

Southern California Attorneys, APC
Mac E. Nehoray (SBN 147168)
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Attorneys for Plaintiffs

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

LYDELL BURSTON, QUINTIN
BAKER, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

Sekisui Diagnostics, LLC,

Defendants.

CASE NO.: 37-2024-00006729-CU-OE-NC

**DECLARATION OF THOMAS WHEELER,
ESQ. IN SUPPORT OF PLAINTIFFS'
MOTION FOR ATTORNEY'S FEES AND
COSTS**

Date: October 3, 2025

Time: 1:30 p.m.

Dept.: N-28

Complaint filed: February 14, 2024

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1. I am an of counsel at Southern California Attorneys, APC and an attorney in good standing duly admitted to the State Bar of California and before this Court and an attorney of record for Plaintiffs Lydell Burston and Quintin Baker (“Plaintiffs”) in this class action against Defendant Sekisui Diagnostics, LLC (“Defendant”).

ATTORNEY'S FEES AND COSTS

4. Plaintiffs seek the Court's approval of the following to be paid from the \$182,500.00 Total Settlement Amount:

- i. Attorneys' fees in the amount of \$60,833, representing 33% of the Gross Settlement Amount; and
- ii. Reasonable and appropriate cost of litigation along, in an amount not to exceed \$10,000, and which are anticipated to be \$8,165.92.

5. As part of the Settlement Agreement, previously filed as Exhibit A to the Declaration of Thomas Wheeler In Support of Preliminary Approval of Class Action Settlement and Certification of Settlement Class, Plaintiffs and Defendant (hereinafter the “Parties”), agreed that Defendant would pay the following from the Gross Settlement Amount: (i) the settlement administration and notice costs anticipated to be \$10,000; (ii) attorneys’ fees not to exceed \$60,833

(approximately 33.33% of the Total Settlement Amount); (iii) reasonable and appropriate costs of litigation up to \$10,000; (iv) and an incentive award of \$12,500 to Baker and \$7,500 to Burston.

6. Class Counsel believes, and, for purposes of settlement, Defendant does not challenge, that such an award of attorney's fees is reasonable.

CLASS COUNSEL'S EXPERIENCE

7. Southern California Attorneys, P.C. was appointed as Class Counsel in this Action.

8. I began my practice in 2016 at a prominent plaintiffs' consumer rights and employment class action firm, where I litigated over five hundred such cases, including through conducting discovery and significant motion practice, including motions for summary judgment, discovery motions, motions for class certification, approval motions, and appeals. In 2023, I opened my own practice and continued to focus my practice exclusively on plaintiffs' employment cases, including wage and hour class actions. In 2024, I became an *of counsel* at Southern California Attorneys, APC.

9. I have been repeatedly been approved by courts as adequate class counsel and am highly experienced in litigating class actions, including wage and hour class actions. Therefore, my experience in litigating class actions and my years in practice allow me to provide outstanding representation to the Class. I will continue to strive to represent the Class Members in this action fairly, responsibly, vigorously, and adequately.

10. I have served as plaintiffs' counsel in at least the following class actions involving various wage and hour and consumer rights claims where a settlement was reached on a class-wide basis and has achieved more than \$15,000,000 in class-wide relief:

- a. *Furman v. Set and Service Resources, LLC*, 20CI000012 (Tehama Super. Ct. 2022)
- b. *Furman v. ONP Snow Mountain, LLC*, 21CI000138 (Tehama Super. Ct. 2023)
- c. *Nizam v. Phaidon International USA, Inc.*, CGC-20-582322 (San Francisco Super. Ct. 2022) (\$425,000 class settlement for employees who were allegedly misclassified and thus not properly paid all wages)
- d. *Shankula et. al. v. Ticketsonsale.com, LLC*, 2022LA000282 (Super. Ct. Ill., DuPage Cty. 2022) (\$4.1 million class settlement for consumers concerning

- 1 canceled events due to COVID19)
- 2 e. *Lopez v. Motel 6 Operating, L.P.*, 56-2020-00542312- CU-OE-VTA (Ventura
- 3 Super. Ct. 2023)
- 4 f. *Wolf v. The Oaks Hotel Paso Robles, Inc.*, 19CVP0080 (San Luis Obispo Super.
- 5 Ct. 2023)
- 6 g. *Ahmed et. al. v. HSBC BANK USA et. al.*, 5:15-cv-02057-FMO-SP (C.D. Cal.
- 7 2019) (\$2.4 million class settlement for illegal telemarketing calls)
- 8 h. *Lizama v Medical Data Systems, Inc.*, 34-2017-00210986- CU-NP-GDS
- 9 (Sacramento Super. Ct.) (\$2.2 million class settlement for illegal call recording)
- 10 i. *Mansour v. Bumble Trading, Inc.*, RIC1810011 (Riverside Super. Ct. 2018) (\$3
- 11 million class settlement for gender discrimination claims).
- 12 j. *Weisberg v. HD Supply, Inc.*, 2:15-cv-08248-FMO (MRWx) (C.D. Cal. 2018)
- 13 \$1.225 million class settlement concerning illegal robotexting)
- 14 k. *Romano v SCI, Inc.*, 2:17-cv-03537-ODW-JEM (C.D. Cal. 2019) (\$2.5 million
- 15 class settlement for misclassified sales representatives who were denied proper
- 16 wages)
- 17 l. *Hernandez v Bamboo Couriers, Inc.* Case No. 30-2021- 01192697-CU-OE-CXC
- 18 Orange County Superior Court
- 19 m. *Caldera v. American Medical Collection Association*, 2:16-cv-00381-CBM-AJW
- 20 (C.D. Cal. 2018)
- 21 11. I personally wrote contested class certification motions in the following cases:
- 22 a. *Stotz et. al. v. Mophie Inc.*, 2:16-cv-8898-GW (C.D. Cal. 2017) (class certification
- 23 motion filed concerning alleged false advertising concerning battery packs)
- 24 b. *Smith v. Vision Solar, LLC*, 2:2020-cv-02185 (E.D. Pa. 2022) (class certification
- 25 motion filed concerning allegedly illegal solar telemarketing calls)
- 26 c. *Mansour v. Bumble Trading, Inc.*, RIC1810011 (Riverside Super. Ct. 2018) (class
- 27 certification motion filed concerning gender discrimination claims);
- 28 d. *Ryan Cornateanu v. Stoneledge Furniture, LLC*, 21STCV09403 (Los Angeles
- Super. Ct. 2022) (class certification motion filed concerning illusory "phantom"

- discounts by a furniture store)
- e. *Edwin Bazarganfard v. Club 360 LLC*, 344 F.R.D. 411 (C.D. Cal. 2023) (class certification granted by contested motion for illegal electronic withdrawals performed by a gym)
- f. *Lolita Aleksanian et. al. v. Enrich Financial Inc.*, BC698829 (Los Angeles Super. Ct. 2021) (class certification granted by contested motion for illegal credit repair contracts)
- g. *Nicole Romano et. al. v. SCI Direct, Inc.*, 2:17-cv-03537-ODW (C.D. Cal.) (class certification motion concerning the misclassification of sales representatives for a pre-need cremation services company. Settled as class prior to hearing on motion for class certification).
12. I additionally was a co-author on the following contested class certification motions:
- a. *Armando Caldera v. Am. Med. Collection Agency*, 320 F.R.D. 513 (C.D. Cal. 2017) (class certification granted by contested motion for illegal debt collection calls that violated the Telephone Consumer Protection Act)
- b. *Edwin Makaron v. Enagic USA, Inc.*, 324 F.R.D. 228 (C.D. Cal. 2018) (class certification granted by contested motion for illegal telemarketing calls placed by a MLM company)
- c. *McCurley et. al. v. Royal Seas Cruises, Inc.*, 331 F.R.D. 142 (S.D. Cal. 2019) (class certification granted by contested motion for illegal telemarketing calls placed by cruise company)
13. I also personally wrote or co-wrote the appellate briefs in the following cases:
- a. *Hagey v. Solar Service Experts, LLC*, 312 Cal. Rptr. 3d 833 (Cal. App. 2023) (appeal concerning how an unowed debt is characterized under California's Rosenthal Fair Debt Collection Practices Act)
- b. *Smith v. LoanMe, Inc.*, 276 Cal. Rptr. 3d 746 (2021) (appeal concerning whether California's Call Recording Statute applies to first parties to the call)
- c. *McCurley et. al. v. Royal Seas Cruises, Inc.*, 21-55099 (9th Cir. 2022) (reversing grant of summary judgment for the defendant on the issue of ratification for a telemarketing

1 company)

2 14. Siamak Nehoray of Southern California Attorneys, P.C. has practiced law for over
3 twenty-seven years in the areas of civil litigation, bankruptcy, criminal, and contract law. Mr.
4 Nehoray has been involved in over fifty jury trials and one-hundred bench trials, as well as having
5 tried two cases to the Supreme Court of California.

6 15. Kambiz Drake of Southern California Attorneys, P.C. has practiced law for fifteen
7 years in the areas of complex business litigation, employment law, as well as estate planning and
8 probate. Mr. Drake is a member of the California Employment Lawyers Association and regular
9 participant at their conferences. Mr. Drake has been awarded the distinguished lawyer award by
10 Expert Network as well as the Pro Bono Award by the San Fernando Valley Bar Association.

11 **OVERVIEW OF EFFORTS OF THE SOUTHERN CALIFORNIA ATTORNEYS, PC**

12 **A. CONTINGENT NATURE OF ACTION**

13 16. This action required Southern California Attorneys, P.C. to spend time on this
14 litigation that could have been spent on other matters. At various times during the litigation of this
15 class action, this lawsuit has consumed my time as well as my firm's resources. My firm has not
16 been paid anything for our work on this case since it was filed. It is my opinion that law firms in
17 such a position expect to receive a multiplier in cases such as these because of the risk taken, the
18 extent to which firms are unable to take on other cases, the delay in getting paid and the costs we
19 have to advance.

20 **B. SOUTHERN CALIFORNIA ATTORNEYS, P.C.'S LODESTAR**

21 17. To date, My office has incurred 101.1 hours of attorney time for this case,¹ with a
22 total lodestar of \$81,922.50. This does not include the anticipated time will expend through final
23 judgment and distribution. My billing rate for is \$775 per hour. Mr. Drake (15 years experience)
24 billed at the rate of \$950 per hour.

25 **C. SOUTHERN CALIFORNIA ATTORNEYS, P.C.'S COSTS**

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27 ¹ In calculating these hours, I have excluded time spent by legal clerks and paralegals. While
28 dozens of hours' worth of time were spent by such individuals on this case, we have not included
those hours in the lodestar calculation

1 18. My firm has incurred litigation costs in this matter in the amount of \$8,005.30, and
2 anticipates incurring another \$154.62 in the filing of this Motion and the Motion for Final
3 Approval. These costs are comprised of costs for filing motions, filing the Complaint, and
4 mediation.

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Filing Complaint	\$1446.96
Service of Complaint	\$87.92
Other Filings	\$95.42
Mediation	\$6,375
Anticipated Motion Filing	\$154.62
Total	\$8,159.92

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12 **D. REASONABLENESS OF HOURLY RATES**

13 19. Southern California Attorneys, P.C.'s hourly rates are reasonable in respect to the
14 ranges charged by comparable law firms in the State of California.² The billing rate for myself is
15 \$775 per hour and the billing rate for Kambiz Drake, a partner, was \$950 per hour.

16 20. I am an *Of Counsel* at Southern California Attorneys, P.C. and lead the employment
17 litigation at the firm. I have practiced almost exclusively as a plaintiffs' class action attorney for
18 the duration of my career as a litigator, which has included both wage and hour and consumer class
19 actions. I oversee all the firm's class actions and act as lead in all of them. While a senior associate
20 at my prior firm, I was previously approved in the Makaron and Romano matters at a rate of \$425
21 per hour. I was also approved in December 2020 at \$425 per hour on a contested motion for
22 sanctions in McCurley et. al. v. Royal Seas Cruises, Inc., No. 17-CV-00986-BAS-AGS, 2020 WL
23 7074948, at *2 (S.D. Cal. Dec. 3, 2020) and at \$475 per hour on a contested approval motion in
24 the *Bumble* matter. As I am now in my 10th year of practice and in an *Of Counsel* role, my rate of
\$775 per hour is justified as set forth in the Laffey Matrix

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28 ² See Laffey Matrix attached hereto as Exhibit A.

21. Mr. Drake is a very experienced attorney with over 15 years of experience as set forth above. Given his significant experience and name partner role, his rate of \$950 per hour is justified as set forth in the Laffey Matrix


22. With regard to a bare bones' lodestar amount, we have each reviewed the tasks and work performed in this case including: initial signing and fact finding, drafting and filing of the complaint, navigating removal to federal court, the first early neutral evaluation in federal court, mediation discovery, mediation briefing, attending mediation, drafting settlement documents, drafting and filing motion for preliminary approval, overseeing class notice, and now drafting and filing a motion for attorney's fees and costs. Based on our review, Mr. Drake conservatively estimates that he has expended 20.4 hours on this matter and I conservatively estimate that I have expended 80.7 hours thus far, not including final approval and oversight of distribution. Here is a breakdown and summary of the fees incurred in connection with this Case:

Name	Number of Hours	Rate/Hr	Total
Kambiz Drake	20.4	\$950.00	\$19,380
Thomas E. Wheeler	80.7	\$775.00	\$62,542.50
TOTAL	101.1		\$81,922.50

23. We are only requesting the fee cap of \$60,833 despite our higher lodestar of \$81,922.50.

24. Based on the foregoing, I submit that our request for an award of 33% of the Common Fund is reasonable.

I declare under penalty of perjury under the laws of California and the United States that the foregoing is true and correct. Executed in Calabasas, California, on July 16, 2025.



Thomas Wheeler

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EXHIBIT A

LAFFEY MATRIX

[History](#)
[Case Law](#)
[See the Matrix](#)
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			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/24- 5/31/25	1.080182	\$258	\$473	\$581	\$839	\$948	\$1141
6/01/23- 5/31/24	1.059295	\$239	\$437	\$538	\$777	\$878	\$1057
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389

6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* $\frac{1}{2}$ Years Out of Law School $\frac{1}{2}$ is calculated from June 1 of each year, when most law students graduate. $\frac{1}{2}$ 1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). $\frac{1}{2}$ 4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier $\frac{1}{2}$ 1-3" from June 1, 1996 until May 31, 1999, would move into tier $\frac{1}{2}$ 4-7" on June 1, 1999, and tier $\frac{1}{2}$ 8-10" on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.