

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GARY BUUS, et al., individually and on behalf)
of all others similarly situated,)
Plaintiffs,)
v.)
WAMU PENSION PLAN, et al.,)
Defendants.)

No. 07-CV-00903 MJP

**DECLARATION OF DEREK W.
LOESER IN SUPPORT OF
PLAINTIFFS' MOTION FOR FEES
AND COSTS**

I, Derek W. Loeser, declare pursuant to the penalties of perjury under 28 U.S.C. § 1746
as follows:

I. INTRODUCTION

1. I am a Partner at Keller Rohrback L.L.P., counsel for Named Plaintiffs Gary
Buus, Bryan Buck, Sidney John Flor, Kellie Plumb, Thomas Schoenleber and Audrey
Schulman, Margaret Weber, (hereinafter, "Plaintiffs" or "Named Plaintiffs"), and appointed
Lead Counsel for the certified Class. I have been personally involved in all phases of this
litigation and provide this declaration based on my personal knowledge of the matters stated
herein.

2. I submit this declaration in support of Plaintiffs' Amended Motion And
Memorandum For Award Of Attorneys' Fees, Expenses, And Case Contribution Awards ("Fees
and Costs Motion").

1 3. The purpose of this declaration is to provide additional information in support of
2 the attorneys' fees and costs described in the Fees and Costs Motion.

3 **II. ADDITIONAL FEE AND RATE INFORMATION**

4 4. As indicated previously in the Declaration of Lynn L. Sarko in Support Of
5 Motion For Plan Of Allocation And Award Of Attorneys' Fees, Expenses, And Case
6 Contribution Award, the hourly rates charged by Lead Counsel in this case, between \$300 and
7 \$740 per hour, are Keller Rohrback's usual and customary hourly rates for the work performed
8 for non-contingency fee clients and in other ERISA class action and complex financial cases.

9 5. Keller Rohrback is a Seattle-based firm, with offices in Phoenix and New York,
10 and its rates are in line with the rates charged by other Seattle-based firms, and firms with
11 substantial offices in Seattle that also represent clients in major class action and complex
12 financial cases in districts across the country as demonstrated by public information and filings.

13 6. General rate information for many major law firms is provided in the *Annual*
14 *Attorney Billing Survey*, National Law Journal (2009), excerpts of which are attached as Ex A.
15 According to the 2009 Survey, the rates of Seattle-based firms Perkins Coie LLP, and Davis
16 Wright Tremaine LLP are between \$195 and \$815 per hour, and \$210 and \$775 per hour,
17 respectively. The rates of Dorsey & Whitney LLP, which has a significant presence in Seattle,
18 are between \$165 and \$795 per hour.

19 7. In addition, rate information for many major law firms is available in
20 bankruptcy-court fee requests, including, in the WaMu bankruptcy filed in the United States
21 Bankruptcy Court for the District of Delaware in Case No. 08-12220 ("Chapter 11 Case").

22 8. For example, in a 2010 request for payment of fees by Perkins Coie, the firm
23 reported rates between \$305 and \$860 per hour. *See* Summ. of Sixteenth Monthly Appl. of
24 Perkins Coie for Compensation for Services Rendered and Reimbursement of Expenses as
25 Special Counsel to Debtors and Debtors in Possession at 3-4, *In re Washington Mutual*, No. 08-
26 12229 (Bankr. D. Del, Mar. 15, 2010).

1 9. In a 2009 fee request by Davis Wright Tremaine LLP in the Chapter 11 case, the
2 firm reported rates between \$325 and \$780 per hour. *See* Summ. of Seventh Monthly Appl. of
3 Davis Wright Tremaine LLP for Allowance of Compensation for Services Rendered and for
4 Reimbursement of Expenses as Special Counsel to the Debtors and Debtors in Possession at 4,
5 *In re Washington Mutual*, No. 08-12229 (Bank. D. Del, June 8, 2009).

6 10. In a 2010 request for payment of fees by Wilson Sonsini Goodrich & Rosati,
7 another firm with a significant presence in Seattle, the firm reported litigation rates between
8 \$290 and \$795 per hour. *See* First Monthly Appl. of Wilson Sonsini Goodrich & Rosati as
9 Special Counsel for the Debtors, for Allowance Of Compensation and For Reimbursement of
10 Expenses at 2-4, *In re MES Int'l*, No. 09-14109 (Bankr. D. Del, Mar. 3, 2010)

11 11. A 2009 fee request in the Chapter 11 case by Weil Gotshal & Manges LLP,
12 which represented Washington Mutual, Inc., the debtor, in connection with the *Buus* Litigation,
13 shows litigation rates between \$355 and \$925 per hour. *See* Tenth Monthly Appl. of Weil,
14 Gotshal & Manges LLP, as Attys. for the Debtors, for Allowance of Compensation for
15 Professional Services Rendered and Reimbursement of Expenses Incurred at iii-iv, *In re*
16 *Washington Mutual*, No. 08-12229 (Bank. D. Del, Dec. 10, 2009).

17 12. The Defendants in the *Buus* action were represented by Sidley Austin LLP, a
18 Chicago-based firm with extensive experience in complex ERISA cases (Davis Wright
19 Tremaine served as local counsel for Defendants). A recent bankruptcy fee request filed by
20 Sidley Austin LLP shows rates between \$250 and \$875 per hour for litigation work. *See*
21 Seventeenth Monthly Fee Appl. of Sidley Austin LLP for Compensation for Services Rendered
22 and Reimbursement of Expenses as Counsel to the Debtors and Debtors in Possession for the
23 period May 1, 2010 to May 31, 2010, *In re Tribune Co., et. al*, No. 08-13141 (Bankr. D. Del.
24 Oct. 22, 2010).

25 13. The following chart summarizes this general rate information in the following
26 order: Keller Rohrback's rates; rates of other Seattle firms and firms with an office in Seattle

1 that serve as counsel in large-scale, complex litigation; rates of other major firms that worked
 2 on the *Buus* matter. The chart is based on the lowest and highest rates stated in the above-
 3 described publicly available materials.

Firm	Low	High	Midpoint Rate
Keller Rohrback LLP	\$300	\$740	\$520
Davis Wright Tremaine LLP	\$210	\$780	\$495
Perkins Coie LLP	\$195	\$860	\$528
Wilson Sonsini Goodrich & Rosati	\$290	\$795	\$543
Dorsey & Whitney LLP	\$165	\$795	\$480
Sidley Austin LLP	\$250	\$875	\$563
Weil Gotshal & Manges LLP	\$355	\$925	\$640

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11 14. Keller Rohrback's rates have been approved in complex and class action cases in
 12 this district and beyond, and in ERISA class action cases throughout the country. By way of
 13 example, between 2009 and 2010, district courts granted final approval and awarded fees to
 14 Keller Rohrback LLP based on the firm's then current rates in several ERISA class action cases.
 15 *See, e.g.*, Joint Decl. of Lynn L. Sarko et al. in Supp. of Mot. for Final Approval of Class Action
 16 Settlement and Request for Fees at Ex. F, *In re Xerox Corp. ERISA Litig.*, No. 02-1138 (D.
 17 Conn. Mar. 24, 2009) (listing attorneys' rates between \$245 and \$650); Order Granting Pls.'
 18 Mot. for Award of Att'ys Fees at 2, *In re Xerox*, No. 02-1138 (D. Conn. Apr. 14, 2009); Joint
 19 Decl. of Lynn L. Sarko et al. in Support of Mot. for Final Approval of Class Action Settlement
 20 and Mot. for Att'ys Fees at Ex. J, *In re Merrill Lynch & Co., Inc. Sec., Derivative and ERISA*
 21 *Litig.*, No. 07-9633 (S.D.N.Y. June 26, 2009) (listing attorneys' rates between \$265 and \$675);
 22 Order Granting Counsel's Mot. for an Award of Att'ys Fees, *In re Merrill Lynch*, No. 07-9633,
 23 2009 WL 2407551, at *1 (S.D.N.Y. Aug. 4, 2009); Decl. of Lynn L. Sarko in Supp. of Mot. for
 24 Award of Att'ys Fees at Ex. C, *Alvidres v. Countrywide Fin. Corp.*, No. 07-5810 (C.D. Cal. Oct.
 25 26, 2009) (listing attorneys' rates between \$310 and \$695); Final Order and Awarding Att'y Fees
 26 at 5, 6, *Countrywide*, No. 07-5810 (C.D. Cal. Nov. 16, 2009); Joint Decl. of Derek W. Loeser et

1 al. in Support of Lead Plaintiffs' Mot. for Final Approval of Class Action Settlement and Mot.
2 for Att'ys Fees at Ex. C, *In re State Street Bank And Trust Co. ERISA Litig.*, No. 07-8488
3 (S.D.N.Y. Jan. 27, 2010) (listing attorneys' rates between \$300 and \$740); Order Granting Lead
4 Counsel's Appl. for Att'y Fees at 2, *In re State Street*, No. 07-8488 (S.D.N.Y. Feb. 19, 2010);
5 Decl. of Mark A. Griffin in Support of Award of Att'ys Fees and Costs at 2, *Pelletz v.*
6 *Weyerhaeuser Co.*, No. 08-0334 (W.D. Wash. Dec. 4, 2008) (listing attorneys' rates between
7 \$415 and \$660); *Weyerhaeuser*, 592 F. Supp. 2d 1322, 1327 (W.D. Wash. 2009) (awarding
8 attorneys' fees at listed rates).

9 15. Keller Rohrback rates are also comparable to rates charged by counsel with
10 special expertise in complex ERISA, financial and other class action litigation. The rates
11 charged by counsel who specialize in large-scale, complex ERISA cases are relevant "because
12 ERISA cases involve a national standard, and attorneys practicing ERISA in the Ninth Circuit
13 tend to practice in different districts. Furthermore, ERISA cases are often considered to be
14 complex; ERISA plaintiff cases are often undesirable, and Plaintiff's attorneys possess
15 extensive experience in ERISA law." *Mogck v. Unum Life Ins.*, 289 F. Supp. 2d 1181 (S.D. Ca.
16 2003); *McAfee v. Metro. Life Ins. Co.*, 625 F. Supp. 2d 956, 975 (E.D. Ca. 2008) ("ERISA
17 cases involve a national standard."); *Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 946(9th Cir.
18 2007)("Billing rates should be established by reference to the fees that private attorneys of an
19 ability and reputation comparable to that of prevailing counsel charge their paying clients for
20 legal work of similar complexity.").

21 16. Attached hereto as Exhibits B & C are declarations from two prominent ERISA
22 attorneys, Marc Machiz and Jeffrey Lewis, who serve as lead and co-lead counsel in complex
23 ERISA cases throughout the country. As set forth in their declarations, attorney rates charged
24 by Mr. Machiz's firm, Cohen Milstein Sellers & Toll PLLC, range between \$400 and \$710 per
25 hour. Likewise, attorney rates charged by Mr. Lewis' firm, Lewis, Feinberg, Lee, Renaker &
26 Jackson P.C, range between \$300 and \$750 per hour.

1 17. As also set forth in Messrs. Machiz's and Lewis' declarations, they each are
2 familiar with the work performed by Keller Rohrback, and acknowledge the special skill and
3 experience of Keller Rohrback in ERISA class action litigation.

4 **III. ADDITIONAL CASE MANAGEMENT AND COST INFORMATION**

5 18. Keller Rohrback sought to litigate the *Buus* matter effectively. In the Fees and
6 Costs Motion, Lead Counsel indicated that it had expended a total of 10,395.62 attorney and
7 professional hours litigating this case. Attached as Exhibit D is a spreadsheet indicating by
8 month the work that was performed by Lead Counsel.

9 19. Of the 10,395.62 hours, 6,652.90 hours were performed by attorneys. Of this
10 amount 76.3 % was performed by four attorneys: Partner Derek Loeser (9.5%); Partner Amy
11 Williams-Derry (12.2%); Associate Karin Swope (33.1%); and Associate Gretchen Obrist
12 (21.45%).

13 20. Of the 20 depositions, 10 were attended by one Keller Rohrback attorney, 5 by
14 two attorneys, and 5 by three attorneys. Where three attorneys billed to a single deposition,
15 these depositions were taken in Keller Rohrback's offices, and only two attorneys were present
16 at any one time over the course of these two-day depositions. In most instances where more
17 than one Keller Rohrback attorney attended a deposition, the deposition was taken by a firm
18 associate.

19 21. Keller Rohrback charged \$0.10 per page for black/white copies and \$0.70 per
20 page for color copies. This billing rate was set to partially recoup the costs of labor, paper, copy
21 machine lease payments, and other overhead costs directly attributable to making copies. The
22 firm does not make a profit on the internal copy charges. For large copy projects, Keller
23 Rohrback sends the copy projects to outside vendors to make copies. The lowest rate that we
24 pay for such copying services varies between \$0.12 and \$0.20 for black/white 8.5x11 copies.
25 For color copies, we are charged either \$0.99 (8.5x11) or \$1.98 (11x17). The actual amounts
26 paid to outside vendors for copies on the matter were billed to this matter.

1 22. The firm only charged out of pocket costs for its Westlaw and Lexis usage. To
2 determine the out of pocket costs for Westlaw, my firm's librarian logged onto Westlaw's
3 QuickView+ system, which is an online tool that can be used to track all Westlaw usage in the
4 firm. For each month in which there were charges in the *Buus* case, she went to the "Create
5 Report" screen, selected the month's data to download into an Excel file and chose the "Apply
6 Special Pricing" option. The librarian then clicked on "Submit," and on the next screen, "Select
7 Special Pricing Report Options," she entered the applicable "monthly fixed amount" which is the
8 flat rate amount Keller Rohrback paid pursuant to its Westlaw contract. The "monthly fixed
9 amount" and the amount of our firm's usage are used by QuickView+ to calculate the discount
10 we receive on Westlaw's retail costs as listed in the spreadsheet. Each monthly QuickView+
11 report that the librarian downloaded included usage for multiple client matter numbers for those
12 months. She copied the *Buus* usage from each month and created a report that would show only
13 the *Buus* usage. The librarian determined the *Buus* usage by the client matter number or
14 description entered by users. A copy of the report prepared by the librarian is available upon
15 request.

16 23. A similar process was followed with regard to Lexis billing, whereby the total
17 amount for which Lead Counsel has sought reimbursement equals the actual out of pocket costs
18 incurred by the firm for Lexis billings pertaining to the *Buus* litigation. A copy of this report
19 prepared by the librarian is available upon request.

20 24. With regard to travel expenses, firm policy is to purchase refundable coach air-
21 fares. The firm generally purchases refundable coach tickets because travel plans change
22 regularly, and it is more economical to pay for a refundable ticket than it is to incur cancellation
23 fees repeatedly for tickets on multiple airlines. The firm allows attorneys to upgrade to
24 business class if such upgrades are at no extra cost, or if the attorney personally pays the
25 additional cost. Where a business class ticket is cheaper than the refundable coach fare, the
26 firm may purchase the business class ticket. In this case, the firm purchased 19 round-trip

1 airfare tickets, for a total expense of \$11,465.97. The average ticket price was \$603.00. Of
 2 these 19 tickets, one business class ticket was purchased; however, it was less expensive than
 3 the then-available non-refundable coach fare. Nonetheless, based on the Court's recent
 4 comments regarding first class airfare in the WaMu MDL cases, Lead Counsel will reduce its
 5 request for costs by the total cost of this ticket (\$609.50).

6 25. This complex ERISA class action required several experts. The rates charged by
 7 experts retained by Keller Rohrback, and the hours billed by each are as follows:

8 Expert	Hourly Fee	Hours Billed	Total Billed
9 Mr. Poulin	\$450	152	\$68,400.00
10 Poulin associate	\$200.00	44.5	\$8,900.00
11 Ms. Stygall	\$250	89	\$22,250.00
12 Tsongas Litigation 13 Consulting	\$85-\$450	28	\$9,998.75

14 26. For reference, the rates charged by defense experts and the hours billed by each
 15 are as follows:

16 Expert	Hourly Fee	Hours Billed	Total Billed
17 Mr. Gopen	\$700	100.00	\$70,000.00
18 Mr. Klinck	\$545	89.75	\$48,913.75

20 DATED this 27th day of October, 2010, in Seattle, Washington.

22 /s/ Derek W. Loeser
 23 Derek W. Loeser

CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to all known counsel of record, listed below:

Ladd B. Leavens, Fred B. Burnside, Anne E. Rea, Danielle J. Carter and Rachel Blum Niewoehner.

DATED this 27th day of October, 2010.

s/ Derek W. Loeser
Derek W. Loeser
KELLER ROHRBACK L.L.P.
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Exhibit A



2009 NLJ Billing Survey
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Year	Firm Name	Location	General Billing Rate (per hour)	Partner Billing Rate (per hour)	Associate Billing Rate (per hour)	Administrative Billing Rate (per hour)	Patent Billing Rate (per hour)	Time Billing Rate (per hour)	Hourly Billing Rate (per hour)	Special Billing Rate (per hour)	Travel Billing Rate (per hour)	Other Billing Rate (per hour)
2009	Adams and Reese LLP	New Orleans, LA	\$500	\$310	\$245	\$220	\$333	\$252	\$215	\$325	\$255	
2009	Adorno & Yoss	Miami, FL	\$525	\$300	\$225	\$255	\$354	\$308	\$225	\$350	\$300	
2009	Akerman Senterfitt	Miami, FL										
2009	Akin Gump Strauss Hauer & Feld LLP	Washington, DC										
2009	Allen Matkins Leck Gamble Mallory & Natisis LLP	City, ST										
2009	Alston & Bird LLP	Atlanta, GA	\$660	\$555	\$450	\$388	\$602	\$481	\$385	\$590	\$485	
2009	Andrews Kurth LLP	Houston, TX										
2009	Arent Fox LLP	Washington, DC	\$755	\$485	\$420							
2009	Armstrong Teasdale LLP	St. Louis, MO	\$450	\$315	\$320							
2009	Arnold & Porter LLP	Washington, DC										
2009	Baker & Daniels LLP	Indianapolis, IN										
2009	Baker & Hostetler	Cleveland, OH										
2009	Baker, Donelson, Bearman, Caldwell & Berkowitz, PC	Memphis, TN	\$585	\$315	\$256	\$218	\$349	\$302	\$215	\$340	\$285	
2009	Balch & Bingham LLP	City, ST										
2009	Ballard Spahr Andrews & Ingersoll, LLP	Philadelphia, PA										
2009	Barnes & Thornburg LLP	Indianapolis, IN	\$615	\$375	\$375	\$246	\$386	\$345	\$240	\$385	\$350	
2009	Bass, Berry & Sims PLC	Nashville, TN										
2009	Best Best & Krieger LLP	Riverside, CA	\$550	\$380	\$310	\$245	\$421	\$310	\$245	\$425	\$300	
2009	Bingham McCurchee LLP	Boston, MA										
2009	Bond, Schoenack & King, PLLC	Syracuse, NY	\$465	\$275	\$200	\$191	\$319	\$278	\$185	\$320	\$280	

2009	Bowman and Brooke	Minneapolis, MN	\$500	\$250	\$315	\$210	\$240	\$437	\$373	\$235	\$440	\$380
2009	Briggs and Morgan, Professional Association	Minneapolis, MN	\$600	\$280	\$425	\$190	\$292	\$530	\$407	\$280	\$550	\$405
2009	Brinks Hofer Gilson & Lione	Chicago, IL	\$725	\$335	\$350	\$175	\$242	\$372	\$307	\$248	\$375	\$285
2009	Broad and Cassel	Orlando, FL	\$475	\$280	\$350							
2009	Brown Rudnick LLP	Boston, MA										
2009	Brownstein Hyatt Farber Schreck, LLP	Denver, CO	\$795	\$280	\$340	\$185	\$247	\$445	\$377	\$250	\$425	\$370
2009	Bryan Cave LLP	St. Louis, MO	\$765	\$355	\$550	\$160	\$331	\$541	\$448	\$330	\$530	\$430
2009	Buchalter Nemer	Los Angeles, CA	\$625	\$270	\$430	\$195	\$311	\$467	\$399	\$300	\$475	\$400
2009	Buchanan Ingersoll & Rooney PC	Pittsburgh, PA	\$1,020	\$310	\$580	\$200						
2009	Bullivant Houser Bailey	Portland, OR										
2009	Burr & Forman LLP	Birmingham, AL	\$490	\$275	\$335	\$200	\$247	\$352	\$314	\$300	\$350	\$325
2009	Butzel Long A Professional Corporation	Detroit, MI	\$700	\$285	\$395	\$200						
2009	Cadwalader, Wickersham & Taft LLP	New York, NY	\$750	\$325	\$685	\$195	\$278	\$467	\$393	\$285	\$465	\$395
2009	Carlton Fields, P.A.	Tampa, FL										
2009	Chapman and Cutler LLP	Chicago, IL										
2009	Clark Hill	Detroit, MI										
2009	Covington & Burling LLP	Washington, DC										
2009	Cosen O'Connor, A Professional Corporation	Philadelphia, PA	\$880	\$300	\$695	\$220	\$325	\$468	\$415	\$320	\$460	\$330
2009	Crowell & Moring LLP	Washington, DC										
2009	Curtis, Mallett-Prevost, Colt & Mosie LLP	New York, NY	\$785	\$675	\$575	\$290	\$434	\$730	\$522	\$435	\$730	\$515
2009	Davis Wright Tremaine LLP	Seattle, WA	\$775	\$310	\$445	\$210	\$300	\$474	\$346	\$305	\$465	\$355
2009	Day Pitney LLP	New York, NY	\$750	\$385	\$465	\$230	\$310	\$507	\$411	\$235	\$495	
2009	Dickinson Wright PLLC	Detroit, MI	\$575	\$275	\$325	\$185						
2009	Dickstein Shapiro LLP	Washington, DC	\$850	\$500	\$515	\$265	\$403	\$533	\$520	\$415	\$630	\$518

			\$525	\$200	\$295	\$165	\$204	\$345	\$286	\$200	\$340	\$270
2009 Dinsmore & Shethi LLP	Cincinnati, OH											
2009 DLA Piper US	New York, NY											
2009 Dorsey and Whitney LLP	Minneapolis, MN	\$795	\$245	\$445	\$165	\$315	\$520	\$335	\$463	\$300	\$520	\$310
2009 Duane Morris LLP	Philadelphia, PA	\$795	\$325	\$450	\$225	\$335	\$527	\$440	\$463	\$338	\$515	\$473
2009 Dykema Gossett PLLC	Detroit, MI	\$595	\$295	\$440	\$200	\$280	\$440					
2009 Eckert Seamans Chernin & Mellott, LLC	Pittsburgh, PA											
2009 Edwards Angell Palmer & Dodge LLP	Boston, MA	\$750	\$325	\$495	\$170	\$321	\$547	\$447	\$385	\$385	\$545	\$450
2009 Epstein Becker & Green, P.C.	New York, NY	\$655	\$350	\$475	\$180	\$332	\$523	\$434	\$325	\$325	\$500	\$425
2009 Fenwick & West LLP	Mountain View, CA											
2009 Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.	Washington, DC											
2009 Fish & Richardson P.C.	Boston, MA											
2009 Fitzpatrick, Cella, Harper & Scinto	New York, NY	\$810	\$470	\$440	\$275	\$422	\$631	\$530	\$585	\$400	\$620	\$540
2009 Foley & Lardner LLP	Milwaukee, WI	\$1,035										
2009 Foley Hoag LLP	Boston, MA											
2009 Ford & Harrison LLP	Atlanta, GA	\$595	\$340	\$370	\$245	\$296	\$466	\$391	\$308	\$308	\$466	\$420
2009 Fowler White Boggs P.A.	Tampa, FL	\$535	\$295	\$525	\$195	\$240	\$378	\$325	\$238	\$238	\$370	\$325
2009 Fox Rothschild LLP	Philadelphia, PA	\$675	\$310	\$400	\$225	\$276	\$451	\$383	\$265	\$265	\$450	\$395
2009 Fredrikson & Byron, P.A.	Minneapolis, MN											
2009 Frost Brown Todd LLC	Cincinnati, OH	\$490	\$200	\$245	\$160	\$191	\$317	\$274	\$185	\$185	\$310	\$275
2009 Fulbright & Jaworski L.L.P.	Houston, TX											
2009 Gardere Wynne Sewell LLP	Dallas, TX	\$775	\$360	\$445	\$210	\$310	\$512	\$400	\$302	\$302	\$500	\$400
2009 Gibbons P.C.	Newark, NJ	\$700	\$365	\$425	\$220							
2009 Godfrey & Kahn, S.C.	Milwaukee, WI	\$485	\$310	\$300	\$180							

2009 McElroy, Deutsch, Mulvaney & Carpenter, LLP	Morristown, NJ	\$500	\$295	\$250	\$145	\$195	\$275	\$200	\$170	\$250	\$215
2009 McClintchey Stafford	New Orleans, LA										
2009 McKenna Long & Aldridge LLP	Atlanta, GA	\$775	\$350	\$470	\$220	\$284	\$471				
2009 Michael Best & Friedrich LLP	Milwaukee, WI	\$620	\$235	\$305	\$190	\$235	\$383	\$305	\$225	\$375	\$300
2009 Miller & Martin PLLC	Chattanooga, Tennessee	\$510	\$220	\$315	\$180	\$235	\$330	\$305	\$230	\$275	\$350
2009 Miller, Canfield, Paddock and Stone, P.L.L.C.	Detroit, MI	\$640	\$240	\$400	\$175	\$254	\$431	\$368	\$245	\$440	\$375
2009 Montgomery, McCracken, Walker & Rhoads	Philadelphia, PA	\$605	\$370	\$375	\$215	\$286	\$452	\$386			
2009 Moore & Van Allen PLLC	Charlotte, NC	\$770	\$265	\$355	\$180	\$259	\$437	\$359	\$250	\$420	\$350
2009 Morgan, Lewis & Bockius LLP	Philadelphia, PA										
2009 Morris, Manning & Martin, LLP	Atlanta, GA	\$760	\$365	\$425	\$200	\$353	\$482	\$424	\$260	\$490	\$415
2009 Morrison & Foerster LLP	San Francisco, CA										
2009 Munar, Tolles & Olson LLP	Los Angeles, CA										
2009 Neal, Gerber & Eisenberg LLP	Chicago, IL										
2009 Nelson Mullins Riley & Scarborough LLP	Columbia, SC	\$850	\$275	\$405	\$190	\$248	\$394	\$340	\$245	\$380	\$325
2009 Nexsen Pruet	Columbia, SC	\$500	\$220	\$250	\$175						
2009 Nixon Peabody LLP	New York, NY	\$865	\$455	\$570	\$230	\$386	\$563	\$436	\$370	\$600	\$435
2009 O'Melveny & Myers LLP	Los Angeles, CA										
2009 Ogletree, Deakins, Nash, Smoak & Stewart, P.C.	National	\$625	\$400	\$290	\$185	\$281	\$386	\$347			
2009 Orrick, Herrington & Sutcliffe LLP	San Francisco, CA										
2009 Patton Boggs LLP	Washington, DC	\$950	\$400	\$540	\$200	\$366	\$650	\$521	\$400	\$625	\$520
2009 Paul, Hastings, Janofsky & Walker LLP	New York, NY										
2009 Pepper Hamilton LLP	Philadelphia, PA	\$820	\$420	\$450	\$240						
2009 Perkins Cole LLP	Seattle, WA	\$815	\$265	\$525	\$195	\$337	\$518	\$424		\$815	
2009 Phelps Dunbar LLP	New Orleans, LA	\$450	\$170	\$260	\$130	\$170	\$256	\$213	\$165	\$355	\$253

2008 Phillips Lytle LLP	Buffalo, NY	\$475	\$240	\$415	\$150	\$325	\$340	\$250	\$230	\$335	\$265
2008 Plunkett & Cooney	Bloomfield Hills, NY										
2008 Polsinelli Shughart PC	Kansas City, MO	\$600	\$260	\$275	\$165						
2008 Proskauer Rose LLP	New York, NY										
2008 Quarles & Brady LLP	Milwaukee, WI	\$625	\$285	\$375	\$200	\$252	\$422	\$353	\$245	\$425	\$365
2008 Reed Smith LLP	Pittsburgh, PA										
2008 Reinhardt Beerner Van Deuren s.c.	City										
2008 Robinson & Cole LLP	Hartford, CT	\$650	\$320	\$525	\$210	\$282	\$449	\$325	\$360	\$450	\$360
2008 Roetzel & Andress, A Legal Professional Association	Akron, OH	\$550	\$250	\$300	\$160	\$227	\$347	\$307	\$230	\$350	\$319
2008 Ruden McClosky	Fort Lauderdale, FL										
2008 Rutan & Tucker	Costa Mesa, CA	\$635	\$335	\$400	\$225						
2008 Saul Ewing LLP	Philadelphia, PA	\$600	\$315	\$585	\$205	\$294	\$464	\$337	\$260	\$450	\$375
2008 Schneider Harrison Segal & Lewis LLP	Philadelphia, PA										
2008 Schulte Roth & Zabel LLP	New York, NY	\$660	\$715	\$670	\$265						
2008 Schwabe Williamson & Byggitt	Portland, OR	\$640	\$290	\$410	\$195	\$260	\$410	\$305	\$290	\$400	\$300
2008 Sedgwick, Detert, Moran & Arnold LLP	San Francisco, CA	\$670	\$315	\$595	\$225	\$502	\$418	\$340	\$295	\$415	\$335
2008 Seyfarth Shaw LLP	Chicago, IL										
2008 Sheppard, Mullin, Richter & Hampton LLP	Los Angeles, CA	\$715	\$465	\$525	\$285						
2008 Sherman & Howard	Denver, CO										
2008 Shook, Harry & Bacon L.L.P.	Kansas City, MO										
2008 Shumaker, Loop & Kendrick, LLP	Toledo, OH	\$515	\$235	\$395	\$165	\$231	\$341	\$309	\$235	\$340	\$330
2008 Silis Cummins & Gross P.C.	Newark, NJ										
2008 Skadden, Arps, Slate, Meagher & Flom LLP	New York, NY										
2008 Smith, Gambrell & Russell, LLP	Atlanta, GA	\$740	\$325	\$440	\$195	\$1,604	\$1,402				
2008 Snell & Wilmer L.L.P.	Phoenix, AZ	\$775	\$315	\$480	\$175	\$300	\$473	\$381			

Exhibit B

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GARY BUUS, et al., individually and on behalf)
of all others similarly situated,)
Plaintiffs,)
v.)
WAMU PENSION PLAN, et al.,)
Defendants.)

No. 07-CV-00903 MJP

**DECLARATION OF MARC I.
MACHIZ IN SUPPORT OF
PLAINTIFFS' MOTION FOR FEES
AND COSTS**

I, Marc I. Machiz, declare pursuant to the penalties of perjury under 28 U.S.C. § 1746 as follows:

1. I am a partner at Cohen Milstein Sellers & Toll PLLC ("Cohen Milstein"), and I have worked extensively with lawyers at Keller Rohrback L.L.P. ("Keller Rohrback") on large-scale ERISA class action cases, including, among others, Lynn Sarko, Derek Loeser and Karin Swope.

2. I am the head of Cohen Milstein's employee benefits practice. My firm has appeared as counsel in numerous prominent ERISA cases, often with Keller Rohrback. Examples of ERISA cases in which my firm has served in a leadership position (usually lead, co-lead or appointed class counsel) include: *In re Dynege*, No. 02-3076, slip op. (S.D. Tex. Dec. 10, 2004) (settlement of employer stock case co-lead with Keller Rohrback); *In re Williams Cos. ERISA Litigation*, No. 02- 153, slip op. (N.D. Okla. Nov. 16, 2005) (settlement of employer stock case court appointed Associate Counsel to Keller Rohrback); *Hargrave v. TXU*, No. 02-

1 2573, slip op. (N.D. Tex. Mar. 25, 2008) (settled employer stock case as Class Counsel);
2 *Wagener, et. al., v. SBC Pension Benefit Plan Non-Bargained Program*, No. 03-769 (D.D.C. Jan.
3 23, 2009) (as one of two Class Counsel, settled benefit calculation dispute on behalf of early
4 retirees); *Mehling v. New York Life Ins. Co.*, No. 99- 5417, 248 F.R.D. 455 (E.D. Pa. Mar. 4,
5 2008) (settled excessive service provider fee case as one of three Class Counsel); *Banyai v.*
6 *Mazur*, U.S. Dist. LEXIS 93595 (S.D.N.Y. Nov. 18, 2008) (as one of two Class Counsel, settled
7 a case involving alleged misappropriation of plan assets); *Zhu v. The Fujitsu Group 401(k) Plan*,
8 2005 U.S. Dist. LEXIS 5134 (N.D. Cal. Mar. 18, 2005) (as Class Counsel with Keller Rohrback,
9 settled a case involving vesting violations); *Simpson v. Fireman's Fund Insurance Company*, No.
10 C05-00225 CW (N.D. Cal. Mar. 19, 2008) (as one of two Class Counsel settled ERISA Section
11 510 case alleging employer interference with benefits); *Stoffels v. SBC Commc'n, Inc.*, 555 F.
12 Supp. 2d 754 (W.D. Tex. 2008) (as Class Counsel, prevailed in phase one trial on the merits
13 establishing pensions plan status of telephone concession); *Beam v. HSBC Bank USA*, slip op.
14 No. 02- 0682E (W.D.N.Y. Nov. 21, 2005) (as sole Class Counsel settled ESOP stock valuation
15 case as Class Counsel; *Redington et al. v. The Goodyear Tire and Rubber Company*, 2008 U.S.
16 Dist. LEXIS 64639 (N.D. Ohio Aug. 22, 2008) (case challenging cut-backs in retiree health
17 benefits in which Cohen Milstein as sole Class Counsel negotiated the terms of a \$1 billion
18 dollar settlement for a class of 30,000 retirees and dependents); *Walsh v. Marsh & McLennan*,
19 No. 01- 8157 (S.D.N.Y.) (as Class Counsel with Keller Rohrback settled a company stock case
20 for \$35 million); *In re: Merck & Co., Inc. Securities, Derivative & "ERISA" Litigation*, No.
21 3:05-01151-SRC (D.N.J.) Recently, Cohen Milstein was appointed ERISA Counsel in *In re:*
22 *Beacon Associates Litigation*, No. 09-0777 (S.D.N.Y.), a consolidated ERISA and Securities
23 action involving investments with Bernard Madoff and, in *Hans v. Tharaldson et al.*, No. 05-
24 00115 (D.N.D.), Cohen Milstein was appointed Class Counsel to the class of former employee
25 participants in an ESOP case where Keller Rohrback was appointed Class Counsel to the class of
26 current employee participants.

1 3. Cohen Milstein also frequently represents Fiduciary Counselors, Inc., a
2 professional independent fiduciary, in its capacity as a fiduciary for employee benefit plans in
3 evaluating the fairness of both securities and ERISA class action settlements. This work is
4 undertaken on an hourly fee for service basis at the firm's posted hourly rates.

5 4. I have over thirty years of experience in ERISA litigation. I joined the Plan
6 Benefits Security Division of the Office of the Solicitor of the U.S. Department of Labor
7 ("DOL") as a trial attorney in 1978, and (but for a two-year hiatus) practiced there until 2000, at
8 which time I was the Associate Solicitor, heading the Division. As Associate Solicitor, I was the
9 DOL's chief ERISA lawyer charged with responsibility for all enforcement litigation brought by
10 the Secretary of Labor under ERISA and was responsible for all legal advice under the statute
11 provided to the Pension and Welfare Benefits Administration (now Employee Benefits Security
12 Administration), which administers Title I of ERISA.

13 5. I am a Charter Fellow of the American College of Employee Benefits Counsel, a
14 frequent speaker on ERISA issues for the ABA, ALI-ABA, PLI, and private seminars, and have
15 served as plaintiffs' co-chair of a subcommittee of the Employees Benefits Committee of the
16 ABA's Labor Section. I am also a member of the BNA Pension and Benefits Reporter Advisory
17 Board and have authored several articles including: Understanding DOL's New Class Exemption
18 for the Release of Claims and Extensions of Credit in Connection with Litigation, Pension &
19 Benefits Reporter, Vol. 31, No. 2, Jan., 2004; and ESOPS, ERISA, and Employer Stock: A
20 Litigator's Approach, ATLA Commercial Litigation Section Newsletter, Volume 7, Number 3
21 (Spring/Summer 2001).

22 6. ERISA litigation is a highly specialized area of the law. The bar is relatively
23 small with a small number of firms that are capable of handling large-scale complex ERISA
24 class actions. While many firms compete for leadership positions in certain types of ERISA
25 cases (such as company stock cases – an area of ERISA practice where Keller Rohrback has
26 been an early and dominant participant), in my experience only a small number of firms have the

1 expertise necessary to competently oppose defense firms with large, well-funded ERISA practice
2 groups, as well as a proven commitment to the development of ERISA law. I count Keller
3 Rohrback among a handful of the best firms that practice in this area who handle class actions.
4 Keller Rohrback's attorneys know the law well, produce high quality work and obtain excellent
5 results. In addition, Keller Rohrback is often asked by public interest groups, such as the
6 Pension Rights Center, and the National Employment Lawyers Association ("NELA") to prepare
7 amicus briefs on their behalf in connection with appeals to circuit courts and the United States
8 Supreme Court on important ERISA issues. *See, e.g.*, Brief for National Employment Law
9 Ass'n as Amici Curiae Supporting Plaintiffs, *Amara v. CIGNA Corp.*, 348 F. App'x 627 (2d Cir.
10 2009) (No. 08-3388), 2009 WL 3199061, *cert. granted*, 130 S. Ct. 3500 (U.S. June 28, 2010);
11 Brief of the Pension Rights Center et al. as Amicus Curiae in Support of Plaintiffs-Appellees,
12 *Spano v. The Boeing Co.*, No. 09-3018, *Beesley v. Int'l Paper Co.*, No. 09-3001 (7th Cir. Dec.
13 14, 2009). This demonstrates the regard in which Keller Rohrback is held in the employee
14 benefits community.

15 7. ERISA class actions tend to be complex and expensive. The law is often unclear,
16 and varies significantly among the circuits. Consequently, ERISA cases, in particular large class
17 cases, tend to be highly risky and, thus, often not pursued by otherwise qualified counsel. This
18 state of affairs applies with particular force to ERISA cash balance plan litigation. Even among
19 the "ERISA firms," only a small number have chosen to undertake the significant challenges that
20 these cases present. The legal issues are exceedingly complex – involving among other
21 conundrums, the actuarial provisions of the statute – and the stakes high. After careful study, my
22 own firm determined to avoid the area. Over the past several years, the law has turned decidedly
23 in favor of the Defendants on one of the central claims in cash balance litigation – age
24 discrimination – as a result of several circuit court decisions. Claims pertaining to allegedly
25 defective 204(h) notices issued in connection with cash balance plan conversions have had
26 mixed results at best. Keller Rohrback's ability to resolve the Buus case favorably is a testament

1 to their abilities as ERISA counsel and their commitment to developing the law for the benefit of
2 employees and retirees.

3 8. I have reviewed the settlement approval papers and the fee petition filed by Keller
4 Rohrback in this case. According to the fee petition, Keller Rohrback's hourly rates for attorneys
5 ranged between \$300 and \$740/per hour. These rates are in line with the rates charged by Cohen
6 Milstein and other firms that have special expertise in large-scale complex ERISA cases. My
7 current hourly rate is \$710 per hour, and the rates charged by Cohen Milstein for large-scale
8 complex ERISA attorney work range between \$400 and \$710 per hour. I believe that Keller
9 Rohrback's rates are reasonable given their expertise in this highly specialized area of the law,
10 and the high quality of their work.

11 DATED this 26th day of October, 2010, in Philadelphia, PA.

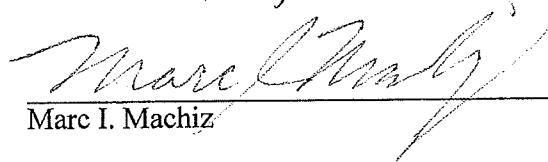
12
13 
14 Marc I. Machiz

Exhibit C

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GARY BUUS, et al., individually and on behalf)
of all others similarly situated,)
Plaintiffs,)
v.)
WAMU PENSION PLAN, et al.,)
Defendants.)

No. 07-CV-00903 MJP

**DECLARATION OF JEFFREY LEWIS
IN SUPPORT OF PLAINTIFFS'
MOTION FOR FEES AND COSTS**

I, Jeffrey Lewis, declare pursuant to the penalties of perjury under 28 U.S.C. § 1746 as follows:

I. INTRODUCTION

1. I, Jeffrey Lewis, being over 18 years of age and competent to testify, hereby make the following declaration pursuant to 28 U.S.C. § 1746 in support of Class Counsel's Motion for Award of Attorneys' Fees and Expenses:

2. I am a member in good standing of the State Bar of California and a shareholder in Lewis, Feinberg, Lee, Renaker & Jackson, P.C. I make this declaration of my personal knowledge, and if called as a witness, I could and would testify competently to the facts stated herein.

3. I graduated from Yale University in 1970 with a B.A. degree and from Boalt Hall Law School (University of California at Berkeley) in 1975 with a J.D. degree. I was admitted to practice in California in December 1975. In addition to my California State Bar membership, I

1 am admitted to practice before the U.S. District Courts for the Northern District of California,
2 Eastern District of California, Central District of California, and Southern District of California, as
3 well as the Second, Third, Fourth, Fifth, Ninth, and Tenth Circuit Courts of Appeal and the U.S.
4 Supreme Court.

5 4. Since 1975, I have specialized in pension and employee benefit litigation and
6 consultation under the Employee Retirement Income Security Act ("ERISA"). Initially, I did so as
7 an attorney at the Senior Citizens' Law Center, a legal services program specializing in the legal
8 problems of the elderly, and, since 1978, I have done so in private practice. I have done this work
9 for individuals, law firms, groups of plan participants, and employee benefit plans in several states,
10 including, but not limited to, California, Oregon, Washington, Utah, North Carolina, Kentucky,
11 Illinois, Texas, New York, West Virginia, Delaware, Connecticut, and Georgia. My legal work in
12 the pension and employee benefit plan area has included the litigation of a broad spectrum of
13 employee benefit and ERISA issues. This has included litigation regarding claims for retirement
14 and disability benefits, breaches of fiduciary duty, and the scope of relief available under the
15 different subsections of ERISA §502(a), 29 U.S.C. 1132(a), including Section 502(a)(3), 29 U.S.C.
16 5 1132(a)(3). At present, virtually all of my work is in the employee benefit plan area.

17 5. From 1998 to 2001, I served as the Plaintiffs Co-Chair of the American Bar
18 Association's Employee Benefits Committee of the Labor and Employment Section. I am one of
19 the Co-Chairs of the Board of Senior Editors, *Employee Benefits Law* (BNA), a publication of the
20 ABA. As a Senior Editor, I have joint responsibility for the content of the book, and I serve as
21 co-senior editor for various chapters of the Second Edition and supplements thereto. In addition to
22 maintaining a full-time practice as described above, I have lectured and taught on the subject of
23 pension law and employee benefits for more than 25 years. I have served as an adjunct professor at
24 Hastings College of Law (U. of California), where I taught a course entitled
25 "Pension/Employee Benefit Law" in 1997, 1998, and 1999. I previously taught courses on
26 employee benefit law and ERISA at the University of San Francisco School of Law and Golden

1 Gate University Law School. In addition, I have lectured and given training programs in pension
2 law throughout California and the United States. For many years, I was a regular speaker at the
3 American Bar Association's Annual "ERISA Litigation: Tactics and Strategy" seminars, where
4 I spoke on a broad range of ERISA topics. I have spoken on one or more panels at the Annual
5 Meeting of the American Bar Association in at least five different years. In the past, I have served
6 as co-chair of the Fiduciary Responsibility Subcommittee of the American Bar Association Labor
7 and Employment Section's Employee Benefits Committee and as co-chair of the Pension Committee
8 of the National Employment Lawyers' Association. I am a member of the Lawyers Advisory
9 Committee of the National Pension Assistance Project.

10 6. I and/or my firm have served as counsel in numerous ERISA class actions and
11 reported ERISA cases in many different federal courts throughout the United States. The following
12 is a small, but representative sample of these cases: *In re Worldcom, Inc. ERISA Litigation*, 263
13 F.Supp.2d 745 (S.D.N.Y. 2003); *Gottlieb v. SBC Communications, Inc.*, No. CV 00-4139 AHM
14 (C.D. Cal.); *Burrey v. Pacific Gas & Electric Co., et al.*, 159 F.3d 388 (9th Cir. 1998);
15 *Dobson v. Hartford Financial Services*, 389 F.3d 386 (2d Cir. 2004); *Tatum v. R.J. Reynolds*
16 *Tobacco Co.*, 392 F.3d 636 (4th Cir. 2004); *In re Masters, Mates & Pilots Pension Plan and IRAP*
17 *Litigation*, Lead File No. 85 Civ. 9545 VLB (S.D.N.Y.); *Kayes et al. v. Pacific Lumber Co., et al.*,
18 51 F.3d 1449 (9th Cir. 1995); *McDaniel v. National Shopmen's Pension Fund*, 879 F.2d 704 (9th
19 Cir. 1989); and *Hurlic v. Southern California Gas Co.*, 539 F.3d 1024 (9th Cir. 2008) (a cash
20 balance plan case similar to this one).

21 7. On July 24, 1990, I testified on behalf of the National Employment Lawyers
22 Association at the hearing of the Subcommittee on Labor of the U.S. Senate Committee on Labor
23 and Human Resources regarding proposed amendments to ERISA, including amendments to
24 ERISA's attorneys' fees provisions. As stated by Congress in the very first section of ERISA, one
25 of Congress' intentions in passing ERISA was to provide to employee benefit plan participants
26 "ready access to the Federal courts." 29 U.S.C. Section 1001. Participants in ERISA plans, who

1 have been deprived of pensions or other employee benefits, normally are unable to afford to pay
2 attorneys on an hourly basis.

3 8. Based on all of the experience stated above -- especially my positions with the
4 Employee Benefits Committee of the ABA's Labor and Employment Committee, practicing in
5 courts throughout the country, and speaking at and attending ERISA conferences throughout the
6 country -- I am familiar with the size and abilities of the ERISA plaintiffs' bar. The size of that bar
7 is small, and even many of those who handle ERISA cases handle only individual claims for
8 benefits under the terms of a plan; e.g., disability claims under ERISA Section 502(a)(1)(B), 29
9 U.S.C. Sec. 1132(a)(1)(B).

10 9. Litigation concerning cash balance plans and the disclosure, benefit accrual, and
11 vesting provisions of ERISA is time-consuming, difficult, and risky. It also requires highly
12 specialized knowledge and experience. Defense counsel usually are from large firms and are well-
13 funded by their clients. Defendant plans and fiduciaries do not face jury trials, the risk of paying
14 consequential or punitive damages, or even liquidated double damages. The client employees and
15 retirees are not usually members of organized groups that can fund the fees and expenses of this
16 complex and time-consuming litigation. Because of the complexity of this type of ERISA
17 litigation, in my experience, the market for attorneys willing and capable of handling these cases is
18 a national market.

19 10. As measured by the very limited number of attorneys who have filed actions
20 similar to this one, challenging disclosures or the benefit accrual rules (and/or other aspects) of
21 cash balance plans has not been a particularly attractive area of practice. While I am in contact
22 with most of the ERISA practitioners who represent plaintiffs nationally, as of 2010, there were
23 only a handful of plaintiffs' lawyers in the country who showed a willingness and ability to bring
24 actions such as this one, which are complex and may require extensive actuarial analysis and
25 testimony. Such litigation requires an in-depth knowledge of ERISA's requirements and
26 actuarial concepts that few practitioners who represent plan participants in the country possess.

1 In my opinion, based on my knowledge of their work in this case and in other cases, Keller
2 Rohrback L.L.P. is clearly among the few firms in the country with the expertise to competently
3 bring this type of case.

4 11. Lead Counsel's work in this case, which resulted in, among other things, the
5 Court's opinions on the class certification and motion to dismiss motions, have established
6 important precedent. Indeed, I have cited this court's opinion in briefs to the Central District of
7 California in a cash balance case. Based on this case, participants in other ERISA-covered cash
8 balance plans may be able to better assert their rights.

9 12. I am familiar with attorney fee awards in ERISA cases around the country and the
10 market rate for services in that market. Fee awards compensate attorneys for the risk of not
11 prevailing, as well as for the attorneys' expertise and advocacy, and their willingness to take
12 cases on a contingent basis, including carrying expenses and the inevitable delays in receiving
13 any compensation, and the results ultimately obtained.

14 13. I have reviewed the settlement approval papers and the fee petition filed by Keller
15 Rohrback in this case. According to the fee petition, Keller Rohrback's hourly rates for
16 attorneys ranged between \$300 and \$740/per hour. These rates are in line with the rates charged
17 by Lewis, Feinberg, Lee, Renaker & Jackson in large-scale ERISA cases. My current hourly rate
18 is \$750 per hour, and the rates for Lewis, Feinberg, Lee, Renaker & Jackson for this type of
19 ERISA work range between \$300 and \$750 per hour. (Those rates are scheduled to be raised in
20 the near future, as we have been using, and being awarded fees at, those rates for several years.)
21 I believe that Keller Rohrback's rates are reasonable given their expertise in this highly
22 specialized area of the law, and the high quality of their work.

23 14. Moreover, I believe the fee request as a percentage of a common fund is fair and
24 reasonable. Assuming that the settlement value to the class is that specified in the Final
25 Approval Motion, the requested fee award is consistent with or below the percentages that are
26

1 typically awarded in complex common fund ERISA cases. In fact, the 21% fee requested by
2 Keller Rohrback is below the 25% benchmark established by the Ninth Circuit.

3 15. I declare under penalty of perjury that the foregoing is true and correct except as
4 to those matters stated on information or belief, and as to those, I believe them to be true.

5
6 DATED this 26th day of October, 2010, in Oakland, CA.

7
8 
9 Jeffrey Lewis

CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to all known counsel of record, listed below:

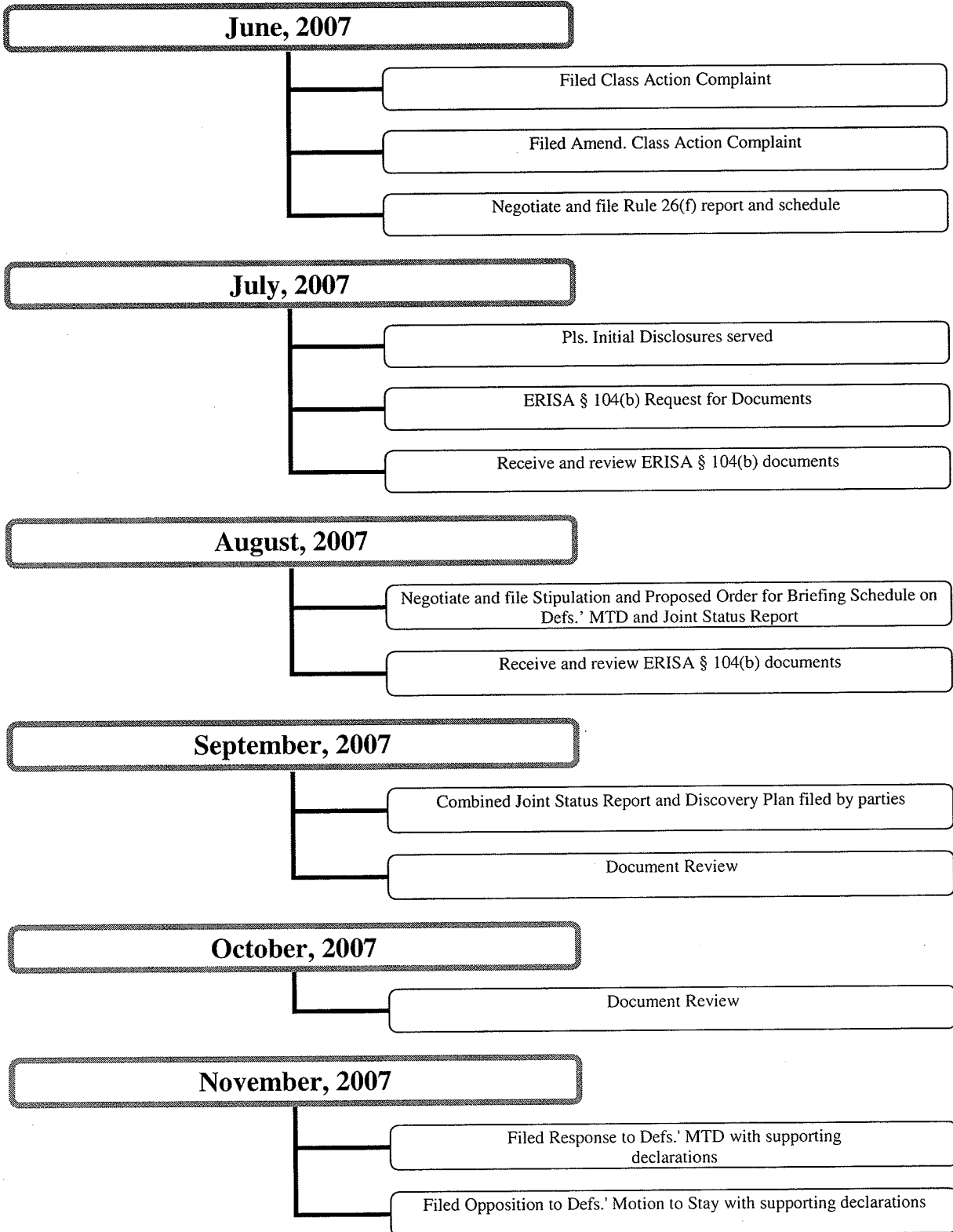
Ladd B. Leavens, Fred B. Burnside, Anne E. Rea, Danielle J. Carter and Rachel Blum Niewoehner.

DATED this 26th day of October, 2010.

s/ Derek W. Loeser
Derek W. Loeser
KELLER ROHRBACK L.L.P.
1201 3rd Avenue, Suite 3200
Seattle, WA 98101
Tel: (206) 623-1900
Fax: (206) 623-3384
dloeser@kellerrohrback.com

Exhibit D

Bus Case Timeline: June 2007 to June 2010



December, 2007

Oral argument regarding MTD (12/07/2007)

Def's. first set of Interrogs. And RFPs served

January, 2008

Negotiate and file briefing schedule for class cert. motion

Pls.' serve Responses to Defs.' first set of Interrogs. and RFPs

February, 2008

Produce documents responsive to Defs.' first set of Interrogs. and RFPs

Pls. serve Amend. Response to Defs.' first RFPs

Supplemental production of documents responsive to Defs.' first set of Interrogs. and RFPs

Defended three depositions of Pls.' Class Reps. (Flor, Buus and Weber)

Pls.' serve first set of Interrogs. and RFPs

March, 2008

Pls. file Motion to Amend Complaint to add Thomas Schoenleber as named Pl.

Pls. serve Document subpoenas on four third parties

Pls. serve Amend. Response to Defs.' first set Interrogs.

Pls. file Reply Brief regarding Motion to Amend with supporting declaration

Pls. serve Second set of Interrogs.

Pls. defend two depositions of Class Reps. (Plumb and Schulman)

Pls. file Motion for Class Cert. with seven supporting declarations

April, 2008

Rule 37 Conference regarding outstanding production requests (04/01/2008)

ERISA § 104(b) Request for Documents (Schulman)

Pls. serve Records subpoena on Plan's record keeper (Excellerate HRO)

Pls. file Motion to Compel discovery responses

Pls. file Opposition to Defs.' Motion to Bifurcate Discovery and Trial with supporting declaration

Cross Motion for Extension of Time of Expert Disclosures

Pls. file Second Amend. Class Action Complaint

Reply regarding Defs. Response to Pls. Motion to Compel discovery responses with supporting declaration

Pls. defend deposition of Pl. Class Rep. (Schoenleber)

Document Review

May, 2008

Reply Brief regarding Cross Motion for Extension of Time of Expert Disclosures

Pls. file Reply Memo supporting Motion for Class Cert. with supporting declarations

Pls. serve first RFAs and second RFPs

Document Review

June, 2008

Pls. serve second RFAs, third set of Interrogs and third RFPs

Pls. serve third RFAs, fourth RFPs and fourth RFAs to Defs., and first set of Interrogs. to Def. WaMu Pension Plan Admin. Comm.

Pls. Depose three WaMu employees (Rider, Morrison and Austin)

Document Review

