

employees, although I also handle non-class litigation representing fiduciaries of ERISA-covered plans, and USERRA litigation. Since 2002, I have litigated a number of cases involving ESOPs holding non-publicly traded stock.

3. I have been lead trial counsel in two ERISA class actions including lead trial counsel for plaintiffs in an ESOP class action and trial counsel for a group of employee-plaintiffs in a non-class ESOP action. The ESOP class action was *Chesemore v. Alliance Holdings, Inc.*, No. 3:09-cv-00413 (W.D. Wis.), which was tried on liability in 2011 over the course of 8 trial days and one and a half trial days (3 half days) on remedies in 2012 and resulted in a finding of liability in favor of the plaintiff class and a remedies award in excess of \$17 million plus prejudgment interest (totaling more than \$20 million) for the plaintiffs and the class. That judgment was upheld on appeal by the Seventh Circuit in *Chesemore v. Fenkell*, 829 F.3d 803 (7th Cir. 2016).

4. In addition, I was lead trial counsel for a two-week bench trial in an ERISA case in July 2014, before Judge Swain in the Southern District of New York in *Severstal Wheeling Inc. Retirement Committee v. WPN Corporation*, No. 10-cv-954 (S.D.N.Y.) that resulted in a judgment for my fiduciary plaintiff clients of over \$15 million. That judgment was upheld on appeal by the Second Circuit in *Severstal Wheeling Inc. Retirement Committee v. WPN Corporation*, 659 Fed. Appx. 24 (2d Cir. 2016).

5. To litigate this case effectively, I assigned work to junior attorneys and paralegals with lower hourly rates as appropriate. My firm closely coordinated with the other Class Counsel appointed by the Court – Dan Feinberg of Feinberg Jackson Worthman & Wasow LLP and Sam Jones Smith and Loren Bolno Donnell of Burr & Smith, LLP to avoid unnecessary duplication of effort.

6. Block & Leviton took on this case on a contingent basis. As shown in the table below, the value of the professional services provided by Block & Leviton attorneys, paralegals and staff on behalf of the Class through December 14, 2021 at customary rates totals \$802,449.50. This value was arrived at by using what is commonly referred to as the “lodestar” methodology, which involves determining “the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate.” *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)).

Summary of Block & Leviton LLP's Hours and Customary Hourly Rates

Name	Rate	Hours	Total
Joseph Barton (Partner, JD '00)	\$900	496.3	\$446,580.00
Colin Downes (Associate, J.D. '15)	\$520	596.1	\$309,972.00
Ming Siegel (Paralegal, B.A. '16)	\$275	166.9	\$45,897.50
Total		1259.3	\$802,449.50

7. The above totals represent the recorded hours charged in this case by Block & Leviton attorneys and paralegals multiplied by the customary hourly rates charged by such attorneys and professionals in complex class action litigation such as this. In setting the rates for each of its attorneys and paralegals, each year one of my partners perform an analysis of the published rates charged by attorneys at other firms who handle similar litigation both for plaintiffs and defendants (i.e. the attorneys at firms who frequently are opposing counsel in litigation).

8. My firm performed extensive work in this case that included investigating Plaintiff's claims; drafting and editing the complaints; briefing Plaintiff's opposition to Defendants' motion to dismiss; briefing and arguing

Plaintiff's motion for class certification; drafting and serving written discovery on both Defendants and nonparties; taking the depositions of Defendant Raydon Corporation (by its Rule 30(b)(6) designee), Brenda Boone, and Valerie Garza; briefing winning a motion to compel the production of documents by Defendant Lubbock National Bank; and attending mediation, participating in settlement negotiations with the Defendants, and drafting the settlement agreement. These litigation components were complex and demanding. The amount of discovery needed to carefully and professionally investigate and litigate these claims was substantial.

9. Prior to filing this motion for attorneys' fees, I reviewed the time records from my firm. Just as the firm would prior to sending a bill to a paying client, Block & Leviton removed time entries for duplicative or unnecessary work that ordinarily would not be billed. The lodestar figure submitted to the Court reflects these adjustments.

10. My rates used in the preparation of the above are the same as the rates that I charge for other class work as well as for non-class work for fiduciaries and other third parties for non-contingent work or hybrid hourly fee-contingency work. I have been hired at my then-hourly rates by entities and sophisticated individuals, including an independent fiduciary of an ERISA-covered plan sponsored by a Fortune 100 company (where the company was paying my then hourly rates) and

the former partner of a large DC law firm with a claim against his prior firm involving a deferred compensation plan. At my prior firm, when one of my fiduciary clients who I was representing as a plaintiff was then sued by the Department of Labor, the insurer who provided their fiduciary coverage paid my then-hourly rate in defending fiduciaries in the litigation brought by the Department of Labor.

11. My customary rates have been approved by numerous courts when awarding attorneys' fees in class action settlements, including in recent years. *Hurtado v. Rainbow Disposal Co., Inc.*, No. 817CV01605, 2021 WL 2327858, at *6 (C.D. Cal. May 21, 2021) (finding rates between \$260 and \$600 per hour for paralegals and attorneys junior to me and my rate of \$900 per hour reasonable); *Marshall v. Northrop Grumman Corp.*, No. 16-CV-6794 AB (JCX), 2020 WL 5668935, *7 (C.D. Cal. Sept. 18, 2020) (approving rates and awarding fees for successful representation of objector in ERISA class action challenge the scope of the proposed release); *Cunningham v. Wawa, Inc.*, CV 18-3355, 2021 WL 1626482, at *8 (E.D. Pa. Apr. 21, 2021) (finding Class Counsel's rates reasonable in ESOP litigation "in light of the complexity of ERISA cases and the skill and experience of counsel"); *Pfeifer v. Wawa*, Civ. No. 16-497, 2018 WL 4203880, *13 (finding rates between \$235 and \$910 per hour, including mine, reasonable in ESOP litigation given "skill and experience of the attorneys"). My rate was also

approved in multiple cases where I was the partner in charge of the case at my prior firm. *Severstal Wheeling, Inc. v. WPN Corp.*, No. 10CIV954LTSGWG, 2016 WL 1611501, *3-4 (S.D.N.Y. Apr. 21, 2016) (approving the following hourly rates of my prior firm, Cohen Milstein, including mine: \$605-\$665 for partners, \$450-\$550 for associates, and \$240-\$260 for paralegals and law clerks); *Chesemore v. All. Holdings, Inc.*, No. 09-CV-413-WMC, 2014 WL 4415919, at *6 (W.D. Wis. Sept. 5, 2014) (finding “current hourly rates ranging from \$395 (for lower-level associates) to \$895 (for highest-level partners),” including my rate, reasonable); *Tuten v. United Airlines, Inc.*, 41 F. Supp. 3d 1003, 1009 (D. Colo. 2014) (finding that “the rates charged by Class Counsel [which included my rate] are reasonable when compared to attorneys in the relevant markets”); *Slipchenko v. Brunel Energy, Inc.*, No. CIV.A. H-11-1465, 2015 WL 338358, *19 (S.D. Tex. Jan. 23, 2015) (approving the billing rates of my prior firm, Cohen Milstein (including mine) ranging from \$415–\$530 for associates to \$635–\$775 for partners”).

12. Work on ERISA cases is considered a highly specialized area and work on ESOP cases is a niche within that specialized area. Illustrating the specialized nature of this type of ERISA litigation is the fact that Defendants chose to be represented by attorneys where the lead counsel were *not* located in the Middle District of Florida. I am not aware of an attorney in the Middle District of Florida that regularly represents employees in ERISA class actions. I was unable to

find any published rates of attorneys handling ERISA class actions in this District, but applying what appear to be the rates awarded for similar services in recent cases to the hours incurred by my firm yields the following lodestar:

Name	Central Fla. Rate	Hours	Total (Central Fla. rate)
Joseph Barton (Partner, JD '00)	\$750	496.3	\$372,225.00
Colin Downes (Associate, J.D. '15)	\$450	596.1	\$268,245.00
Ming Siegel (Paralegal, B.A. '16)	\$190	166.9	\$31,711.00
Total		1259.3	\$672,181.00

13. At the time that I originally agreed to co-counsel this litigation, I was aware based on my prior experience handling complex class action litigation that such litigation could be expensive, hard-fought, and lengthy. Given the risky and cost-intensive nature of ERISA class action litigation in general, I was aware that there was a significant likelihood that, after having invested a substantial amount of time and expense, the Court might dismiss the action, decline to certify the class, or find on the merits against Plaintiff and the Class. In that event, Plaintiff and the Class would receive nothing, and Class Counsel would receive no fees and would have lost whatever Class Counsel had invested in expenses.

14. Because of the significant amount of work that I and the other attorneys at my firm who worked in this matter, those other attorneys and I were prevented from working on or pursuing other matters.

15. Before representing Plaintiff in this action, I had no prior relationship with Plaintiff. I do not represent her in any other matters, and do not anticipate that I will in the future.

16. As shown in the itemized table below, Block & Leviton has expended a total of \$26,670.46 in necessary expenses in the litigation of this matter, which have been invoiced and recorded in our accounting system through December 14, 2021. These expenses that we seek to recover in class action cases are the same types of expenses that we charge fee paying clients.

Summary of Block & Leviton LLP Litigation Expenses

Expense Type	Total
Delivery/Courier Service	\$564.56
Deposition	\$3639.38
Expert	\$1487.50
Pacer	\$1,171.50
Postage	\$4.14
Printing/Copying	\$47.00
Service of Process	\$775.60
Travel - Transportation	\$3538.57
Travel - Meals	\$305.60
Travel - Lodging	\$2421.17
Westlaw	\$3,920.28
Expense Total	\$26,670.46

17. Block & Leviton advanced these expenses on a contingency basis, without any guarantee that they would be recovered.

18. I expect that Block & Leviton will incur additional attorneys' fees and out-of-pocket expenses between now and the fairness hearing, as well as further out-of-pocket expenses between final approval and the final distribution of the Settlement Fund. Prior to the final approval hearing, I will submit a supplemental declaration supporting those additional fees and expenses.

The foregoing is true and correct to the best of my knowledge and belief.

Executed on this 15th day of December 2021 in Washington, D.C.

/s/ R. Joseph Barton _____

R. Joseph Barton