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13
14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
(Western Division)

16 CLIFTON W. MARSHALL, et al.,

17 *Plaintiffs,*

18 v.

19 NORTHROP GRUMMAN
20 CORPORATION, et al.,

21 *Defendants.*

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

**DECL. OF JEROME J.
SCHLICHTER IN SUPPORT OF
MOTION TO DISQUALIFY
DEFENDANTS' EXPERT MARCIA
WAGNER**

Date: March 29, 2019
Time: 10:00 a.m.
Courtroom 7B – 7th Floor

Hon. André Birotte Jr.

1 I, Jerome J. Schlichter, of lawful age, declare as follows:

2 1. I am the founder and managing partner of the law firm of Schlichter,
3 Bogard & Denton LLP, counsel for the Plaintiffs in this case. I am licensed to
4 practice in the States of Missouri, Illinois, and California, as well as numerous
5 federal courts. If called as a witness, I could and would competently testify to the
6 facts set forth below as I know them to be true based upon my own personal
7 knowledge or upon my review of the records and files maintained by the firm in the
8 regular course of its representation of Plaintiffs in this case.

9 2. My firm was appointed class counsel to represent the plaintiffs in *In re*
10 *Northrop Grumman Corp. ERISA Litig.*, No. 06-6213 AB (JCx) (C.D. Cal.)
11 (“*Grabek*”). I was one of the attorneys who represented the *Grabek* plaintiffs. I
12 participated in all aspects of the litigation. As the managing partner of Schlichter,
13 Bogard & Denton, I also supervised the work performed by my firm’s attorneys
14 throughout the course of that representation.

15 3. Schlichter, Bogard & Denton employed Thomas E. Clark, Jr. as an
16 associate from July 2008 through March 2013. He was a member of the litigation
17 team in *Grabek* that investigated, analyzed, and developed the claims asserted
18 therein. That work led to the claims asserted in this action concerning the unlawful
19 payment of Plan assets to Northrop Grumman for services performed by Northrop
20 employees. *See* Doc. 1 (Count I).

21 4. According to the firm’s billing records, Mr. Clark recorded over 2,500
22 hours on tasks associated with the firm’s representation of the *Grabek* plaintiffs. He
23 was materially involved in all aspects of that representation during his employment.
24 He received confidential information from the Class Representatives and Named
25 Plaintiffs through regular attorney-client communications and has personal
26 knowledge of the opinions, mental impressions, and legal strategy of the attorneys
27 at Schlichter, Bogard & Denton relating to that litigation.

5. Marcia Wagner was retained by Defendants' counsel to offer opinions in rebuttal to those offered by Plaintiffs' expert David Witz. Ms. Wagner has neither requested nor received informed written consent from Schlichter, Bogard & Denton to accept employment on behalf of the Defendants in this matter.

6. Attached as Exhibit A is a true and correct copy of the Rebuttal Expert Report of Marcia S. Wagner dated October 15, 2018. This exhibit has been filed under seal in accordance with L.R. 79-5.2.2.

7. Attached as Exhibit B is a true and correct copy of excerpts from the deposition transcript of Marcia S. Wagner dated November 19, 2018. This exhibit has been filed under seal in accordance with L.R. 79-5.2.2.

8. Attached as Exhibit C is a true and correct copy of a letter sent by Plaintiffs' counsel to Defendants' counsel on October 25, 2018.

9. Attached as Exhibit D is a true and correct copy of a letter sent by Defendants' counsel to Plaintiffs' counsel on October 29, 2018.

10. Attached as Exhibit E is a true and correct copy of excerpts from the deposition transcript of David Witz dated November 7, 2018.

11. Attached as Exhibit F is a true and correct copy of Massachusetts Bar Association Ethics Opinion Letter No. 99-3.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 5, 2019.

/s/ Jerome J. Schlichter

Jerome J. Schlichter