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10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 CLIFTON W. MARSHALL, et al.,

13 Plaintiffs,

14 v.

15 NORTHROP GRUMMAN  
16 CORPORATION, et al.

17 Defendants.  
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Case No. 16-CV-6794 AB (JCx)

**DEFENDANTS' NOTICE OF  
MOTION AND MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

Date: June 7, 2019

Time: 10:00 a.m.

Judge: Hon. André Birotte Jr.

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that by submission to the Honorable André Birotte  
3 Jr. of the United States District Court for the Central District of California, 350 W.  
4 1st Street, Courtroom 7B, Los Angeles, CA 90012, Defendants will move on June  
5 7, 2019 for partial summary judgment on Counts II, III, VI, and VII of Plaintiffs'  
6 Second Amended Complaint (Dkt. 132).

7 In this ERISA action, Plaintiffs challenge a variety of decisions made and  
8 actions taken by alleged fiduciaries to the 401(k) retirement plan sponsored by  
9 Northrop Grumman Corporation. Plaintiffs asserted that Northrop failed to consider  
10 whether to convert the Emerging Markets Fund to passive management and failed  
11 to renegotiate the recordkeeping contract when the plan's circumstances changed.  
12 But discovery has shown that the factual premises underlying these claims are not  
13 true, such that Plaintiffs cannot identify evidence to support a sustainable legal  
14 theory. As to the Emerging Markets Fund, undisputed evidence shows that  
15 Defendants followed a detailed analytical process to evaluate the merits of active  
16 management, and that employing active management was objectively prudent in the  
17 emerging markets context. As to recordkeeping, Plaintiffs' claim turns on several  
18 factual inaccuracies about which the record is now clear and undisputed, and their  
19 claims about fixed fees, requests for proposals, and arrangements with advisory  
20 services cannot be sustained when viewed in light of ERISA's requirements.

21 This motion is based on the Memorandum of Law, the Proposed Order, the  
22 Statement of Uncontroverted Facts and Conclusions of Law in Support of  
23 Defendants' Motion for Partial Summary Judgment, the Declaration of Nancy Ross  
24 in Support of Defendants' Motion for Partial Summary Judgment and the exhibits  
25 attached thereto, and the Declarations of Dennis Newberry and Michael Lyster in  
26 Support of Defendants' Motion for Partial Summary Judgment.

1           This motion is made following the conference of counsel pursuant to L.R. 7-  
2           3, which took place on January 18, 2019. The parties were unable to reach a  
3           resolution that would eliminate the need to file this motion.  
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5           Dated: February 1, 2019

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8           By: /s/ Nancy G. Ross  
9               Nancy G. Ross

10           *Attorneys for Defendants*  
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