michel v. M&M Thrift Management Co., et al.</i>	Los Angeles Sup. Ct. Case No. 22STCV23755
<i>Chandler, et al. v. Compass Group USA, Inc.</i>	Stanislaus Sup. Ct. Case No. CV-23-003352
<i>Howell v. Infinity Hospice and Palliative Care, Inc., et al.</i>	Los Angeles Cty. Sup. Ct. Case No. 23STCV10153
<i>Ramos v. Taqueria Milagro, Inc.</i>	Santa Clara Cty. Sup. Ct. Case No. 23CV409955
<i>Cervantes v. I-10 Towing and Recovery, Inc.</i>	San Bernardino Cty. Sup. Ct. Case No. CIVSB2226791
<i>Sanchez v. BSK Associates</i>	San Bernardino Cty. Sup. Ct. Case No. CIVSB2309732
<i>Larios De Mancilla v. Naraghi Farms, LLC</i>	Stanislaus Cty. Sup. Ct. Case No. CV-23-003350
<i>Gutierrez v. Ericsson Inc.</i>	C.D. Cal. Case No. 5:23-cv-01665-GW-SHK
<i>Applewhite v. Stars Behavioral Health Group, Inc., et al.</i>	San Bernardino Cty. Sup. Ct. Case No. CIVDS2017661

16. WLF also litigates consumer class actions like this one.

17. On August 22, 2017, Judge Orrick of the U.S. District Court for the Northern District of California granted final approval to, and appointed my office (along with co-counsel) as class counsel in a consumer class action entitled *Knapp v. Art.com, Inc.*, Case No. 3:16-cv-00768-WHO, which involved a nationwide settlement on behalf of approximately 2 million class members, based on allegations that the Defendants engaged in deceptive sales practices.

18. On September 25, 2018, Judge Freeman U.S. District Court for the Northern District of California granted the Plaintiff's contested motion for class certification, certifying a California damages and injunctive relief class of consumers relating to false and deceptive advertising regarding the geographical origin of certain beers in the action entitled *Broomfield, et al. v. Craft Brew Alliance, Inc.*, Case No. 5-17-cv-01027-BLF. Judge Freeman appointed my office and co-counsel as class counsel in this matter.

19. On July 29, 2019, Judge Lorenz of the U.S. District Court for the Southern District of California, granted final approval to and appointed my office (along with co-counsel) as class counsel in a consumer class action entitled *Dashnaw, et al. v. New Balance Athletics, Inc.*, Case No. 3:17-cv-00159-L-JLB, which involved settlement of a California class of nearly one million class members, based on allegations that the Defendants engaged in deceptive “Made in USA” representations with respect to some its shoes.

20. On April 20, 2022, Judge Preska of the U.S. District Court for the Southern District of New York granted final approval to and appointed my office (along with co-counsel) as class counsel in a consumer class action entitled *Hesse, et al. v. Godiva Chocolatier, Inc.*, Case No. 1:19-cv-0972-LAP, which involved settlement of a nationwide class of consumers of chocolate products.

21. WLF is currently litigating consumer class actions, data breach class actions, and wage-and-hour class and PAGA representative actions, in state and federal courts throughout the country, including in California, Missouri, and New York.

LODESTAR

22. WLF has expended considerable time and resources vigorously litigating this case on behalf of the Class for over five years. In my opinion, the requested attorneys' fees are reasonable under the lodestar method.

23. My firm's current lodestar is \$2,391,730, which is based on 2,813.80

1 hours of work at an hourly rate of \$850.

2 **Hours Expended**

3 24. I have spent 2,813.80 hours working on this case. A true and correct
4 copy of my contemporaneous time records are attached hereto as **Exhibit B**. I have
5 omitted, modified or generalized certain information that would disclose privileged
6 communications, attorney and expert work product or strategy, and other
7 confidential, non-relevant information.

8 25. My firm and co-counsel Schneider Wallace Cottrell Konecky
9 (“SWCK”) endeavored to move this case forward in an efficient manner. Although
10 we vigorously litigated this case behalf of the Class, we were mindful of avoiding
11 unnecessary battles that would not necessarily advance the case. For example, we
12 encountered several discovery disputes but were ultimately able to reach a
13 compromise without engaging in motion practice.

14 26. My firm and SWCK also worked cooperatively to divide tasks, ensure
15 efficient case management, and avoid duplicative work. For example, in many
16 instances only one attorney attended depositions and hearings. I have also omitted
17 communications (calls, emails, and in-person meetings) with SWCK from my time
18 records, even though this work was essential to the effective litigation of this case,
19 to avoid any potential duplication of work.

20 27. I have also utilized my discretion to omit time spent on the following
21 compensable tasks to hopefully avoid dispute about the time devoted to this matter:

- 22
- Review of and compliance with the Local Rules.
 - Preparation of pleadings that were not filed or other work did not come to
23 fruition (e.g., drafting stipulations of fact and authenticity for trial, preparing
24 for the deposition of Cory Carter that Bigelow ultimately decided not to take,
25 etc.).
- 26
27
28

- Administrative tasks (e.g., printing and preparing pleadings, filing purely administrative documents, scheduling/calendaring tasks, setting up/closing down for trial, etc.).
- Travel time to CT to take the deposition of Ms. Bigelow was cut in half.

Contingent Risk

28. I am a sole practitioner, and thus there is no incentive to spend unnecessary time on this matter. Every hour that I spent on this case was made with the singular goal of obtaining the best result for the Class.

29. WLF faces considerable risk in every contingency-fee case that it takes on. For example, WLF resolved a contentious consumer class action that was litigated in Hawaii District Court for over three years. WLF, along with co-counsel, devoted thousands of hours of attorney time, as well as several hundred thousand dollars in out-of-pocket costs. The case involved, *inter alia*, class certification, *Daubert* motions, summary judgment, and an interlocutory appeal. While the case was confidentially resolved, I can say that litigating class action cases on a contingent basis presents considerable risk of not only recovering no fees despite considerable outlays of attorney time but also failing to recover advanced out-of-pocket costs.

30. WLF took this case on a contingent basis and devoted a substantial amount of time and energy to litigating this case, all while receiving no payment and in the face of considerable risk. At the outset, WLF knew that Bigelow would devote significant resources to this litigation and would retain skilled attorneys who would mount a vigorous defense. Indeed, Bigelow has aggressively litigated this case for over five years; at no point did my firm or SWCK waiver in our resolve to prosecute this case behalf of the Class to the best of our ability. We will continue to do so.

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Estimated Additional Work

31. These records do not account for work that Class Counsel will perform after the filing of this Motion. At minimum, this will include filing forthcoming motions for entry of judgment and pre- and post-judgment interest and approval of a distribution plan to the Class, and working with the administrator to distribute funds to the Class. This will likely involve approximately 75 hours of work. The scope of post-judgment work could be far more extensive depending on whether appeals are taken, and if this occurs, Class Counsel will need to spend at least 125 additional hours on appeal-related matters.

Hourly Rate

32. I respectfully submit that an hourly rate of \$850 is appropriate for the following reasons.

33. *First*, I am informed and believe that this rate is in line with the Los Angeles legal market rate for partners who manage complex actions, as recognized by this Court one year ago in a Lanham Act case. *N.T.A.A. v. Nordstrom, Inc.*, No. 2:21-cv-00398 DDP-AGRx, 2024 WL 1723524, at *4 (C.D. Cal. Apr. 19, 2024) (recognizing that hourly rates of partners ranging from \$848 to \$1,364.70 are reasonable). Other opinions recognizing similar rates charged by litigation partner rates in the Central District of California are cited in Plaintiffs' brief.

34. I have fourteen years of experience litigating class actions. I am the firm's managing partner. It is appropriate to compare rates charged by managing partners of small plaintiff's firms like mine to rates charged by partners at large defense firms. *See Charlebois v. Angels Baseball LP*, 993 F. Supp. 2d 1109, 1120-21 (C.D. Cal. May 30, 2012) (citing cases).

35. *Second*, to the extent the Court finds it useful as a cross-check, hourly rates as set forth in the *Laffey* Matrix support this hourly rate. *See, e.g., Viveros v. Donahoe*, No. CV 10-08593 MMM (Ex), 2013 WL 1224848, at *5, n.30 (C.D. Cal. Mar. 27, 2013) (recognizing split in the Ninth Circuit regarding the applicability of

1 the *Laffey* Matrix but considering it as one metric in assessing the reasonableness
2 of an attorneys' hourly rate). My hourly rate under the *Laffey* Matrix would be
3 \$948.¹

4 36. *Third*, my rate in 2024 was, as a general matter, \$800 per hour, as
5 approved by several courts. *See, e.g., Michel v. M&M Thrift Management Co., et*
6 *al.*, Los Angeles Sup. Ct. Case No. 22STCV23755; *Cervantes v. I-10 Towing and*
7 *Recovery, Inc.*, San Bernardino Sup. Ct. Case No. CIVSB2226791; *Sanchez v. BSK*
8 *Associates*, San Bernardino Cty. Sup. Ct. Case No. CIVSB2309732; and *De*
9 *Mancilla v. WJN Farms, LLC, et al.*, Stanislaus Cty. Sup. Ct. Case No. CV-23-
10 003350. An increase from 2024 is appropriate. *Stetson v. Grissom*, 821 F.3d 1157,
11 1166 (9th Cir. 2016) ("The lodestar should be computed either using an hourly rate
12 that reflects the prevailing rate as of the date of the fee request, to compensate class
13 counsel for delays in payment inherent in contingency-fee cases, or using historical
14 rates and compensating for delays with a prime-rate enhancement.").

15 37. A yearly increase is appropriate based on inflation, increased costs of
16 practice, and increase in experience. *See, e.g., Charlebois*, 993 F. Supp. 2d at 1125
17 ("courts routinely recognize that fee rates increase over time based on a variety of
18 factors."); *Parker v. Vulcan Materials Co. Long Term Disability Plan*, No. EDCV
19 07-1512 ABC (OPx), 2012 WL 843623, *7 (C.D. Cal. Feb. 16, 2012) (approving
20 as reasonable an approximate 10 percent increase between 2011 rates and 2012 rates
21 and because "[i]t is common practice for attorneys to periodically increase their
22 rates for various reasons, such as to account for expertise gained over time, or to
23 keep up with the increasing cost of maintaining a practice"); *In re Telik, Inc. Sec.*
24 *Litig.*, 576 F. Supp. 2d 570, 589 n.10 (S.D.N.Y. 2008) ("The use of current rates to
25 calculate the lodestar figure has been endorsed repeatedly by courts as a means of
26 accounting for the delay in payment inherent in class actions and for inflation.").

27
28 ¹ <http://www.laffeymatrix.com/see.html>

38. *Fourth*, based on my experience, which includes a review of fee petitions and communications with colleagues, I am informed and believe that lawyers with comparable credentials who litigate complex class actions in the Los Angeles (and more broadly the Southern California and Northern California) markets have higher hourly rates than \$850.

39. *Fifth*, in measuring the reasonableness of attorney hourly rates in the Central District of California, the 2023 Real Rate Report can be “a useful guidepost.” *See Rolex Watch USA Inc. v. Zeotec Diamonds Inc.*, No. CV 02-1089 PSG (VBKx), 2021 WL 4786889, at *3 (C.D. Cal. Aug. 24, 2021) (collecting cases relying on the Real Rate Report). In 2024, according to the 2023 Real Rate Report, a “law firm partner practicing litigation in Los Angeles requests a median hourly rate of \$840.00.” *Shagoofa v. Eshaqzi*, No. 8:22-cv-01824-FWS-JDE, 2024 WL 1600657, at *6 (C.D. Cal. Feb. 26, 2024).

LITIGATION COSTS

40. WLF’s out-of-pocket litigation costs are \$338,199.89, itemized below:

Description	Amount
Complaint Filing Fee	\$400.00
Service of Process Fees (Janney & Janney)	\$738.75
Mediation Fees (JAMS – Hon. Morton Denlow (Ret.))	\$5,916.78
Deposition Transcript Fees (Steno/Esquire)	\$16,102.50
Court Hearing/Trial Transcript Fees (CSR Maria Bustillos/Echo Reporting, Inc.)	\$13,717.02
Expert Fees (Rubin Anders—Cory Carter)	\$6,743.75
Expert Fees (JMDSTAT Consulting—Dr. J. Michael Dennis)	\$61,900.00
Expert Fees (ETI—Colin B. Weir)	\$214,074.10
Travel/Meals (to court hearings, depositions, trial)	\$5,143.15
Pacer Downloads	\$127.80

Postage/Copying	\$116.59
Hyperlinking Briefs (Strut Legal)	\$3,402.00
Sales Data (IRI/Circana)	\$9,817.45
Total	\$338,199.89

41. In my judgment, these costs were necessary and reasonable. I have utilized my discretion to omit certain fees/expenses, including expenses for an attorney advertisement, printing costs (only limited color copies are included), and Westlaw research services.

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

Executed on April 22, 2025 at Long Beach, California.

By: /s/ Aubry Wand
Aubry Wand