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*Attorneys for Plaintiffs and the Settlement Class*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

ROCIO ROSS and CLAUDIA ROGUS,  
individually and on behalf  
of all others similarly situated,

Plaintiffs,

v.

HEWLETT PACKARD ENTERPRISE  
COMPANY, a Delaware Corporation, (formerly  
HEWLETT-PACKARD COMPANY),

Defendant.

CASE NO: 18CV337830

*Assigned for all purposes to  
The Honorable Sunil. R. Kulkarni*

**DECLARATION OF SUSAN ELLINGSTAD IN  
SUPPORT OF MOTION FOR ATTORNEYS'  
FEES, REIMBURSEMENT OF EXPENSES,  
AND PAYMENT OF SERVICE AWARDS**

Date: April 27, 2023  
Time: 1:30 P.M.  
Dept: 1

Date Action Filed: November 8, 2018  
Trial Date: TBD

1 I, Susan Ellingstad, declare and state as follows:

2 1. I am an attorney licensed in the state of Minnesota. I have been a member in good  
3 standing of the Bar of Minnesota since 1994. I am admitted to practice before all courts for the State of  
4 Minnesota as well as the United States District Court of Minnesota, United States District Court of  
5 Colorado, United States District Court for the Western District of Wisconsin, the United States Court of  
6 Appeals for the Eighth Circuit, the United States Court of Appeals for the Seventh Circuit, United States  
7 Court of Appeals for the Tenth Circuit, and the United States Supreme Court.

8 2. I am a partner at the law firm of Lockridge Grindal Nauen P.L.L.P. (“LGN”) and am one  
9 of the attorneys representing Plaintiffs R. Ross and C. Rogus (“Plaintiffs”). I make this declaration in  
10 support of Plaintiffs’ Motion for Attorneys’ Fees, Reimbursement of Expenses, and Payment of Service  
11 Awards. I have personal knowledge of the statements contained herein and if called as a witness, I could  
12 and would testify competently thereto.

13 **COUNSEL’S QUALIFICATIONS**

14 3. Founded in 1978, Lockridge Grindal Nauen P.L.L.P. (LGN) has a national litigation  
15 practice with extensive experience in class actions and other complex litigation. LGN’s class action  
16 attorneys are nationally recognized in the areas of employment, antitrust, data breach, securities and  
17 consumer fraud. The firm frequently leads complex class action cases on behalf of individuals and  
18 businesses. LGN led the largest national employment misclassification case, *In re FedEx Ground*  
19 *Package System, Inc. Employment Practices Litigation*, which was venued in South Bend, Indiana and  
20 ultimately resulted in over \$500 million in settlement for misclassified FedEx drivers around the country.  
21 LGN is one of the leading firms nationally in the area of independent contractor and wage and hour  
22 litigation. Attached hereto as **Exhibit A** is the firm’s leadership resume reflecting its role as lead or  
23 liaison counsel in class action lawsuits, MDLs and other complex litigation.

24 4. Brief backgrounds of the partners at LGN who incurred time in this matter are below.

25 **Susan Ellingstad**

26 5. I earned a J.D. from the University of Minnesota in 1993. From 1993 to 1995 I was a law  
27 clerk for the Honorable Robert J. Renner, United States District Court Judge for the District of  
28 Minnesota. I joined LGN in 1995 as an associate and became a partner in 2000.

1           6.       I am head of LGN’s employment law department and my practice includes claims  
2 involving employment discrimination and harassment, employment misclassification, and unfair pay  
3 practices under the Equal Pay Act, Title VII, the Minnesota Human Rights Act (MHRA) and other  
4 federal and state employment statutes. I have extensive experience representing plaintiffs in Rule 23  
5 class action and Rule 216(b) collective action cases. I also have extensive experience in defending class  
6 action and collective action cases, most recently, *Willis v. CommonBond Communities*, No. 62-CV-21-  
7 4916 (Ramsey Cty., Minn.) and *Johnson, et al. v. Thomson Reuters*, No. 18-cv-70 PJS/HB (D. Minn.).  
8 My resume is attached as **Exhibit A**.

9           7.       For approximately thirteen years, I served as Co-Lead Counsel in the *In re FedEx Ground*  
10 *Package System, Inc. Employment Practices Litigation*, Case No. 3:05-MD-527-RM (MDL 1700) (S.D.  
11 Ind.), a nationwide employment class action consolidated in a Multi-District Litigation (MDL)  
12 proceeding venued in the Northern District of Indiana, which challenged the independent contractor  
13 classification of thousands of FedEx Ground pick-up and delivery drivers under state law in  
14 approximately forty states. The case proceeded through years of discovery, motion practice, and expert  
15 work, before appeals to the Seventh Circuit Court of Appeals and the Kansas Supreme Court, ultimately  
16 resulting in a reversal of the district court’s orders granting summary judgment for FedEx and denying  
17 summary judgment for Plaintiffs. On remand, the MDL cases settled for more than \$500 million.

18           8.       In addition to the national MDL class action against FedEx, I was lead counsel in the  
19 following state-wide class action cases which were remanded out of the MDL proceeding and  
20 independently litigated in their respective districts during and after resolution of the national MDL  
21 litigation: *Gennell v. FedEx Ground Package System, Inc.*, Case No. 1:05-CV-00145 (PB) (D.N.H.);  
22 *Coleman v. FedEx Ground Package System, Inc.*, Civil No. 3:05-CV-522-H (W.D. Ky.); *Fluegel v.*  
23 *FedEx Ground Package System, Inc.*, Case No. 1:05-cv-02362 (N.D. Ill.); *Flores v. FedEx Ground*  
24 *Package System, Inc.*, Civil No. 07-cv-01806 (D. Colo.); *Johnson v. FedEx Ground Package System,*  
25 *Inc.*, Civil No. 4:05-CV-00477-RP-TJS (S.D. Iowa). Each of these remanded statewide class actions  
26 were extensively litigated and each ultimately settled favorably for the plaintiff classes.

27           9.       For the past eight years, I have been Co-Lead Counsel in the following state-wide class  
28 actions challenging Flowers Foods, Inc. for misclassifying their distributors as independent contractors:

1 *Rehberg v. Flowers Foods, Inc.*, No. 5:15-cv-00254-GWC (E.D.N.C.); *Coyle v. Flowers Foods, Inc.*,  
2 No. CV-15-01372-PHX-DLR (D. Ariz.); *Neff v. Flowers Foods, Inc.*, No. 5:15-cv-00254-GWC (D.  
3 Vt.); *Rosinbaum v. Flowers Foods, Inc.*, No. 7:16-cv-0023-FL (E.D.N.C.); *Carr v. Flowers Foods, Inc.*,  
4 No. 2:15-cv-06391 (E.D. Pa.); and *Noll v. Flowers Foods, Inc.*, No. 1:15-cv-00493-LEW (D. Me.). After  
5 substantial litigation, involving complex discovery and expert analysis, each of the above cases settled  
6 with favorable settlements to the statewide classes of distributors, as well as substantial non-monetary  
7 relief, including reclassification of the distributor employees in Maine.

8 10. In addition to litigation, I frequently write and lecture on federal and state employment  
9 law issues. I regularly conduct training seminars for business and counsel employers in the areas of  
10 FLSA compliance, performance management, disability accommodation and other employment  
11 discrimination issues. I also mediate employment law cases. I speak annually at the ABA Fair Labor  
12 Standards Legislation winter meetings and lead the Equal Pay Act subcommittee, focusing on emerging  
13 FLSA and EPA issues around the country.

14 11. I have been named one of Minnesota's "Super Lawyers" by Minnesota Law &  
15 Politics/Super Lawyers for approximately twenty years, selected for the ninth consecutive year in the  
16 Top 50 Women Super Lawyers category and for the sixth consecutive year in the Top 100 Minnesota  
17 Super Lawyers. I have also been selected to Minnesota Law & Politics' list of the Top 40 employment  
18 litigators in Minnesota. In 2016, I was named Attorney of the Year by Minnesota Lawyer for my work  
19 on the FedEx Employment Practices Litigation.

20 **Kristen Marttila**

21 12. Kristen Marttila has been a partner at LGN since 2018. Ms. Marttila practices primarily  
22 in the areas of antitrust, environmental and land use, business law, and health care law. She  
23 frequently serves as local counsel in a wide variety of matters, including intellectual property,  
24 consumer, and complex ERISA cases. She has served as court-appointed class counsel in several  
25 class action cases, including *Taqueria El Primo LLC, et al., v. Illinois Farmers Insurance Co.* (D.  
26 Minn.); *Wood Mountain Fish LLC, et al., v. Mowi ASA, f/k/a Marine Harvest ASA, et al.* (S.D. Fla.);  
27 *Beck, et al. v. Austin, et al.* (D. Minn.); and *Soderstrom et al v. MSP Crossroads et al.* (D. Minn.).

28 13. Ms. Marttila earned her J.D. from the University of Iowa in 2005, and she has clerked

1 for both the Honorable Patrick J. Schiltz and the Honorable Eric C. Tostrud in the United States District  
2 Court for the District of Minnesota. She has been named a Minnesota “Rising Star” from 2015-2020  
3 and a Minnesota “Super Lawyer” from 2022-2023. Her bio is attached as **Exhibit A**.

#### 4 **LITIGATION AND SETTLEMENT EFFORTS**

5 14. Along with our co-counsel Zimmerman Reed LLP, my firm began investigating claims  
6 on behalf of a potential class of female employees of Hewlett Packard Enterprise Company (HPE) in  
7 2018, conducting extensive factual and legal research prior to filing this action. On November 8, 2018,  
8 Plaintiffs filed a class action complaint alleging that HPE underpaid women on the basis of sex. Plaintiffs  
9 brought claims under: (1) California Equal Pay Act (“CEPA”), Labor Code §§ 1197.5, 1194.5; (2) Labor  
10 Code §§ 201-203; and (3) California’s Unfair Competition Law (“UCL”), Business and Professions  
11 Code §§ 17200 *et seq.*

12 15. Defendant filed a motion to strike and a demurrer on April 2, 2019. Plaintiffs filed their  
13 opposition on May 6, 2019. A hearing on the motion and demurrer was held on June 28, 2019.

14 16. On July 2, 2019, this Court granted in part Defendant’s demurrer as to Plaintiffs’  
15 individual non-class claims and granted in part Defendant’s motion to strike as to Plaintiffs’ UCL claims  
16 under the Fair Employment and Housing Act (“FEHA”) and Labor Code § 203.

17 17. Defendant answered the complaint on July 12, 2019.

18 18. On August 8, 2019, Defendant petitioned the California Court of Appeal for alternative  
19 and preemptory writs of mandamus seeking to overturn the ruling as to the remainder of the demurrer  
20 that was denied. The writ was fully briefed by both Parties. Defendant’s writ was denied on May 27,  
21 2020.

22 19. The Parties commenced discovery in August 2019, and the first informal discovery  
23 conference was held on February 11, 2020. The Parties exchanged multiple rounds of discovery  
24 throughout more than three years of vigorous litigation, including over 150 Requests for Production,  
25 nearly 150 Special Interrogatories, and over 30 Requests for Admissions. Discovery included review of  
26 over 9,000 pages of documents and over 4 GB of data, five 30(b)(6) depositions of three Persons Most  
27 Knowledgeable (PMK) witnesses covering 20 noticed deposition topics, and continuous meet and  
28 confers until the Parties’ mediation in 2022.

1           20.     In addition, Plaintiffs' Counsel engaged two technical experts, labor economist Dr. David  
2 Neumark and industrial and organizational psychologist Dr. Leaetta Hough, to analyze the documents  
3 produced by Defendant.

4           21.     As a result of the extensive discovery and motion practice, Class Counsel developed a  
5 thorough understanding of the issues, including the composition of the Settlement Class, the nature of  
6 Defendant's anticipated defenses on the merits, the costs that would be required for trial, the risks  
7 entailed with trial, and the Class's potential recovery at trial.

8           22.     The Parties engaged in two full-day mediation sessions on January 28, 2022, and  
9 February 14, 2022, before experienced mediator Tripper Ortman. The Parties did not reach an agreement  
10 at the end of the second day of mediation and Mr. Ortman made a mediator's proposal, which the Parties  
11 tentatively accepted subject to agreement on all other terms. The Parties continued to engage in  
12 settlement discussions and negotiate settlement terms until June 15, 2022, when the settlement terms  
13 were memorialized in a memorandum of understanding. Following execution of the MOU, the Parties  
14 negotiated for three additional months over the language of the Settlement Agreement.

15           23.     On September 26, 2022, Plaintiffs filed their Unopposed Motion for Preliminary  
16 Approval of Class Action Settlement and Certification of Settlement Class.

17           24.     The Motion for Preliminary Approval included a notice plan, and the Parties accepted  
18 bids from two different settlement administrators before jointly agreeing to retain Atticus  
19 Administration, LLC, as Settlement Administrator.

20           25.     The Court held a hearing on Plaintiffs' Motion for Preliminary Approval on October 20,  
21 2022, at which Plaintiffs answered the Court's questions regarding the settlement allocations and  
22 submitted supplemental documentation in support of their Motion. On November 3, 2022, the Court  
23 preliminarily approved the Settlement Agreement.

24           26.     After the Court preliminarily approved the Settlement, Class Counsel worked closely  
25 with the Settlement Administrator to supervise the dissemination of notice to Class Members. These  
26 efforts included reviewing and drafting the language and format of the website, revising the Notice  
27 forms, communicating with Class Members, and monitoring Class Members' responses to the Notice  
28 Program. This work continues at the time of this filing.



1 consideration of the risks Class Counsel have undertaken in pursuing this case on a contingent basis and  
2 the result achieved on behalf of the Class. It is in line with standard fee arrangements in other contingent  
3 fee litigations, including employment class actions. As discussed below, a one-third fee award here  
4 represents a recovery of approximately 52% of the combined lodestar of LGN and Zimmerman Reed.

5 34. I have reviewed the concurrently filed Declaration of Caleb Marker in support of the  
6 Motion (“Marker Declaration”), which describes Zimmerman Reed’s fees and expenses. I am aware of  
7 the work performed by the Zimmerman Reed firm and believe that the facts stated therein are true and  
8 correct.

9 35. To date, Class Counsel have received no compensation for our efforts to investigate and  
10 prosecute this action since its inception and have received no reimbursement for the expenses we have  
11 incurred.

12 36. My firm took on the financial risk of seeking to represent the Class knowing that we  
13 might not recover any compensation, and that any compensation received would come after significant  
14 delay. My firm expended significant time and resources on this matter and will continue to do so without  
15 additional compensation through the final settlement approval and administration process. My firm  
16 undertook this representation of Plaintiffs and Class Members to the exclusion of paying work.

17 37. Class Counsel’s representation of Plaintiff and the Class was on a wholly contingent  
18 basis. The firms and attorneys devoted substantial resources to this matter, and we have received no  
19 payment for any hours of services performed or the out-of-pocket costs and expenses incurred in the  
20 litigation of this case.

21 38. **LGN’s Hours and Lodestar.** As of March 1, 2023, LGN has expended 2,923.90 hours  
22 in this litigation for a lodestar of \$2,316,680.00.

23 39. I have reviewed the time records of my firm, which were contemporaneously maintained  
24 throughout this litigation, to ensure that any time that could be considered duplicative, excessive,  
25 administrative, vague, or otherwise unnecessary was not included in the application for an award of  
26 attorneys’ fees and expenses in this matter. I believe that the time submitted by my firm in support of  
27 this Motion is reasonable and necessary under the circumstances of this litigation. My firm’s task-based,  
28 itemized statement of attorneys’ fees is available for the Court’s review upon request.



1           40.     The requested fee award does not include the continuing time that is being and will be  
 2 incurred by Plaintiffs' Counsel in connection with the current Motion, settlement administration and the  
 3 Motion for Final Approval of the Settlement Agreement. The time over the next several months to  
 4 complete the claims administration and settlement process will likely be significant. The omission of  
 5 this time from the fee application is a further effort to ensure the reasonableness of Plaintiffs' Counsel's  
 6 fee request.

7           41.     The hourly rates for the attorneys at my firm for whom time is submitted range from  
 8 \$600 to \$1,050, and the hourly rates for non-lawyer billing staff are \$275. LGN is familiar with the  
 9 prevailing market rates for leading attorneys for complex and class action litigation. LGN's hourly rates  
 10 are reasonable and commensurate with the hourly rates of other nationally prominent firms performing  
 11 similar work for both plaintiffs and defendants. These rates have been accepted and approved in other  
 12 contingent litigation and are comparable to rates charged by class action counsel in similar cases. *See*  
 13 *e.g.*, Order, *Ellis v. Google, LLC*, No. CGC-17-561299 (Cal. Super. Ct. San Francisco, Oct. 25, 2022).  
 14 The rates listed below are my firm's current published billing rates. Based on my experience, the rates  
 15 of attorneys in my firm listed here are consistent with rates charged by other class action litigators with  
 16 similar experience.

17           42.     The total number of hours spent on this litigation by my firm is 2,923.90.

18           43.     The total lodestar amount for attorney/professional time based on my firm's usual and  
 19 customary rates is \$2,316,680.00.

20           44.     A breakdown of my firm's lodestar is as follows:

<b>PROFESSIONAL</b>	<b>POSITION</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Susan E. Ellingstad	Partner	611.90	\$1,050	\$642,495.00
Kristen G. Marttila	Partner	338.50	\$975	\$330,307.50
Rick N. Linsk	Senior Counsel	327.80	\$650	\$213,070.00
Kailey C. Mrosak	Associate	1,525.80	\$700	\$1,068,060.00
Justin R. Erickson	Associate	81.60	\$650	\$53,040.00
Leona B. Ajavon	Associate	4.30	\$600	\$2,580.00

1	Heather N. Potteiger	Paralegal	27.00	\$275	\$7,425.00
2	Sherri L. Juell	Paralegal	5.80	\$275	\$1,595.00
3	Greg A. Loeding	E-Discovery Project Manager	3.900	\$275	\$1,057.50
4	<b>Total</b>		<b>2,923.90</b>		<b>\$2,316,680.00</b>

5  
6 45. We have categorized the individual time entries into summaries corresponding to the  
7 various stages of litigation during which the work was performed. As demonstrated below, the vast  
8 majority of the time spent in this matter—approximately 56.49%—was spent on core litigation  
9 activities: pleadings, motions, written discovery, and depositions. The 2.66% spent on settlement-related  
10 activities includes both the negotiation and the administration of this settlement.

11	Dates	Litigation Phase	Time Sought	% of Total Fees
12	Inception to 11/08/2018	Pre-Filing Investigation through Filing of Complaint	30.20	0.99%
13	11/09/2018 to 06/28/2019	Case Filing through Hearing on Demurrer	164.80	5.02%
14	06/29/2019 to 02/11/2020	Discovery and Writ Appeal through Informal Discovery Conference	436.20	14.07%
15	02/12/2020 to 01/11/2022	Intensive Discovery	1,646.10	56.49%
16	01/12/2022 to 02/14/2022	Mediation	124.60	4.82%
17	02/15/2022 to 06/10/2022	Negotiation of Memorandum of Understanding	142.70	5.08%
18	06/11/2022 to 11/03/2022	Negotiation of Settlement Agreement through Preliminary Approval	303.60	10.88%
19	11/04/2022 to 02/28/23	Settlement Administration and Preparation for Final Approval	75.70	2.66%
20	<b>Total</b>		<b>2,923.90</b>	<b>100.0%</b>

21  
22  
23  
24 46. Pre-Filing Investigation through Filing of Complaint (Inception to 11/08/2018): This  
25 litigation phase involves the time spent researching and investigating the case theory and background  
26 facts; developing general legal strategy; developing the claims to be presented; and drafting and filing  
27 the operative complaint. A true and correct copy of hours for this phase broken down by timekeeper is  
28 attached hereto as **Exhibit B**.

1           47.     Case Filing Through Hearing on Demurrer (11/09/2018 to 06/28/2019): Following the  
2 filing of the Complaint, Plaintiffs participated in Case Management Conferences, drafted an opposition  
3 to Defendant’s Demurrer and Motion to Strike, and prepared for and appeared at the hearing on the  
4 Demurrer and Motion to Strike. A true and correct copy of hours for this phase broken down by  
5 timekeeper is attached hereto as **Exhibit C**.

6           48.     Discovery and Writ Appeal through Informal Discovery Conference (06/29/2019 to  
7 02/11/2020): After the hearing on Defendant’s Demurrer and Motion to Strike, Class Counsel expended  
8 hours drafting a letter brief opposing Defendant’s Writ Petition. The Court’s stay on discovery was also  
9 lifted, and the Parties began work on tailored discovery. Plaintiffs served requests for production and  
10 special interrogatories, responded to Defendant’s requests for production and special interrogatories,  
11 and worked with Defendant to finalize a proposed ESI protocol. Plaintiffs also reviewed the documents  
12 produced from Defendant as a result of the discovery efforts and participated in an Informal Discovery  
13 Conference. A true and correct copy of hours for this phase broken down by timekeeper is attached  
14 hereto as **Exhibit D**.

15           49.     Intensive Discovery (02/12/2020 to 01/11/2022): Following the Informal Discovery  
16 Conference on February 11, 2020, the Parties continued to meet and confer and further participate in the  
17 discovery process. During this litigation phase, Plaintiffs drafted and reviewed requests for admission,  
18 special interrogatories, and requests for production of documents and responses thereto. Plaintiffs also  
19 noticed, prepared for, and took depositions of Defendant’s witnesses. A true and correct copy of hours  
20 for this phase broken down by timekeeper is attached hereto as **Exhibit E**.

21           50.     Mediation (01/12/2022 to 02/14/2022): After significant discovery, Plaintiffs prepared  
22 for and participated in two full-day mediation sessions before Tripper Ortman. A true and correct copy  
23 of hours for this phase broken down by timekeeper is attached hereto as **Exhibit F**.

24           51.     Negotiation of Memorandum of Understanding (02/15/2022 to 06/10/2022): When the  
25 Parties did not reach an agreement following the two mediation sessions, Mr. Ortman provided the  
26 Parties with a mediator’s proposal. During this phase, Class Counsel reviewed and considered the  
27 mediator’s proposal, worked with Defendant to tentatively agree on the proposal, and engaged in further  
28 settlement discussions before memorializing the settlement terms in an MOU. A true and correct copy

1 of hours for this phase broken down by timekeeper is attached hereto as **Exhibit G**.

2 52. Negotiation of Settlement Agreement through Preliminary Approval (06/11/2022 to  
3 11/03/2022): Following the execution of the MOU, Class Counsel continued to negotiate with  
4 Defendant over language of the Settlement Agreement. Once the Agreement was finalized, Counsel  
5 prepared a Motion for Preliminary Approval, along with a memorandum and declarations in support  
6 thereof. Counsel also prepared for and participated in the hearing on the Motion for Preliminary  
7 Approval. A true and correct copy of hours for this phase broken down by timekeeper is attached hereto  
8 as **Exhibit H**.

9 53. Settlement Administration and Preparation for Final Approval (11/04/2022 to 02/28/23):  
10 Since this Court's preliminary approval of the Settlement, Class Counsel has worked diligently to  
11 oversee the dissemination of notice to Class Members. Counsel has expended time reviewing and  
12 drafting the language and format of the website, revising the Notice forms, and monitoring Class  
13 Members' response to the Notice Program. This work continues at the time of this filing. A true and  
14 correct copy of hours for this phase broken down by timekeeper is attached hereto as **Exhibit I**.

15 54. Based upon my experience with other class action matters, I believe that the time  
16 expended by my firm for this action is reasonable in amount and was necessarily incurred in connection  
17 with the prosecution of this complex, hard-fought litigation.

18 55. As of this filing, no Class Members have objected to Class Counsel's request for  
19 attorneys' fees in the amount of \$2,833,333.33 and reimbursement of costs.

20 **LGN'S REASONABLE EXPENSES**

21 56. To date, LGN has incurred a total of \$142,091.67 in expenses for the prosecution of this  
22 litigation. They are broken down as follows:

CATEGORY	AMOUNT
Postage	\$12.07
Conference Calls	\$311.83
Research Charges	\$13,571.35
Outside Copy Service	\$215.53
Mediation Expenses	\$5,000.00
Photocopying/Printing Charges	\$1,638.00

1	Deposition/Transcript Costs	\$3,632.60
2	Business Meals	\$218.67
3	Database charges	\$9,899.50
4	Messenger	\$92.12
5	Assessments paid to litigation fund (expert fees, mediation expenses)	\$107,500.00
6	<b>TOTAL</b>	<b>142,091.67</b>

7 57. These expenses demonstrated in the above table are common costs regularly billed to  
8 paying clients and recoverable in cases where statutory cost-shifting provisions are available.

9 58. The aforementioned expenses pertaining to this case are reflected in the books and  
10 records of my firm. These books and records are prepared from expense vouchers, check records, and  
11 other documents and are an accurate record of the expenses. The expense records and backup  
12 documentation are available for the Court's review upon request. Other than the itemized costs listed  
13 above, LGN paid for other expenses, such as expert and mediator fees, through assessments paid to the  
14 litigation fund. Zimmerman Reed administered the litigation fund to pay case costs and submitted a  
15 detailed itemization of those costs as an exhibit to the Marker Declaration.

16 59. Together with the expenses described in the Marker Declaration, Class Counsel have  
17 incurred \$416,326.96 (\$142,091.67 + \$274,235.29) in unreimbursed expenses that were necessarily  
18 incurred in connection with the investigation, prosecution, and settlement of this litigation.

19 60. Class Counsel also anticipate incurring additional expenses throughout the remainder of  
20 this case, for which Class Counsel will not seek additional reimbursement.

21 **COUNSEL'S DEDICATION TO PLAINTIFFS AND THE CLASS**

22 61. As a result of the years of work in this matter, as well as the out-of-pocket expenses,  
23 Class Counsel has also had to decline other cases in order to ensure that there were adequate resources  
24 allocated to litigating this case. These time and cost investments were necessary in order to obtain the  
25 excellent value this Settlement provides to Plaintiffs and the Class. Class Counsel has received no  
26 payment or reimbursement for any work or expense in this matter and prosecuted the case despite the  
27 risk that the firm would never receive payment or reimbursement.

28 62. Even after Class Counsel has moved for these fees, the work for the Plaintiffs and the  
Class will continue. Class Counsel will continue to invest time and incur expenses in order to draft and

1 file materials for final approval, assist Class Members, and monitor settlement administration efforts.  
2 As a result, Class Counsel's final lodestar and expense amounts will be higher than those reported in  
3 this declaration, but Class Counsel will seek no further payment for this additional work.

#### 4 **NAMED PLAINTIFF CONTRIBUTIONS**

5 63. Named Plaintiffs Rocio Ross and Claudia Rogus were deeply engaged and active in the  
6 investigation, strategy, and settlement of this action. They provided information and evidence,  
7 participated in written discovery, reviewed draft pleadings and documents produced by Defendant,  
8 contributed to settlement negotiations, and kept themselves apprised of the progress of the case through  
9 frequent contact with Class Counsel. Ms. Ross and Ms. Rogus undertook financial and reputational risk  
10 because of their public advocacy on behalf of the Class. They more than executed their duties to the  
11 Class. Each of them is deserving of the service awards requested.

12 64. In similar matters where I have been Class Counsel and the Named Plaintiffs performed  
13 such service to the Class, I have observed Court award substantial service awards. *See e.g., Neff v.*  
14 *Flowers Foods, Inc.*, No. 5:15-cv-00254-GWC (D. Vt. Oct. 22, 2020), ECF No. 315 (approving service  
15 awards of \$15,000); Order, *Noll v. Flowers Foods, Inc.*, No. 1:15-cv-00493-LEW (D. Me. Apr. 26,  
16 2022), ECF No. 31 (approving service award of \$10,000).

17 65. As of this filing, no Class Members have objected to the requested service awards.

#### 18 **RELEVANT EXHIBITS**

19 66. Attached hereto as **Exhibit A** is a true and correct copy of Lockridge Grindal Nauen  
20 P.L.L.P. (LGN)'s leadership resume reflecting its experience as lead or liaison counsel in class action  
21 lawsuits, MDLs and other complex litigation.

22 67. A true and correct copy of LGN's hours by timekeeper for Pre-Filing Investigation  
23 through Filing of Complaint (Inception to 11/08/2018) is attached hereto as **Exhibit B**.

24 68. A true and correct copy of LGN's hours by timekeeper for Case Filing through Hearing  
25 on Demurrer (11/08/2018 to 06/28/2019) is attached hereto as **Exhibit C**.

26 69. A true and correct copy of LGN's hours by timekeeper for Writ Appeal and Discovery  
27 through Informal Discovery Conference (06/29/2019 to 02/11/2020) is attached hereto as **Exhibit D**.

28 70. A true and correct copy of LGN's hours by timekeeper for Intensive Discovery

1 (02/12/2020 to 01/11/2022) is attached hereto as **Exhibit E**.

2 71. A true and correct copy of LGN's hours by timekeeper for Mediation (01/12/2022 to  
3 02/14/2022) is attached hereto as **Exhibit F**.


4 72. A true and correct copy of LGN's hours by timekeeper for Negotiation of Memorandum  
5 of Understanding (02/15/2022 to 06/10/2022) is attached hereto as **Exhibit G**.

6 73. A true and correct copy of LGN's hours by timekeeper for Negotiation of Settlement  
7 Agreement through Preliminary Approval (06/11/2022 to 11/03/2022) is attached hereto as **Exhibit H**.

8 74. A true and correct copy of LGN's hours by timekeeper for Settlement Administration  
9 and Preparation for Final Approval (11/04/2022 to present) is attached hereto as **Exhibit I**.

10 I declare under penalty of perjury that the foregoing is true and correct to the best of my  
11 knowledge.

12 Executed this March 14, 2023 at Minneapolis, Minnesota.

13  
14   
15 \_\_\_\_\_  
16 Susan Ellingstad

# **EXHIBIT A**





Founded in 1978, Lockridge Grindal Nauen P.L.L.P. represents clients of all shapes and sizes, taking the time to understand each client’s goals and aspirations before tailoring our representation to meet their individual needs, whether they be in the courtroom, the halls of Congress, city hall, or in their state capitol.

Our clients include local and tribal governments, health care professionals and organizations, real estate developers, energy companies, telecommunications providers, casualty insurers, trade and industry associations, health and pension funds, unions, as well as issue-based coalitions. Lockridge Grindal Nauen’s attorneys and government relations professionals are assisted by an extensive support staff. The firm has offices in Minneapolis, Minnesota, and Bismarck, North Dakota.

In addition to representing businesses, nonprofits, and governmental clients, LGN’s class action attorneys are nationally recognized in the areas of employment, antitrust, data breach, securities and consumer fraud, and frequently lead complex class action cases on behalf of individuals and businesses. Some of these class action and multi-district litigation cases are below.

Lockridge Grindal Nauen lead the largest national employment misclassification case, *In re FedEx Ground Package System, Inc. Employment Practices Litigation*, which was venued in South Bend, Indiana and ultimately resulted in over 500 million in settlement payments to misclassified FedEx drivers around the country. LGN also is one of the leading firms nationally in the area of independent contractor and wage and hour litigation. LGN partners speak at the ABA Fair Labor Standards Legislation annual meetings and lead the Equal Pay Act subcommittee, focusing on emerging FLSA and EPA issues around the country.

**Lockridge Grindal Nauen has served or serves as Lead or Co-Lead counsel in several prominent class action cases across the country:**

- *In re Arby’s Restaurant Group, Inc. Data Security Litig.*, No. 17-00514 (N.D. Ga.)
- *In re Beef Purchasers Antitrust Litig. (Peterson v. JBS USA Food Co. Holdings et al.)*, No. 0:19-cv-01129 (D. Minn.)
- *Benacquisto, et al. v. American Express Financial Corp. et al.*, No. 00-1980 (D. Minn.) and No. 96-18477 (Henn. Cty. Dist. Ct., Minn.)
- *In re Broiler Chicken Antitrust Litig.*, No. 1:16-cv-08737 (N.D. Ill.)
- *In re Capital One Consumer Data Security Breach Litig.*, No. 19-md-02915 (E.D. Va.)
- *In re Community Health Systems, Inc. Customer Security Data Breach Litig.*, No. 15-00222-KOB (N.D. Ala.)
- *D&M Farms et al. v. Birdsong Corp. et al.*, No. 2:19-cv-0463-HCM-LRL (E.D. Va.)
- *In re FedEx Ground Package System, Inc. Employment Practices Litig.*, No. 3:05-md-00527 (N.D. Ind.); *Flores, et al. v. FedEx Ground Package System, Inc.*, No. 1:07-cv-01806 (D. Colo.); *Fluegel, et al. v. FedEx Ground Package System, Inc.*, 1:05-cv-02326 (N.D. Ill.); and *Gennell, et al. v. FedEx Ground Package System, Inc.*, No. 1:05-cv-00145 (D. N.H.)

- Flowers Employment Litigations: *Aucoin, et al. v. Flowers Foods, Inc., et al.*, No. 1:20-cv-00410 (D. Me.); *Boulangue v. Flowers Foods, Inc., et al.*, No. 16-cv-2581 (D. Az.); *Bowen, et al. v. Flowers Foods, Inc., et al.*, No. 1:20-cv-00411 (D. Me.); *Carr, et al. v. Flowers Foods, Inc., et al.*, No. 15-cv-06391 (E.D. Pa.); *Coyle v. Flowers Foods, Inc., et al.*, No. 15-cv-01372 (D. Ariz.); *Neff, et al. v. Flowers Foods, Inc. et al.*, No. 5:15-cv-00254 (D. Vt.); *Noll v. Flowers Foods, Inc., et al.*, No. 1:15-cv-00493 (D. Me.); *Rehberg, et al. v. Flower Foods, Inc., et al.*, No. 3:12-cv-00596 (W.D.N.C.); and *Rosinbaum, et al. v. Flowers Foods, Inc., et al.*, No. 7:16-cv-00233 (E.D.N.C.)
- *In re Freight Forwarders Antitrust Litig. (Precision Associates, Inc. v. Panalpina World Transport (Holding) Ltd., et al.)*, No. 1:08-cv-42-JG-VVP (E.D.N.Y.)
- *George Guenther, et al. v. Cooper Life Sciences, et al. (Cooper Life Sciences Securities Litig.)*, No. C 89-1823 (N.D. Cal.)
- *Greater Chautauqua Federal Credit Union, et al. v. Kmart Corp. et al.*, No. 15-02228 (N.D. Ill.)
- *In re Lutheran Brotherhood Variable Insurance Products Co. Sales Practices Litig.*, MDL No. 1309 (D. Minn.)
- *In re Monosodium Glutamate Antitrust Litig.*, MDL No. 1328 (D. Minn.)
- *Meyers v. The Guardian Life Insurance Company of America, Inc. Litig.*, Civil No. 2:97CV35-D-B (N.D. Miss.)
- *In re Northstar Education Finance, Inc. Contract Litig.*, MDL 08-1990 (D. Minn.)
- *Olean Wholesale Grocery Cooperative, et al. v. Agri Stats, Inc., et al.*, No. 1:19-cv-08318 (N.D. Ill.)
- *Peterson v. BASF Corp.*, No. C2-97-295 (Norman Cnty. Dist. Ct., Minn.)
- *In re Piper Funds, Inc. Institutional Government Income Portfolio Litig.*, No. 3-94-587 (D. Minn.)
- *In re Polypropylene Carpet Antitrust Litig.*, MDL No. 1075 (N.D. Ga.)
- *In re Pork Antitrust Litig.*, No. 18-cv-01776-JRT-HB (D. Minn.)
- *In re Potash Antitrust Litigation (II)*, MDL No. 1996 (N.D. Ill.)
- *In re Residential Doors Antitrust Litig.*, MDL No. 1039 (E.D. Pa.)
- *Smith, et al. v. Little Caesar Enterprises, Inc., et al.*, No. 93 CV 74041 (E.D. Mich.)
- *In re Surescripts Antitrust Litig.*, No. 1:19-cv-06627 (N.D. Ill.)
- *In re Target Corp. Customer Data Security Breach Litig.*, No. 14-md-02522-PAM (D. Minn.)
- *Thorkelson, et al. v. Publishing House of the Evangelical Lutheran Church in America, et al.*, No. 10-01712 (D. Minn.)
- *In re Turkey Antitrust Litig.*, No. 1:19-cv-08318 (N.D. Ill.)
- *In re Unisys Savings Plan Litig.*, No. 91-3067 (E.D. Pa.)
- *In re Urethane Antitrust Litig.*, No. 2:04-md-1616 (D. Kan.)
- *Wood Mountain Fish, LLC, et al. v. Mowi ASA, et al.*, No. 19-cv-22128 (S.D. Fla.)

**LGN also had substantial involvement in the following litigations:**

- *In re Air Cargo Shipping Services Antitrust Litig.*, No. 1:06-md-1775-CBA-VVP (E.D.N.Y.)
- *American Telephone and Telegraph Antitrust Litig.*, No. 81-cv-2623 (D.D.C.)
- *In re AOL Time Warner Securities Litig.*, MDL No. 1500 (S.D.N.Y.)
- *Bellwether Community Credit Union v. Chipotle Mexican Grill, Inc.*, No. 17-01102 (D. Colo.)
- *In re Blue Cross Blue Shield Subscriber Litig.*, No. 19-C3-98-7780 (Dakota Cnty. Dist. Ct., Minn.)
- *In re Connecticut General Life Insurance Co. Premium Litig.*, MDL No. 1336 (C.D. Cal.)
- *Davenport, et al. v. Illinois Farmers Insurance Co., et al.*, No. CIV-03-158-F (W.D. Ok.)
- *In re Delphi Corporation Securities, ERISA, and Shareholder Derivative Litig.*, No. 05-md-1725 (E.D. Mich.)

- *In re Domestic Air Transportation Antitrust Litig.*, MDL No. 861 (N.D. Ga.)
- *Eliason v. Gentek Building Products, Inc., et al.*, No. 10-cv-2093 (N.D. Ohio)
- *In re Facebook, Inc. Customer Privacy User Profile Litig.*, No. 18-02843 (N.D. Cal.)
- *In re Federal National Mortgage Association Securities, Derivative and ERISA Litig.*, MDL No. 1668 (D.D.C.)
- *First Choice Federal Credit Union et al., v. The Wendy's Company et al.*, No. 16-00506 (W.D. Pa.)
- *In re Flat Glass (I) Antitrust Litig.*, MDL No. 1200 (W.D. Pa.)
- *In re Generic Pharmaceuticals Pricing Antitrust Litig.*, Case No. 2:16-MD-02724 (E.D. Pa.)
- *In re Guidant Corp. Implantable Defibrillators Products Liability Litig.*, MDL No. 1708 (D. Minn.)
- *Haritos, et al. v. American Express Financial Advisors, Inc.*, 02-2255-PHX-PGR (D. Ariz.)
- *In re Home Depot, Inc., Customer Data Security Breach Litig.*, No. 14-02583 (N.D. Ga.)
- *In re ICN/Viratek Securities Litig.*, No. 87 Civ. 4296 (S.D.N.Y.)
- *In re iPhone Application Litig.*, No. 10-CV-05878-LHK (N.D. Cal.)
- *In re Lease Oil Antitrust Litig.*, MDL No. 1166 (S.D. Tex.)
- *In re Medtronic, Inc. Implantable Defibrillator Products Liability Litig.*, MDL No. 1726 (D. Minn.)
- *In re Medtronic, Inc. Sprint Fidelis Leads Products Liability Litig.*, MDL 08-1905 (D. Minn.)
- *In re Merck & Co., Inc., Securities, Derivative & ERISA Litig.*, No. 3:05-cv-1151 (D.N.J.)
- *In re Meridia Products Liability Litig.*, MDL No. 1481 (N. D. Ohio)
- *In re Nasdaq Market-Maker Antitrust Litig.*, MDL No. 1023 (S.D.N.Y.)
- *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, MDL No. 1720 (E.D.N.Y.)
- *Ohio Public Employees Retirement System, et al. v. Freddie Mac, et al.*, MDL No. 1584 (S.D.N.Y.)
- *In re Propulsid Products Liability Litig.*, MDL No. 1355 (E.D. La.)
- *In re Rezulin Litig.*, MDL No. 1348 (S.D.N.Y.)
- *Shores et al. v. Premera Blue Cross*, No. 15-01268 (D. Or.)
- *Staley v. Gilead Sciences, Inc.*, No. 3:19-cv-02573-EMC (N.D. Ca.)
- *Veridian Credit Union v. Eddie Bauer LLC*, No. 17-00356 (W.D. Wash.)
- *In re Vioxx Product Liability Litig.*, MDL No. 1657 (E.D. La.)
- *In re Vytorin/Zetia Marketing, Sales Practices, and Products Liability Litig.*, MDL 1938 (D.N.J.)
- *In re Worldcom, Inc. Securities Litig.*, No. 02-CV-3288 (S.D.N.Y.)
- *In re Yahoo! Inc. Customer Data Security Breach Litig.*, No. 16-02752 (N.D. Cal.)

## Susan E. Ellingstad



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Attorneys at Law

Susan E. Ellingstad is a partner with Lockridge Grindal Nauen P.L.L.P. and heads the firm's employment law department. She represents large and small governmental and business clients in federal and state courts and administrative agencies in Minnesota and throughout the country. Ms. Ellingstad's practice includes claims involving employment discrimination and harassment under Title VII, the MHRA and other federal and state employment statutes, wage and hour violations under the Fair Labor Standards Act, labor arbitrations, and commercial litigation. Ms. Ellingstad has been lead counsel in class actions around the country.

Ms. Ellingstad also conducts independent workplace investigations for private and public employers, typically consisting of thorough fact-gathering to enable employers to take appropriate action in response to workplace complaints. In addition to conducting investigations, Ms. Ellingstad directs and oversees investigations conducted by external investigators on behalf of her clients.

In addition, Ms. Ellingstad frequently writes and lectures on the Fair Labor Standards Act, Equal Pay Act, and other employment law issues, conducts training seminars for businesses, and counsels employers in the areas of FLSA compliance, performance management and disability accommodation issues. She also mediates employment law cases.

Ms. Ellingstad has been named one of Minnesota's "Super Lawyers" for six consecutive years in the Top 50 Women Lawyers category and since 2018 has been recognized as one of the Top 100 Minnesota Super Lawyers. She has also been selected to *Minnesota Law & Politics'* list of the Top 40 employment litigators in Minnesota. In 2016 she was named Attorney of the Year by *Minnesota Lawyer*.

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# Susan E. Ellingstad

## Representative Cases

- *Webber v. Metropolitan Council* (D. Minn.)
- *Berner v. Metropolitan Council* (D. Minn.)
- *Willis, et al. v. CommonBond Communities, et al.* (Ramsey Cty. Dist. Ct.) – class action
- *Segal v. Metropolitan Council* (D. Minn.)
- *Ross, et al. v. Hewlett Packard Enterprise Company* (Cal.)
- *In re: Flowers Foods Litigations* (D. NC, AZ, PA, VT, ME) – class action
- *Johnson, et al. v. Thomson Reuters* (D. Minn.)
- *Peterson v. Metropolitan Council* (D. Minn.)
- *Brennan v. Thomson Reuters (Legal), Inc.* (D. Minn.)
- *Chatham v. Thomson Reuters* (Dakota Cty. Dist. Ct.)
- *Zasada v. City of Minneapolis* (D. Minn.)
- *Frizzell-Nelson v. Metropolitan Council* (D. Minn.)
- *Peters v. Paparella Ear, Head and Neck Institute, P.A.* (Minn.)
- *UrbanWorks Architecture, LLC v. AHMC Asset Management, LLC* (Minn.)
- *Beck and Francis v. Integra Telecom Holdings, Inc.* (D. Colo.)
- *Rossmann v. Thomson Reuters, Inc., et al.* (D. Minn.)
- *Austin, et al. v. Metropolitan Council* (D. Minn.)
- *Genesis Corporation d/b/a/Genesis 10 v. Value Wise Corporation* (Minn.)
- *Three Rivers Park District and Law Enforcement Labor Services Inc., St. Paul, MN* (2011)
- *To v. U.S. Bancorp* (8th Cir.)
- *Paul v. Metropolitan Council* (D. Minn.)
- *Sampson v. Integra Telecom Holding, Inc., et al.* (D. Utah)
- *Delgado-O'Neil v. City of Minneapolis* (MJD/JJK) (D. Minn.)
- *Phillips v. Wells Fargo Bank* (D. Minn.)
- *Tenth Floor L.L.C. v. Alberto Marian, NetGain Interactive, L.L.C.* (D. Minn.)
- *Kashimawo-Spikes v. U.S. Bancorp* (8th Cir.)
- *McCabe v. City of Minneapolis* (D. Minn.)
- *Abdel v. U.S. Bank* (8th Cir.)
- *West Publishing Corp. v. Stanley* (D. Minn.)
- *Mercure v. West Pub. Corp.* (Minn. App.)
- *Michurski v. City of Minneapolis* (Minn. App.)
- *Williams v. Thomson Corp.* (8th Cir.)
- *Goins v. West Group* (Minn.)
- *Carter v. West Pub. Co.* (11th Cir.)

## Presentations

- Speaker, FLSA Overview and Recent Developments, FBA CLE (2022)
- Speaker, A Practical Guide to Remote and Hybrid Workplaces, Minnesota CLE (2022)
- Chair, COVID-19 Employment Law Update for Minnesota CLE: Safely Returning to Work (2021).
- Speaker, Practices to Include and Pitfalls to Avoid in Implementing a Covid-19 Vaccine Mandate, Minnesota CLE: Safely Returning to Work (2021).
- Speaker, Managing Workplace Safety in 2022 – Considerations for In-office, Remote and Hybrid Work, Minnesota CLE: Safely Returning to Work (2021).
- Speaker, Update on the Equal Pay Act, ABA Federal Labor Standards Legislation Committee Midwinter Meeting (2020).

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# Susan E. Ellingstad

- Speaker, Anatomy of an Equal Pay Act Class and Collective Action, ABA Federal Labor Standards Legislation Committee Midwinter Meeting (2019).
- Moderator, New Developments in Pay Equity Law, ABA Federal Labor Standards Legislation Committee Midwinter Meeting (2018).
- Speaker, Pay Equity: Increasing Enforcement and Emerging Issues, ABA Federal Labor Standards Legislation Committee Midwinter Meeting (2017).
- Speaker, Upper Midwest Employment Law Institute (2000 – present):
  - 2020 Public Sector Employment Case Update
  - COVID-19 and Return to Work – Employer Best Practices and Proactive Measures
  - 8th Circuit and Federal District Court Update
  - Wage and Hour Basics – Getting it Right
  - Handling the Whistleblower Case After the New Legislation
  - Sexual Harassment Claims, Investigations and Litigation
  - Discovery 101: The Strategy and Practice of Information Gathering in the Employment Lawsuit
  - Managing Intermittent Leave Requests under the ADA and FMLA
  - The Tougher Requests for Accommodation
  - Transgender Issues in the Workplace
  - Off-Duty Activities: Is An Employee’s Barstool Banter the Boss’s Business?
  - Consensual Sex in the Workplace
- Speaker, Litigating and Defending Retaliation Claims: Overcoming the Complex Challenges of These Claims and Pitfalls to Avoid,” 8th Annual American Conference Institute Forum on Defending and Managing Employment Discrimination Litigation (2016).
- Speaker, Highlighting Significant Equal Pay Act Cases from 2015, ABA Federal Labor Standards Legislation Committee Midwinter Meeting (2016).
- Webcast, Minnesota CLE (2009) — Collective Action Certification Issues: Is stage one certification getting harder in Minnesota?
- Speaker, Minnesota Medical Group Management Association (2008):
  - Shall We Dance? Negotiating the Employment Agreement from Both Perspectives
  - God Forbid. Tips for Managing Your Own Termination
- Speaker, Minnesota Institute of Legal Education (1997 – 2004):
  - Elimination and Bias
  - The Pound of Cure: Managing Computer “Evidence”

## Publications

- *Employers Can Avoid Problems with Unused PTO Through Employment Policies*, Twin West Chamber (November 2011)
- *Editor, BNA Fair Labor Standards Act Cumulative Supplement* (2009 – 2011)
- *Final overtime regulations. Are you in Compliance?,”* Employee Benefits Planner, Third Quarter 2004.
- *Internet Privacy: Does The Use of “Cookies” Give Rise To A Private Cause Of Action For Invasion Of Privacy In Minnesota?* Wm. Mitchell L. Rev. Volume 27, Number 3 (2001)
- *Minnesota’s New Conceal and Carry Act: What Every medical Facility Needs to Know*, Metro Doctors, July/August 2003.
- *Stock Options*, Employee Benefits Planner, Second Quarter 2000, Volume Seven, Number Three.
- *Noncompetes — Restrictive employment agreements*, Minnesota Physician, March 2000, Volume XIII, Number 12.

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# Susan E. Ellingstad

## Professional Associations

- Hennepin County Bar Association
- Minnesota Women Lawyers
- Minnesota State Bar Association
- Federal Bar Association, Board of Directors
- SuperLawyer by *Minnesota Law & Politics*
- *Minnesota Law & Politics* Top 40 Employment Law Attorneys
- Fund for the Legal Aid Society, Board of Directors, Executive Committee
- American Bar Association, Labor and Employment and Litigation Sections, Fair Labor Standards Act Subcommittee

## Professional Recognition

- Recognized in Best Lawyers® since 2019
- Named a Minnesota Super Lawyer® from 2003-2006 and 2013-2020.
- Named a Top 100 Minnesota Super Lawyer® from 2018-2020.
- Named one of Minnesota's Top 50 Women Super Lawyers® from 2015-2020.
- Attorney of the Year by Minnesota Lawyer in 2016.

## Education

- University of Minnesota Law School, 1993, cum laude
- St. Olaf College, B.A. 1989, *magna cum laude*

## Bar Admissions

- 1994, Minnesota

## Court Admissions

- U.S. District Court, District of Minnesota
- U.S. District Court, District of Colorado
- U.S. District Court, Western District of Wisconsin
- U.S. Court of Appeals for the Eighth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Tenth Circuit
- U.S. Supreme Court



## Kristen G. Marttila

Environmental Litigation  
Real Estate and Land Use  
ERISA  
Health Care Law  
Intellectual Property  
Securities Litigation  
Business Litigation  
Antitrust Law

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Kristen Marttila practices primarily in the areas of antitrust, environmental and land use, business law, and health care law. She frequently serves as local counsel in a wide variety of matters, including intellectual property, consumer, and complex ERISA cases.

Before joining Lockridge Grindal Nauen P.L.L.P., Ms. Marttila was a litigation associate at Faegre & Benson, LLP, where she concentrated on administrative litigation and regulatory and environmental law. She clerked for the Honorable Patrick J. Schiltz and the Honorable Eric C. Tostrud, both in the United States District Court for the District of Minnesota.

Ms. Marttila is a three-time graduate of the University of Iowa. In 2005, she graduated from the University of Iowa College of Law with high distinction and was a member of the Order of the Coif. She was also awarded the Boyd Service Medallion for her public interest work. In law school, she was a symposium editor for the Journal of Transnational Law and Contemporary Problems and competed in the Jessup International Moot Court. She also earned her M.S. in urban and regional planning, with an emphasis in land-use and environmental planning, and a B.A. in English.

Ms. Marttila was named a Minnesota Rising Star from 2015-2020 and a Minnesota Super Lawyer from 2022-2023 by Super Lawyers®, and a North Star Lawyer from 2014-2017 and 2022 in recognition of her pro bono work.

LOCKRIDGE  
GRINDAL  
NAUEN  
P.L.L.P.

Attorneys at Law

### **Representative Cases**

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# Kristen G. Marttila

- *Taqueria El Primo LLC, et al., v. Illinois Farmers Insurance Co.* (D. Minn.), court-appointed Class counsel
- *Wood Mountain Fish LLC, et al., v. Mowi ASA, f/k/a Marine Harvest ASA, et al.* (S.D. Fla.), court-appointed interim Class counsel
- *Anderson v. Aitkin Pharmacy Services, LLC dba Thrifty White Pharmacy, et al.* (Aitkin County, Minn.)
- *Beck, et al. v. Austin, et al.* (D. Minn.), court-appointed Class counsel
- *In re EpiPen ERISA Litigation* (D. Minn.)
- *Johnson, et al. v. Thomson Reuters* (D. Minn.)
- *In re Generic Drug Pricing Antitrust Litigation* (E.D. Pa.)
- *In re Broiler Chicken Antitrust Litigation* (N.D. Ill.)
- *In re Automotive Parts Antitrust Litigation* (E.D. Mich.)
- *Soderstrom et al v. MSP Crossroads et al.* (D. Minn.), court-appointed Class counsel
- *Peterson v. UnitedHealth Group, Inc.* (D. Minn.)
- *T.F. v. Hennepin County* (D. Minn.)
- *Precision Associates, Inc., et al. v. Panalpina World Transport (Holding) Ltd., et al.* (E.D.N.Y.)
- *In re Potash Antitrust Litigation (II)* ( N.D. Ill.)
- *In re Wholesale Grocery Products Antitrust Litigation* (D. Minn.)
- *Illinois Farmers v. Mobile Diagnostic Imaging, Inc. et al.* (D. Minn.)
- *Auto Club Insurance Association v. Healthy Living Chiropractic Clinic, PC, et al.* (Hennepin County, Minn.)
- *State Farm v. Mobile Diagnostic Imaging, Inc. et al.* (D. Minn.)

## Presentations

- Panelist, “Antitrust Law Section Summer Series: Legal Writing Seminar,” with the American Bar Association, June 2022
- Small Group Facilitator, “The Unwritten Rulebook: A Law Student’s Crash Course in Soft Skills and Social Etiquette in the Legal Workplace,” with the Minnesota Chapter of the FBA, May 2022
- Panelist, “Nuts and Bolts of Federal Clerkships” with the Federal Bar Association, April 2021
- Guest Speaker, “Judicial Writing: Preparing for a Judicial Clerkship,” semester-long course at Mitchell Hamline, March 2020
- Panelist, “Why Antitrust?” at the University of Iowa, April 2019, presented by the American Bar Association Antitrust Division
- Co-presented “Understanding Service of Process: Get it Right the First Time” with Minnesota CLE, May 9, 2014

## Publications

- With co-author Karen Hanson Riebel, *Proof of the Existence of a Conspiracy*, Proof of Conspiracy Under the Federal Antitrust Laws (Second) (American Bar Association) (2018)
- *The U.S. Supreme Court Takes on the Timeliness of Later-Filed Class Actions*, Perspectives In Antitrust, (Feb. 2018 at 7)
- Contributor, *Antitrust Law Developments (Eighth)* (American Bar Association) (2017)
- *Towards A More Transparent Class Settlement: The Proposed Amendments To Rule 23 And The Effect Of Sealed Court Filings On Class Settlements*, Perspectives In Antitrust (Oct. 2016 at 8)
- *Federal Practice Committee: New Federal and Local Rules on Civil Discovery*, Bar Talk (May 26, 2016)
- *ACPERA – Emerging Guidance and New Questions*, The Antitrust Lawyer (Spring 2015)
  
- Contributor, Annual Review of Antitrust Law Developments (American Bar Association Section of Antitrust Law) (2013, 2014, and 2015 editions)

# Kristen G. Marttila

- *Cold Comfort Pharmacy: Pharmacist Tort Liability for Conscientious Refusals to Dispense Emergency Contraception*, 16 TEX. J. WOMEN & L. 149 (2007)
- *Note: Environmental Justice and Indigenous Peoples in the United States: An International Human Rights Analysis*, 15 TRANSNAT'L L. & CONTEMP. PROBS. 253 (2004)

## Professional Associations

- Federal Bar Association
  - Minnesota Chapter, member (2011-present)
  - Minnesota Chapter Board Member (2018 – present)
  - Mentorship Committee, Co-chair (2021 – present)
  - Minnesota Chapter National Council Delegate (2018 – 2020)
  - Federal Bar Association Constitution, Bylaws, Rules, and Resolutions Committee, member (2019 – present)
  - Federal Bar Association Federal Judicial Law Clerk Committee, member (2020 – present)
  - Minnesota Chapter Court Camp mentor (2019)
- Committee to Support the Antitrust Laws (“COSAL”)
  - Member (2011 – present)
  - Amicus Committee Vice Chair (2021 – present), member (2020 – 2021)
- Eighth Circuit Bar Association, member (2018 – present)
- Federal Practice Committee of the U.S. District Court for the District of Minnesota, member (2015 – 2018)
- American Bar Association
  - Member (2016 – 2018)
  - Civil Procedure and Practice Committee, Young Lawyers Advisory Panel member (2016 – 2018)
- Merit Selection Panel for the U.S. District Court for the District of Minnesota, member (2016)

## Community Involvement

Kristen has fought to protect federally designated wilderness lands and other sensitive areas of the environment for more than 15 years. That work includes:

- *Wilderness Watch v. Halter* (D. Minn.)
- *Izaak Walton League of America, Inc. et al. Tidwell et al.* (D. Minn.)
- *State by Duluth Preservation Alliance v. St. Louis County et al.* (St. Louis County, Minn.)
- *St. Croix Scenic Coalition v. City of St. Croix Falls, et al.* (Polk County, Wisc.)

Through the Office of the Minnesota Appellate Public Defender, she has represented indigent clients pro bono in their criminal appeals, and she recently won a reversal of one such client’s conviction on Fourth Amendment grounds. *See State of Minnesota v. Stevenson*, A21-1142, 2022 WL 3152587 (Minn. Ct. App. Aug. 8, 2022).

She also routinely represents low-income individuals in criminal expungement proceedings in the state court and state administrative systems. To date, she has handled approximately two dozen such matters.

# Kristen G. Marttila

## Professional Recognition

- Named a Minnesota Super Lawyer for 2022-2023 by Super Lawyers®
- Named a Minnesota Rising Star from 2015-2020 by Super Lawyers®
- Named a North Star Lawyer from 2014-2017 and 2022 in recognition of pro bono work.
- Sierra Club North Star Achievement Award in recognition of service as Chapter Legal Chair (2007).

## Education

- University of Iowa College of Law, 2005, with high distinction, Order of the Coif
- University of Iowa, 2005, M.S.
- University of Iowa, 2001, B.A.

## Bar Admissions

- 2005, Minnesota

## Court Admissions

- U.S. District Court, District of Minnesota
- U.S. District Court, Western District of Wisconsin
- U.S. District Court, Eastern District of Wisconsin
- U.S. District Court, Central District of Illinois
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Supreme Court



## Kailey C. Mrosak

Business Litigation  
Employment Law

*Associate*

Suite 2200  
100 Washington Avenue South  
Minneapolis, MN 55401-2159

[kcmrosak@locklaw.com](mailto:kcmrosak@locklaw.com)

612-339-6900

Kailey Mrosak focuses her practice in the firm's business litigation and employment law groups. She represents individuals, businesses, and public entities in a range of complex disputes, administrative investigations, and employment-based immigration matters. Her practice includes claims involving employment discrimination under Title VII and the Minnesota Human Rights Act (MHRA) and other federal and state employment statutes. She also counsels employers on compliance with federal and state labor laws.

Prior to joining Lockridge Grindal Nauen P.L.L.P., Ms. Mrosak was a Robert F. Kennedy Legal Fellow at The Advocates for Human Rights, representing asylum seekers before the Immigration Court and U.S. Citizenship and Immigration Services. She continues to represent asylum seekers pro bono at LGN.

Ms. Mrosak graduated from University of Virginia School of Law in 2018 where she served as an editor for the Virginia Journal of International Law and as treasurer for If/When/How's UVA Law Chapter. While in law school, she interned with several nonprofit organizations, including EarthRights International, Landesa, and Oxfam America. She also participated in UVA Law's International Human Rights Law Clinic and completed over 200 hours of pro bono service. Ms. Mrosak holds a Bachelor of Arts degree in global studies, summa cum laude with distinction, from University of Minnesota.

Ms. Mrosak was Named a 'North Star Lawyer' by the Minnesota State Bar Association from 2019 to 2022 in recognition of pro bono work.

LOCKRIDGE  
GRINDAL  
NAUEN  
P. L. L. P.

Attorneys at Law

From the Courtroom to the Capitol<sup>®</sup>

# Kailey C. Mrosak

## Professional Associations

- Federal Bar Association
- Minnesota Bar Association
- American Immigration Lawyers Association
- Hennepin County Bar Association
- Minnesota Women Lawyers

## Community Involvement

- The Advocates for Human Rights
- Committee on Foreign Relations Minnesota
- Global Minnesota

## Professional Recognition

- Named a North Star Lawyer from 2019-2022 in recognition of pro bono work

## Education

- University of Virginia School of Law, 2018
- University of Minnesota, 2015, *summa cum laude* with distinction

## Bar Admissions

- 2018, Minnesota

## Court Admissions

- U.S. District Court, District of Minnesota

# **EXHIBIT B**

LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
EXHIBIT B

<b>PROF</b>	<b>POSITION</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Susan E. Ellingstad	Partner	8.00	1,050.00	8,400.00
Rick N. Linsk	Associate	22.20	650.00	14,430.00
<b>TOTAL</b>		<b>30.20</b>		<b>22,830.00</b>

# **EXHIBIT C**



LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
EXHIBIT C

<b>PROF</b>	<b>POSITION</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Susan E. Ellingstad	Partner	28.10	1,050.00	29,505.00
Rick N. Linsk	Associate	130.90	650.00	85,085.00
Sherri L. Juell	Paralegal	5.80	275.00	1,595.00
<b>TOTAL</b>		<b>164.80</b>		<b>116,185.00</b>

# **EXHIBIT D**

LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
EXHIBIT D

<b>PROF</b>	<b>POSITION</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Susan E. Ellingstad	Partner	75.40	1,050.00	79,170.00
Kailey C. Mrosak	Associate	254.90	700.00	178,430.00
Rick N. Linsk	Associate	104.90	650.00	68,185.00
Heather N. Potteiger	Paralegal	1.00	275.00	275.00
<b>TOTAL</b>		<b>436.20</b>		<b>326,060.00</b>

# **EXHIBIT E**

LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
EXHIBIT E

<b>PROF</b>	<b>POSITION</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Susan E. Ellingstad	Partner	319.60	1,050.00	335,580.00
Kristen G. Marttila	Partner	234.80	975.00	228,930.00
Kailey C. Mrosak	Associate	907.60	700.00	635,320.00
Rick N. Linsk	Associate	69.80	650.00	45,370.00
Justin R. Erickson	Associate	81.60	650.00	53,040.00
Leona B. Ajavon	Associate	4.30	600.00	2,580.00
Heather N. Potteiger	Paralegal	26.00	275.00	7,150.00
Greg A. Loeding	E-discovery	2.40	275.00	660.00
<b>TOTAL</b>		<b>1,646.10</b>		<b>1,308,630.00</b>

# **EXHIBIT F**

LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
EXHIBIT F

<b>PROF</b>	<b>POSITION</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Susan E. Ellingstad	Partner	54.00	1,050.00	56,700.00
Kristen G. Marttila	Partner	22.80	975.00	22,230.00
Kailey C. Mrosak	Associate	46.30	700.00	32,410.00
Greg A. Loeding	E-discovery	1.50	275.00	412.50
<b>TOTAL</b>		<b>124.60</b>		<b>111,752.50</b>

# **EXHIBIT G**



LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
EXHIBIT G

<b>PROF</b>	<b>POSITION</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Susan E. Ellingstad	Partner	37.20	1,050.00	39,060.00
Kristen G. Marttila	Partner	17.80	975.00	17,355.00
Kailey C. Mrosak	Associate	87.40	700.00	61,180.00
<b>TOTAL</b>		<b>142.40</b>		<b>117,595.00</b>

# **EXHIBIT H**

LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
EXHIBIT H

<b>PROF</b>	<b>POSITION</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Susan E. Ellingstad	Partner	71.30	1,050.00	74,865.00
Kristen G. Marttila	Partner	52.90	975.00	51,577.50
Kailey C. Mrosak	Associate	179.40	700.00	125,580.00
<b>TOTAL</b>		<b>303.60</b>		<b>252,022.50</b>

# **EXHIBIT I**

LOCKRIDGE GRINDAL NAUEN P.L.L.P.  
EXHIBIT I

<b>PROF</b>	<b>POSITION</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Susan E. Ellingstad	Partner	17.70	1,050.00	18,585.00
Kristen G. Marttila	Partner	8.80	975.00	8,580.00
Kailey C. Mrosak	Associate	49.20	700.00	34,440.00
<b>TOTAL</b>		<b>75.70</b>		<b>61,605.00</b>