

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION**

Robert T. DeVaney, et al.

Plaintiffs,

v.

Davis Wright Tremaine LLP, a Washington  
limited liability partnership,

Defendant.

Civil No. 10-CV-6134-HO

DECLARATION OF JUSTINE  
FISCHER IN SUPPORT OF MOTION  
FOR AN AWARD OF ATTORNEYS'  
FEES AND EXPENSES

Ken and Patricia Houghmaster, et al.

Plaintiffs,

v.

K&L Gates LLP, a Delaware limited liability  
partnership; and Thompson & Knight LLP, a  
Texas limited liability partnership,

Defendant.

Case No. 10-cv-6321-HO

I, Justine Fischer, declare:

1. I am an attorney in Portland Oregon practicing as a sole practitioner and am one of Plaintiffs' Counsel in the above-captioned action. I submit this declaration in support of Plaintiffs' Motion for an Award of Attorneys' Fees and Expenses. I make this declaration based on my personal knowledge, except where otherwise indicated.

1- DECLARATION OF JUSTINE FISCHER IN SUPPORT OF AN AWARD OF  
ATTORNEYS FEES AND EXPENSES

## I. Background

My personal background is as follows. I am a member of the Oregon State Bar and the District of Columbia Bar; the bars of the United States District Courts of Oregon, Utah and the District of Columbia; the United States Court of Appeals for the District of Columbia and Ninth Circuits; and the United States Supreme Court. I received a B.A. degree from Smith College in 1968 and a J.D. degree in 1971 from the University of Chicago Law School. Prior to practicing law in Portland, Oregon, I taught at Antioch School of Law in Washington, D.C., worked as a staff attorney for Neighborhood Legal Services, and served for four years as a senior trial lawyer in the General Counsel's Office of the United States Department of Transportation. From mid-1980 to February, 1989, I practiced law, first as an associate, and then as a shareholder, of the firm of Stoll, Stoll, Berne, Fischer & Lokting, P.C.. My practice consisted of litigation in the state and federal courts, and the majority of my work involved complex commercial and class action litigation, with a particular emphasis on securities and antitrust cases.

While a shareholder at Stoll, Stoll, et al., I worked with a colleague at that firm as lead counsel in a securities class action in the United States District Court for the District of Oregon captioned In re Federal Bank & Trust Company, Ltd., Securities Litigation, MDL Docket No. 537 (D. Or. 1982). I was also primarily responsible for the firms participation as class counsel in the following antitrust and securities class actions: In re Cement and Concrete Antitrust Litigation, MDL No. 296 (D. Ariz. 1976); In re Real Estate Settlement Services Antitrust Litigation, MDL No. 633 (E.D. Pa. 1987); and Gordon v. Floating Point Systems, Inc., Civil No. 86-963-RE (D. Or. 1986).

From February, 1989, until the present, I have practiced primarily as a sole practitioner. My practice has continued to emphasize class actions and other complex commercial litigation, as well as representation of both plaintiffs and defendants in business and securities litigation. In addition to the completion of the work as liaison counsel in Gordon v. Floating Point Systems, Inc., (D. Or. 1986), I also served as local counsel in the securities class action captioned Mass Tech Times v. Pacificorp, Multnomah County Circuit Court Case No. 8912-07202; as plaintiff's liaison counsel in a securities class action captioned Berusch v. WTD Industries, Inc., 90-336-MA (D. Or. 1992); and I served as one of the counsel for the plaintiff class in a securities class action litigation captioned Quackenboss v. Digital Systems International, Inc., Civil No. C91-1521 (W.D. Wash. 1991) and as one of plaintiffs' counsel in Gohler v. Wood, Civil No. 92-C-181-S (C.D. Utah 1992).

Since 1980, I have spoken at numerous Continuing Legal Education programs of the Oregon State Bar and its sections, the Federal Bar Association, and other professional organizations on legal subjects related to trade secrets, federal practice and procedure, discovery of expert witnesses, RICO, antitrust and securities litigation. I am the author of the chapter on "Lost Profits" in the Oregon State Bar CLE book on Damages published in 1990. I am co-editor of an Oregon State Bar publication on Federal Civil Litigation in Oregon (1994, 2009), and am co-author of a chapter of that publication on class actions and derivative litigation. I was a member of the Executive Committee of the Securities Regulation Section of the Oregon State Bar for a number of years beginning in 1995, and Chair of that section from 2002 to 2003. In addition, I have been a member of numerous committees of the Oregon State and Multnomah County Bar Associations including the

Federal Practice and Procedure Committee, the Professionalism Committee, the Continuing Legal Education Committee and the Judicial Screening Committee.

## **II. The DWT Litigation.**

2. I began working on potential litigation against Davis Wright Tremaine LLP in connection with its work for Sunwest Management, Inc. and affiliated companies in early 2009, after replacing earlier Oregon counsel in this matter. As described above, I have substantial expertise in both securities litigation and class action litigation under both Oregon law and federal law. Because of the number of injured investors, the common issues presented, the resources of the defendants and other factors, it was my professional judgment from the outset that this matter could most efficiently and effectively proceed on a class basis. That continues to be my judgment regarding this matter.

3. Since the outset of my involvement in this case, I have proceeded on a contingent basis – i.e., I have received no compensation to date for my work in this matter over the past two years and have understood that I would only be compensated if the matter was resolved in a manner favorable to the Plaintiffs. During this period of approximately two years, I have not been compensated for my time on this matter.

4. I have coordinated my work closely during this period with counsel at Cohen Milstein Sellers & Toll, so that our work could proceed as efficiently as possible and I could provide expertise and support on this matter, based on my understanding of Oregon law and other relevant securities and class action expertise, as necessary and appropriate.

5. My time and expenses in this matter are detailed in the attached Exhibit A and are based on contemporaneous records kept in the ordinary course of business. These time records reflect my billing rate of \$400.00 per hour, which is my standard billing rate.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 20th day of December, 2010.

/s/ Justine Fischer

Justine Fischer