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By J. Covarrubias, Deputy Clerk

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20 *Attorneys for Plaintiffs and the Class*

21 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
22 COUNTY OF LOS ANGELES

23 HOLLY WEDDING, et al.,
24
25 Plaintiffs,

26 vs.

27 CALIFORNIA PUBLIC EMPLOYEES’
28 RETIREMENT SYSTEM, et al.,
29
30 Defendants.

LEAD CASE NO. BC 517444
JCCP CASE NO. 4936
[Hon. William F. Highberger]

DECLARATION OF STUART C.
TALLEY IN SUPPORT OF
PLAINTIFFS’ MOTION FOR AWARD
OF ATTORNEYS’ FEES, COSTS,
SERVICE AWARDS AND
ADMINISTRATION EXPENSES

Date: July 26, 2023
Time: 11:00 a.m.
Place: Spring Street Court, Dept. 10

1 I, STUART C. TALLEY, do hereby declare as follows:

2 1. I am an attorney at law licensed to practice before the Courts of the State of
3 California and through my firm, Kershaw Talley Barlow (“KTB”), I am one of the attorneys for
4 Plaintiffs in this action. This declaration is submitted in support of Plaintiffs’ Motion for an Award
5 of Attorneys’ Fees, Costs, Service Awards and Administration Expenses with respect to a
6 settlement that has been achieved between Plaintiffs Holly Wedding, Richard M. Lodyga, and
7 Eileen Lodyga (“Plaintiffs”), individually and on behalf of the Settlement Class (the “Settlement
8 Class”), and Defendant California Public Employees’ Retirement System (“CalPERS”)¹ (the
9 “Settlement” or “Second Settlement”). My firm has been involved in this litigation since its
10 inception. Our firm resume and the biographical information concerning myself and the attorneys
11 at KTB who worked on this case are attached as Exhibit A. To the best of my knowledge and
12 following a reasonable investigation, there are no conflicts between my firm and the members of
13 the Settlement Class in this matter.

14 2. I have personal knowledge of the facts set forth in this declaration or I have been
15 informed as to various facts and believe them to be true.

16 3. Attorneys, paralegals and clerks from this firm have been involved in every aspects
17 of this case since before it was filed, including, among other things: working directly with Plaintiffs
18 who contacted us and other Plaintiffs’ counsel to review the evidence, develop the legal theories of
19 the case and to prepare the case prior to its filing; the submission of a governmental claim;
20 preparation of the initial complaint; further developing the litigation strategy and drafting and
21 responding to discovery requests; preparing for and taking depositions of defendants’ corporate
22 representatives, experts, and deposing third-party witnesses; analyzing tens of thousands of pages
23 of documents produced by the defendants; briefing discovery motions, oppositions to the demurrer
24 and two motions for summary judgment, class certification, decertification, and motions in limine;
25 working with and preparing expert reports and preparing experts for depositions; preparing for and
26 trying the first two phases of the trial in the matter; participating in multiple mediation sessions;

27 _____
28 ¹ In this declaration, Plaintiffs and CalPERS are collectively referred to as the “Parties.”

1 preparing filings in support of the three settlements achieved in this case and communicating with
2 thousands of individual class members. In short, me and the other lawyers and staff at my firm
3 have been and will continue to be heavily involved at every stage and of this case until it is finally
4 resolved.

5 4. As of June 29, 2023, attorneys and other professionals at my firm have spent 20,554
6 hours on this case. Moreover, given the nature of the case and our role, I anticipate spending
7 substantial time after final approval making sure that the Settlement and resulting claims and
8 payment process is efficient and effective for class members, which is not included in the hours
9 listed below. Given the extensive communications that we have had with class members over the
10 past decade—and in particular the past three years—I anticipate that we will spend well over 500
11 hours communicating with class members and assisting them with the many details of the claims
12 process that will occur after the final settlement date.

13 5. The amount of time expended by each timekeeper as of June 29, 2023, and the
14 current hourly rate for each is as follows:

Timekeeper	Position	Hours	Billing Rate	Lodestar
Stuart C. Talley	Senior Partner	9,829.4	1050	\$10,269,000
William A. Kershaw	Senior Partner	185	1080	\$199,800
Lyle Cook	Senior Partner	249	1050	\$261,450
Jamie Powers	Associate	107.5	500	\$53,750
Darren Dickman	Senior Paralegal	8,650.3	400	\$3,512,000
Various Law Clerks		1452	225	\$326,700
		20,554	Total	\$14,622,700

23
24 6. I firmly believe, based on my knowledge and experience, that all the time expended
25 by this firm was necessary to the successful prosecution and resolution of this case. Upon request,
26 my firm can provide detailed time records to the Court for an In Camera Review.

27 7. The hourly rates used to calculate the lodestar for my firm's work in this case are
28 reasonable, commensurate with my experience and the experience of the attorneys, clerks, and

1 paralegals in this firm.

2 8. Additionally, it should be noted that for the past 11 years my firm has been working
3 for a water district located Northern California to pursue a class action lawsuit against the Federal
4 Government. The water district is paying our firm on an hourly basis and the rates noted above are
5 the rates being charged to and paid by this client.

6 9. As for my firm's hours for "law clerks," this time relates to the work performed by
7 7 different law clerks who were employed by our firm at various points in time between 2016 and
8 the present. These clerks primarily assisted with calls and other inquiries from class members in
9 connection with the original class notice in 2016, the Towers settlement in 2017-2018, the prior
10 settlement with CalPERS in 2021, and the Second Settlement in 2023. During these time periods
11 our firm received *thousands* of phone calls and emails that were handled by these clerks under my
12 direct supervision.

13 10. As for the hourly rate of my paralegal, Darren Dickman, it should be noted that Mr.
14 Dickman is a highly experienced paralegal who has been working in the legal field for more than
15 35 years, and in class and other complex litigation with my firm for more than 26 years. He is
16 highly skilled and has been directly involved in all aspects of discovery, drafting legal briefs and
17 other documents, expert discovery, and he has played an integral role in all three settlements. His
18 hourly rate of \$400 is fully justified given his skills and years of experience.

19 11. The hourly rates noted above are also commensurate with the rates being charged
20 by other law firms in the Los Angeles market. A report published by the National Law Journal
21 providing the 2017 billing rates for firms based in California or with significant offices in California
22 confirms the reasonableness of our fees. According to the report, the billing rates in 2017 for the
23 following firms are: Greenberg Traurig (Partners: \$625-\$1080, Associates \$450-\$475); Jones Day
24 (Partners: \$700-\$1050, Associates: \$300-\$800); Kirkland & Ellis (Partners: \$235-\$1,410,
25 Associates \$210-295); Pillsbury Winthrop Shaw Pittman (Partners: \$790-\$1235, Associates,
26 Average \$680); Reed Smith (Partners: \$820-\$902, Associates: \$425-\$675); Sidley Austin
27 (Partners: \$965-\$1180, Associates: Not available); Winston & Strawn (Partners: Average \$930,
28 Associates \$560-\$750); Locke Lord LLP (Partners: \$295-\$1195, Associates \$250-\$875).

1 12. Defense counsel in this case, Morrison & Foerster, submitted a fee application in
2 2021 in the case of *National Abortion Federation v. The Center for Medical Progress*, (N.D. Cal)
3 Case No. 3:15-cv-3522, in which it sought recovery for its hourly rates for partners or of counsel
4 from the period 2018 to 2021 ranging from \$925 to \$1200 per hour, associates at rates ranging from
5 \$550 to \$925 and paralegals ranging from \$295 to \$400 per hour. And, in *Chuck Close v. Sotheby's*
6 *Inc.*, 909 F.3d 1204, 1213-14 (9th Cir. 2018), the Ninth Circuit granted Morrison & Foerster's
7 application for attorneys' fees at hourly rates of \$1,057.50 in 2018 for partners and hourly rates of
8 \$540 and \$625.50 for associates. (See Dkt. No. 72-3, 9th Cir. Case No. 16-56234.)

9 13. Moreover, the hourly rates used to calculate the lodestar fall well within the range
10 approved as reasonable by courts in similar class action cases. (See, e.g., *Cummings v. Dolby Labs.,*
11 *Inc.* (C.D.Cal. Apr. 20, 2021) 2021 U.S.Dist.LEXIS 76965, at *5 [noting how partners have an
12 hourly rate ranging from \$450 to \$955, and associates from \$382 to \$721, in Los Angeles]; *Dawson*
13 *v. Hitco Carbon Composites, Inc.* (C.D.Cal. Nov. 25, 2019) 2019 U.S.Dist.LEXIS 226687, at *23
14 [same]; *McAllister v. St. Louis Rams, LLC*, (C.D. Cal. July 2, 2018) 2018 U.S. Dist. LEXIS 227704
15 [\$610 to \$975 was reasonable rate for attorneys in Los Angeles]; *Ellick v. Barnhart* (C.D. Cal.
16 2006) 445 F. Supp. 2d, 1166, 1169-1171 [reporting decisions approving fee awards involving range
17 of net hourly rates of up to \$ 982 per hour]; *In re High-Tech Emp. Antitrust Litig.* (N.D. Cal. Sept.
18 2, 2015) No. 11-cv-2509-LHK, 2015 WL 5158730, at *9 [finding reasonable "billing rates for
19 partners [that] range from about \$490 to \$975. . .billing rates for non-partner attorneys, including
20 senior counsel, counsel, senior associates, associates and staff attorneys, [that] range from about
21 \$310 to \$800, with most under \$500"]; *Banas v. Volcano Corp.* (N.D. Cal. Dec. 12, 2014) No. 12-
22 cv-01535-WHO, 2014 WL 7051682, at *5 [approving fees for rates with rates ranging from \$355
23 to \$1,095 per hour finding the rates to be within the range of prevailing rates and relying on the
24 Valeo Attorney Hourly Rates and AFA Database (a copy of which is being submitted)].)

25 14. And, the hourly rates are commensurate with the market rates as reflected in a court
26 approved and adopted survey of attorney hourly rates known as the Laffey Matrix, a copy of which
27 is being submitted and is available at www.laffeymatrix.com/see.htmlt.

28

1 15. From the inception of this case to the present, my firm has incurred a total of
2 \$1,237,715 in out of pocket expenses. My firm will likely incur additional expenses after final
3 approval for which we are not seeking recovery. Out of the Towers Watson settlement, my firm
4 was reimbursed \$487,325 for these expenses. Thus, the total amount of the remaining expenses for
5 which we seek recovery is \$750,390. Our total expenses in this case are outlined below by category.

Expense Category	Amount
Assessments for Experts	\$113,599
Filing Fees	\$1,306
Process Server Fees	\$88
Expert Fees (Direct Payments)	\$913,744
Court Reporter Fees for Court Hearings	\$465
Transcription Fees for Depositions	\$41,478
Mediation Fees	\$81,987
Electronic Document Storage	\$13,823
Printing/Photocopies	\$2,302
On-Line Legal Research	\$9,327
Teleconference Services	\$1,351
Messenger and Delivery	\$717
Travel	\$47,864
Class Webinar charges	\$3,500
Class website hosting	\$500
Toll Free Number Hosting	\$596
Case Anywhere Charges	\$5,068
Total	\$1,237,715

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26 16. The foregoing expenses were necessarily incurred to prosecute this case to its
27 conclusion. I have reviewed the expenses and accompanying invoices and can confirm that they
28 are reasonable.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 3rd day of July, 2023.

By  _____
STUART C. TALLEY

EXHIBIT A

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Kershaw Talley Barlow

The law firm of Kershaw Talley Barlow PC (KTB) is dedicated to advancing the rights of consumers, employees and injured victims in class actions, mass torts and other complex consumer and antitrust litigation, and in matters involving catastrophic personal injury. The attorneys of the firm have lead responsibility in obtaining recoveries through judgments or settlement aggregating multiple billions of dollars for their clients. The partners have served as lead or co-lead counsel and liaison counsel in many high profile national class action and mass tort cases and have been appointed to the executive or plaintiffs' steering committees in both state and federal courts.

William A. Kershaw is Past President of the Sacramento County Bar Association, Past Chair of the California Consumer Protection Council, and Past President of the St. Michael's Episcopal Day School. He has also been named a Northern California Super Lawyer for 13 consecutive years, Best of the Bar 2014-2018 by Sacramento Business Journal, AV Preeminent rated by Martindale-Hubbell, Superb Rated by AVVO, and selected by his peers as a 2015-2019 Top Lawyer in the Sacramento region.

Stuart Talley is a name partner who for the past 30 years has practiced in the areas of mass torts and class action involving consumer and financial fraud as Lead or Co-Lead Counsel. He has been named a Northern California Super Lawyer for 2015-2021 and was selected by his peers as a Top Lawyer in the Sacramento Region during the same timeframe.

Ian J. Barlow attended University of California, Berkeley and UCLA School of Law. Ian also earned a Master of Public Policy degree from the Luskin School of Public Affairs at UCLA, where he received the Department of Public Policy Award of Honors for his thesis. His practice focuses on complex litigation in federal and state courts, including wage and hour violations, product liability, mass torts, fraud, whistleblower lawsuits, and consumer class actions. He was selected for Best of the Bar by the Sacramento Business Journal in 2018, Super Lawyers Northern California Rising Star Award from 2015-2018, and Top Lawyers by Sacramento Magazine from 2016-2018.

Some of the firm's more prominent successes and ongoing cases include:

- *Camp Fire Cases*, California Superior Courts and Northern District of California Bankruptcy Court. This is a case which Ian J. Barlow has managed since its inception and is a mass tort and bankruptcy proceedings involving PG&E and the November 8, 2018 Camp Fire in Paradise,

California. Prior to the start of the fire, PG&E reported damage to a high voltage transmission line located near the origin points of the Camp Fire. PG&E also considered turning off power for safety reasons given forecasts of extreme fire danger conditions. However, PG&E did not institute a power shutoff until November 9, 2018, after the Camp Fire had already incinerated the town of Paradise. The Camp Fire was the deadliest and most destructive fire in California history, with an official death toll of 86 people and over 19,000 structures destroyed or damaged. Mr. Barlow represents victims of the Camp Fire, including individuals and families who lost a family member, suffered personal injuries, lost real and personal property, experienced emotional distress, and business owners whose businesses and employees were impacted by the fire. The firm is currently working with claimants through the claims process to secure relief on behalf of fire victims.

- *Northern California Wildfires*, California Judicial Coordination Proceeding No. 4955, San Francisco County Superior Court; Bankruptcy Case No. 19-30088 (DM), Northern District of California Bankruptcy Court. Also managed by Mr. Barlow, this case is a mass tort and also a bankruptcy proceeding involving PG&E stemming from more than a dozen devastating fires in Northern California that burned through parts of Napa, Sonoma, Mendocino, Solano, Butte, Calaveras, Nevada, Yuba, and Lake counties. The fires started on or around October 8, 2017 and was the second most destructive fire event in California history, after the Camp Fire. The North Bay Fires resulted in over 40 fatalities and forced 90,000 people to evacuate their homes. Plaintiffs alleged that PG&E's improper maintenance of utility equipment and its neglect of surrounding vegetation caused the fires. Mr. Barlow represents victims of the Northern California Wildfires and is working through the claims process to secure relief for them from the Fire Victim Trust.
- *Gilead Tenofovir Cases*, this is a California Judicial Coordination Proceeding No. 5043, in which 25,000 cases are currently pending in San Francisco County Superior Court. William A. Kershaw is currently serving as Co-Liaison Counsel and in leadership on the Plaintiffs' Executive Committee for these cases. Mr. Kershaw represents over 500 of the 25,000 plaintiffs who were sold the HIV pro-drug tenofovir disoproxil fumarate (TDF) by Gilead which caused irreversible kidney and bone damage at a time when it is alleged that the company had in its possession and could have sold a much safer drug but declined to do so to maximize profit under a patent. The parties are currently working up four bellwether cases for trial which is currently set to start on July 11, 2022.
- *Essure Product Cases*, California Judicial Coordination Proceeding No. 4887 pending in Alameda County Superior Court involving some 30,000+ cases involving women who had the Bayer birth control device known as Essure implanted in their bodies causing internal and emotional injury when the device either migrated or disintegrated within a woman's fallopian tubes. William A. Kershaw is currently serving on the Plaintiffs' Executive Committee as Co-Liaison Counsel for these cases. William A. Kershaw and Stuart C. Talley currently represent close to 500 plaintiffs who have had the Essure Birth Control System implanted into their bodies and are in the process of distributing settlement monies to all of these women.

- *DePuy ASR™ Hip System Cases*, California Judicial Council Coordination Proceeding No. 4649, San Francisco County Superior Court. Stuart C. Talley and William A. Kershaw are currently serving on the Plaintiffs' Steering Committee. These proceedings are working cooperatively with MDL 2197, *In re: DePuy Orthopaedics, Inc., ASR™ Hip Implants Products Liability Litigation*. William A. Kershaw and Stuart C. Talley currently represented over 125 plaintiffs who had the *DePuy ASR™ Hip System* implanted into their bodies. Mr. Talley and Kershaw prepared for trial and settled these cases on the Court House steps on the eve of trial.
- *Campbell v. PricewaterhouseCoopers, LLP* (Case No. 06-CV-02376-LKK-GGH). Mr. Kershaw and Mr. Talley served as lead class counsel in the first certified class action against a big four accounting firm for failure to pay overtime to PwC Audit Associates as well as other compensation based on their alleged non-exempt status under California's wage and hour laws. The complaint was filed alleging failure to pay overtime compensation in violation of California Labor Code section 510, failure to timely provide and pay for meal period and rest breaks in violation of Labor Code section 512 and 226.7 and failure to provide accurate pay records and waiting time penalties all in violation of California Business & Professions code 17200. Federal Court, sitting in the Eastern District of California, granted plaintiffs' motion for summary judgment on liability finding that PwC's Audit Associates were non-exempt hourly employees and that PwC had improperly designated them as exempt. The case went up and down to the 9th circuit three times on class certification and summary judgment before it settled three months before trial.
- *Rutledge, et al., v. Hewlett-Packard Company*, Case No. 1-03-CV-817837. Mr. Kershaw served as co-class counsel in this complex case against HP. Plaintiffs contended that HP sold notebook computers that it knew or should have known contained defective inverters, which allegedly, resulted in dim, darkened, or flickering display screens. After fourteen years of litigation, including two published opinions by the court of appeals, a class settlement was reached in 2017 on behalf of more than 120,000 potential class members. After 10 years of litigation, the case settled just before trial.
- *McLean v. State of California, et al.*, Case No. 34-2012-00119161. Filed in 2012, Mr. Kershaw and Mr. Barlow served as lead class counsel for employees who resigned or retired from California state civil service in late 2010 and early 2011. After successfully arguing the case in the California Court of Appeal and California Supreme Court (see *McLean v. State of California* (2016) 1 Cal. 5th 615), the matter was returned to the Sacramento County Superior Court in 2016. Following two additional years of active litigation and nearly seven years after the case was initiated, a proposed settlement was reached in December 2018. The court granted final approval of the proposed settlement on May 31, 2019.
- *In re American Honda Motor Co., Inc. Dealerships Relations Litigation*, MDL 1069, U.S. District Court, Baltimore, Maryland. An antitrust and RICO class action where Mr. Kershaw served as plaintiffs' lead class counsel. Class action complaint filed in E.D., California; transferred to MDL; limited liability class certified. More than 80 cases are included in this MDL proceeding. The Court approved a global settlement of \$330

million (plus) in *Borman Motor Company, et al. v. American Honda Motor Company, Inc., et al.* a class action brought by current and former Honda and Acura dealers alleging RICO and antitrust violations and fraud related to misallocation of cars. *Borman II* was a case evolving from the MDL involving misconduct on the part of certain of Honda's counsel, resulting in an additional settlement of \$60 million.

- *Bayshore Ford Truck Sales, Inc., et al. v. Ford Motor Company*, USDC, District of New Jersey, No. 99 CV 741 (JCL), filed as a class action on behalf of all Ford heavy truck dealers for breach of contract damages arising from Ford's unilateral sale of its heavy-truck business to Freightliner, William A. Kershaw was appointed lead class counsel on behalf of the dealer class. The class was certified as to liability and thereafter continued as individual damage cases on behalf of 77 dealers. Mr. Kershaw served as co-lead trial counsel in a bellwether jury trial on behalf of 11 dealerships and obtained \$45 million jury verdict following month-long trial. The case litigated on allegations that Ford violated its franchise agreement by failing to supply the dealers with heavy trucks pursuant to that contract. The 11 bellwether dealers were located throughout the United States.
- *George Lussier Enterprises, Inc. dba Lussier Subaru, et al. v. Subaru of New England, Inc., et al.* USDC, District of New Hampshire, No. C-99-109-B. This is an antitrust case where Mr. Kershaw served as lead class counsel for plaintiffs in this class action filed by Subaru dealers in New England alleging antitrust and RICO violations relating to the vehicle allocation process administered by Subaru of New England. Mr. Kershaw successfully sought class certification.
- Mr. Kershaw and Mr. Talley served as co-lead class counsel and represented over 23,000 current and former UPS drivers in the case of *Cornn, et al. v. United Parcel Service, Inc.* (N.D. Cal C 03 2001 TEH), which settled for an \$87 million cash payment and other monetary benefits that were valued at more than \$4 million. Our research revealed that the \$91 million settlement is the largest class-action settlement in California history based solely on meal and rest period violations and itemized statement violations. In addition to the monetary benefits, the *Cornn* litigation also served as a catalyst to change the complained of practices within UPS. Eight months after the *Cornn* case was filed, UPS completely changed its meal and rest break policies and procedures throughout California. Again, this was a significant benefit obtained for the class. As a result of this case, thousands of UPS drivers are now able to work a healthy schedule and receive their meals and breaks as required by California law. There are a few final points about the settlement that are worth highlighting. First, half of the settlement proceeds were paid as "penalties and interest," which resulted in a significant tax savings to class members. Second, a non-reversionary settlement was negotiated, with any unclaimed funds being paid in equal parts to the San Francisco and Los Angeles Food Banks. Third, not a single class member objected to the *Cornn* settlement, which was approved by Judge Thelton E. Henderson.
- *In re: Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation* (MDL No. 2441) pending in the United States District Court, District of Minnesota. Stuart C. Talley is currently serving on the Plaintiffs' Steering Committee and has litigated and settled more than 80 of these cases

- *In re: DePuy Orthopaedics, Inc., Pinnacle Hip Implant Products Liability Litigation* (MDL No. 2244) pending in the United States District Court, Northern District of Texas. Stuart C. Talley is currently serving on the Plaintiffs' Steering Committee and will be trying a score of these cases should they not be successfully mediated in the next few months.
- *In re: Bair Hugger Forced Air Warming Devices Products Liability Litigation* (MDL No. 15-2666) pending in the United States District Court, District of Minnesota. Mr. Talley is currently serving on the Plaintiffs' Steering Committee.
- *Nguyen et al. v. BMW of North America, LLC*, Case No. 3:10-cv-02257, in the Northern District of California. In this class action, Mr. Kershaw and Mr. Talley represented plaintiffs alleging BMW failed to replace defective high pressure fuel pump components and altered the vehicle's software after discovering design flaws in BMW models with N54 engines. The case resolved in a settlement, valued at \$211,470,000, on behalf of approximately 200,000 class members.
- *Sharma et al. v. BMW of North America, LLC*, Case No. 3:13-cv-02274, in the Northern District of California, is a putative class action on behalf of California consumers who purchased or leased BMW vehicles that were defectively designed by locating certain electrical components in the lowest part of the trunk where they became damaged by water intrusion under ordinary driving conditions. Mr. Talley and Kershaw representing Plaintiffs alleged that water intrusion in the vehicle trunk compartment results in electronic malfunction and related safety hazards. Messrs. Talley and Kershaw were successful in settling the class action for an equivalent value in parts and services as well as money damages for \$325 million for all class members.
- *Automotive Leasing Corporation v. Mahindra & Mahindra, LTD.*, USDC, Northern District of Georgia, No. 1:12-CV-2048-TWT, Stuart C. Talley filed as a class action on behalf of 110 vehicle dealers seeking to recover franchise fees paid to operate Mahindra dealerships in the United States. The class action alleges Mahindra, an Indian car manufacturer, reneged on the deal and refused to refund the dealers over \$60 million paid in franchise fees. Mr. Talley pursued claims under various "Dealers Day in Court" acts and the case settled in 2015 for a confidential amount.
- *Contratto v. Ethicon, Johnson & Johnson, Lifecore, et al* U.S. District Court, Northern CA. No. C03-3804MJJ ARB, a mass tort action involving some sixty plaintiffs initially filed in the Northern District of California and ultimately prosecuted in Florida State Court, West Palm Beach, Florida. Mr. Kershaw and Mr. Talley sought money damages caused by the medical device, Intergel, a product intended to reduce adhesions in women undergoing abdominal surgery. However, in certain women, the device caused injury by increasing adhesions. The case was prosecuted over three years resulting in a global settlement on behalf of all the firm's clients. The settlement amount and the terms of the settlement are confidential.
- *Sanchez v. California Public Employees' Retirement System, et al.*, California Superior Court, County of Los Angeles, No. BC517444. This is a certified class action involving CalPERS Long Term Care (LTC) Program where Mr. Talley serves as co-lead class counsel for plaintiffs. In this case,

plaintiffs allege that CalPERS improperly raised premiums on approximately 122,000 policyholders. The class was certified in 2016 and is set for trial in June 2022.

- *A & J Liquor Co., Inc., et al., v. State Compensation Insurance Fund, et al.*, California Superior Court, County of San Francisco, No. 975982. Mr. Kershaw served as lead class counsel in a certified class filed on behalf of purchasers of workers' compensation insurance alleging breach of implied covenant of good faith and fair dealing, breach of contract and fraud for over-estimating the cost of workers' compensation claims resulting in higher insurance premiums. The case was exceptionally complex involving millions of data record and extensive actuarial analysis by the country's leading experts well versed in regression methodologies. The case was tried to a defense verdict after a seven-month trial.
- *Southeast Texas Medical Associates, LLP et al., v. VeriSign, Inc., et al.*, California Superior Court, County of Santa Clara, No. 105CV035550. Mr. Kershaw and Mr. Talley were lead class counsel on behalf of consumers against VeriSign, the nation's largest provider of Internet security certificates. Plaintiffs allege that VeriSign violated California's unfair competition and deceptive business practices law relating to the sale of its Internet security certificates. VeriSign charged more for its Secure Site Pro certificate that claimed to provide the consumer with a higher level of Internet security, but in fact, there was no practical difference between the higher and lower priced certificates VeriSign offered consumers. The case has currently settled and class plaintiffs are in the process of seeking final approval of a proposed \$39,000,000.00 settlement which will provide refunds and damages for a nationwide class of potentially 400,000 class members.
- *Ellen Schenk, et al. v. Jenny Craig, Inc., et al.* California Superior Court, County of Orange, No. 635478 (1993), class action under the Consumers Legal Remedies Act. Mr. Kershaw served as co-lead class counsel. The case was certified as a liability class and as a mandatory settlement class; the court approved a settlement fund valued at \$46 million consisting of cash and vouchers for products.
- *In re: Vicryl Sutures Litigation*, Judicial Council Coordination proceeding No. 4148, Alameda County Superior Court, California; *Neely, et al. v. Ethicon, Inc., et al.* Civil No. 1:00CV569(Th) U.S. District Court for Eastern District of Texas: This was a mass tort action initiated involving product liability cases proceeding in multiple federal and state courts throughout the United States. Mr. Talley and Mr. Kershaw served as lead class counsel in this nationwide products liability class action against Ethicon, Inc. on behalf of persons who suffered injuries caused by contaminated medical sutures designed, manufactured, distributed and sold by Ethicon, Inc. and Johnson and Johnson. Following a highly-contested certification process and hearing seeking certification of a FRCP 23(c)(4)(A) class, the case was litigated to a successful resolution in a confidential proceeding.
- *Brock, et al. v. McCormick Mortuary, Inc., et al.* California Superior Court, County of Orange, No.750989 consolidated with No. 74080. Mr. Kershaw served as lead class counsel in this wrongful cremation class action; the case was brought on behalf of the families of more than 4,500 persons who were cremated at the McCormick Crematory in Orange County; the Court

approved a \$10.8 million settlement and appointed Mr. Kershaw and his firm as settlement fund administrator for distribution of the settlement proceeds to absent class members.

- *In re: GCC Richmond Works Cases*, J.C.C.P. No. 2906, California Superior Court, County of Contra Costa (toxic spill at General Chemical plant in Richmond, California involving 65,000 class members). Mr. Kershaw served on the plaintiffs' management committee on behalf of plaintiffs he participated in administration and distribution of a \$180 million common fund settlement to class members; and was instrumental in establishing a claims center in Richmond, California.
- *Bushnell, et al. v. Cremar, Inc., et al.* California Superior Court, County of Orange, No. 657778, a mass tort involving wrongful cremations. Mr. Kershaw served as lead class counsel. The case was certified as a liability class and settled as a mandatory settlement class. Mr. Kershaw's firm was appointed as settlement administrator to administer the claims of 16,000 class members in a court approved settlement of \$17.1 million, which Mr. Kershaw negotiated as lead counsel.
- *Dorothea Locke and Agnes Boehner v. Pomona Cemetery Association, et al.*, (and related actions), California Superior Court, County of Los Angeles, No. 001190. Mr. Kershaw served as lead class counsel in a wrongful cremation class action; a litigation class of 10,000 class members was certified; final approval of a settlement class was ordered. The court approved a \$3.475 million settlement fund.
- *Noerdinger, et al. v. City of Santa Clara, dba Mission City Memorial Cemetery, et al.* California Superior Court, County of Santa Clara, Mass Tort No. 672565. Mr. Kershaw served as co-lead class counsel in a wrongful cremation case certified as a liability class, involving 3,500 decedents, and as a mandatory settlement class. The court approved a \$4.1 million settlement.
- *Curran, et al. v. Oeberst Financial Corp., et al.*, No. Civ. S-85-1685 MLS (E.D. Cal.) (1985) securities fraud. Mr. Kershaw served as lead defense counsel for a primary defendant. A class was certified for settlement purposes and settlement was granted final approval.
- *Neptune Society Cases*, Coordinated Action Nos. 1814 and 1817, California Superior Court, County of Sacramento (mass tort). Class action filed on behalf of family members alleging improper dumping of cremated remains in Amador County. Mr. Kershaw served as lead class counsel, and coordinated with individual cases. The case involved approximately 5,300 decedents. The case was certified as a liability class; and certified as a mandatory class for settlement purposes. The court approved a \$32.5 million settlement. Mr. Kershaw supervised the distribution of settlement proceeds, presenting and resolving disputed claims, and pursuing equitable remedy of final disposition of all cremated remains on the Elkin property (obtained legislative relief relative to the Elkin property).
- *Paxil*: Antitrust action challenging unlawful tactics under patent laws to prevent generic versions of anti-depressant from entering the market. Case resolved very favorable for the class.

- *Sony DVD Litigation*: Multi-state consumer class actions alleging that Sony manufactured and sold defective DVD players.
- *In re: Sulzer Hip Prosthesis and Knee Prosthesis Liability Litigation*, U.S.D.C., Northern District of Ohio, Eastern Division, Case No. 1:01-CV-900 MDL Docket No. 1401. Mr. Kershaw served as a member of the Plaintiffs' Executive Committee in the California State Coordinated Proceedings. The case resulted in a nationwide settlement on behalf of people implanted with a defective hip prosthesis.
- *GTI v. Microsoft Corp.*; MDL case 1:00-MD-01332-JEM; Mr. Kershaw served on the Executive Committee in litigation against Microsoft for violations of section 2 of the Sherman Act involving unreasonable restraints on trade and allegations of illegal monopoly.
- *In re: Computer Monitors Class Action Litigation*, No. JCCP-3159, California Superior Court, County of San Francisco (Coordinated Proceedings). Mr. Kershaw served as co-lead class counsel in this nationwide action involving consumer claims under the California Consumers Legal Remedies Act and the Business and Professions Code, as well as common law claims, against computer monitor manufacturers and retailers for false and deceptive advertising.
- *In re: American Online Spin-Off Accounts Litigation*. Mr. Talley served as co-lead class counsel in this MDL proceedings/class action alleging that AOL fraudulently billed consumers for "Spin-Off Subaccounts" without authorization or knowledge of thousands of its account holders. The MDL Panel ordered the cases consolidated in the District Court of the Central District of California before Judge Ronald Lew. Case resolved in nationwide settlement in conjunction with Illinois state court proceeding.
- *Nichols, et al. v. SmithKline Beecham Corporation*, USDC, Eastern District of Pennsylvania, No. 00-CV-6222. The attorneys served as members of the Discovery Committee in this case involving allegations that defendant "ever-greened" its monopoly on the anti-depressant drug, Paxil, by abusing the patent system in filing frivolous second-generation patents to improperly extend its monopoly, and then filing frivolous patent infringement suits and appeals to delay adverse rulings.
- *Sconce/Lamb Cremation Cases*, Coordination No. 2005 (Los Angeles County Superior Court). Mr. Kershaw served as co-lead class counsel. This case involves the improper handling of cremated remains of approximately 19,000 decedents. The case was certified on a mandatory basis for settlement purposes. The court approved was a \$16.5 million settlement, plus a \$1.6 million settlement on behalf of the Carolina Biological subclass, which had been certified for settlement purposes. Mr. Kershaw represented petitioners in a California Supreme Court decision arising out of this litigation, *Christiansen v. Superior Court*, 43 Cal.3d 868, 2 Cal.Rptr.2d 79.
- *Sacramento River Spill Cases I and II*, Coordinated Proceeding Nos. 2617 and 2620 (mass tort – involving a toxic spill in the Sacramento River in Dunsmuir, California following derailment of a Southern Pacific railcar in the Sacramento River; class certified for settlement purposes). Mr. Kershaw served on the plaintiffs' litigation committee; set up and administered a claims office in Dunsmuir, California; and was instrumental in negotiating

a \$15.5 million settlement, which was approved by the court and distributed to the class.

- *Hoeffner, et al. v. Vieira Flying Service, et al.* No. 97AS02993, Judicial Council Coordination Proceeding No. 4078, coordinated in California Superior Court, County of Sacramento. Mr. Kershaw and his firm served as liaison and lead class counsel assisting with and overseeing arrangements for the respectful disposition of cremated remains. An equitable class was certified relating to cremated remains located by the Contra Costa County sheriff's department. The class action brought by family members of persons whose cremated remains were entrusted to Vieira Flying Service for scattering. Case settled for \$4.1 million.

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Kershaw Talley Barlow

WILLIAM A. KERSHAW

PROFESSIONAL EXPERIENCE

For over 40 years, Mr. Kershaw has represented clients in class actions, mass torts and complex litigation in state and federal courts, including coordinated and multi-district proceedings. Prior to entering civil practice, Mr. Kershaw spent nine years in the District Attorney's Office of Sacramento County where he tried scores of cases to verdict including a 7 month jury trial in which he convicted Sacramento City's then ex-Vice Mayor. He also supervised the Consumer and White Collar Fraud Division, various felony trial teams, and Sacramento County's Career Criminal Unit.

He is a founding partner of Kershaw Talley Barlow PC (formerly Kershaw, Cook & Talley, PC) and previously one of the founding partners of Kershaw, Cutter & Ratinoff, LLP. Mr. Kershaw's experience includes serving as court-appointed lead and co-lead class counsel, and liaison counsel on behalf of plaintiffs in numerous class action, mass tort, and consumer-related proceedings throughout the United States.

He is named a Northern California Super Lawyer by *Thompson Reuters* for 14 consecutive years (2005-2019), Best of the Bar 2014-2018 by Sacramento Business Journal, 2015-2019 Top Lawyer by Sacramento Magazine, AV Preeminent by Martindale-Hubbell, and Superb Rated by AVVO.

He has achieved many significant settlements and verdicts on behalf of plaintiffs and is currently serving as Co-Liaison Counsel in two massive Coordinated Proceedings involving 16,000 and 27,000 plaintiffs respectively. During his career, some of his notable cases include:

- **Co-Liaison Counsel, *Gilead Tenofovir Cases***, California Judicial Coordination Proceeding No. 5043, in which 25,000 cases are currently pending in San Francisco County Superior Court. Mr. Kershaw represents over 500 clients who were sold the HIV pro-drug tenofovir disoproxil fumarate (TDF) by Gilead which caused irreversible kidney and bone damage at a time when the company had in its possession and could have sold a much safer drug but declined to do so to maximize profit under a patent. The parties are currently choosing bellwether cases for trial.
- **Co-Liaison Counsel, *Essure Product Liability Cases***, California Judicial Coordination Proceeding No. 4887, in which 27,000 cases are currently pending in Alameda County Superior Court. Mr. Kershaw and Stuart C. Talley currently represent close to 500 plaintiffs who have had the *Essure Birth Control System* implanted into their bodies and suffered significant physical and emotional distress damages. Mr. Kershaw has a bellwether case pending assignment of a trial date.

- ***McLean v. State of California and California State Controller's Office***, Case No. 34-2012-00119161, a class action filed in Sacramento Superior Court in 2012. The case involved the issue of whether or not retirees from the State of California should be entitled to penalties under prompt pay law involving Labor Code Sections 202 (a), (b) & (c) and 203. The trial court held retirees were not entitled to such relief and as Lead Class Counsel, Mr. Kershaw appealed the ruling to the 3rd District Court of Appeal which ultimately reversed the trial court. The State of California then appealed the issue to the California Supreme Court which accepted the appeal. Mr. Kershaw argued in the Supreme Court on behalf of Ms. McLean and the putative class that California retirees indeed are entitled to prompt pay protections under Sections 202 and 203 of the Labor Code. The Supreme Court was unanimous in its affirmance of the 3rd DCA's decision reversing the trial court. The case was remanded to Superior Court and the State settled the class for \$6.8 million.
- ***Baird, et. al. v. John Chiang, State Controller of the State of California***, Case No., 34-2010-00081797; a class action filed in Sacramento Superior Court on behalf of all small business located throughout California which were issued IOUs or registered warrants in violation of the California Prompt Payment Act, Government Code Section 927, et seq. Small business throughout California were paid in worthless IOUs and could not obtain payment for their work within the time required under the code. Mr. Talley and Mr. Kershaw served as co-class counsel, obtained certification of the class and tried the case to verdict in favor of the class.
- ***Co-Liaison/Lead Counsel/Executive Committee, In Re Neptune Society Cases***, JCCP No. 1814/1817 (Sacramento County). Class action filed on behalf of family members alleging improper dumping of cremated remains in Amador County. Mr. Kershaw served as lead class counsel and coordinated the litigation with individual case counsel. The case involved approximately 5,300 decedents. The case was certified as a liability class; and certified as a mandatory class for settlement purposes. The court approved a \$32.5 million settlement. Mr. Kershaw supervised the distribution of settlement proceeds, presenting and resolving disputed claims, and pursuing equitable remedy of final disposition of all cremated remains on the Elkin property (obtained legislative relief relative to the Elkin property).
- ***Co-Liaison Counsel/Executive Committee, In Re Sconce Lamb Cremation Cases***, JCCP No. 2005 (Los Angeles County). Mr. Kershaw served as co-lead class counsel. This case involves the improper handling of cremated remains of approximately 19,000 decedents. The case was certified on a mandatory basis for settlement purposes. The court approved was a \$16.5 million settlement, plus a \$1.6 million settlement on behalf of the Carolina Biological subclass, which had been certified for settlement purposes. Mr. Kershaw represented petitioners in a California Supreme Court decision arising out of this litigation, *Christiansen v. Superior Court*, 43 Cal.3d 868, 2 Cal.Rptr.2d 79.
- ***Co-Liaison Counsel/Executive Committee, In Re Sacramento Spill Cases***, JCCP No. 2617/2620 (San Francisco County mass tort – involving a toxic spill in the Sacramento River in Dunsmuir, California following derailment of a Southern Pacific railcar in the Sacramento River; class certified for settlement purposes). Mr. Kershaw served on the plaintiffs' litigation committee; set up and administered a claims office in Dunsmuir,

California; and was instrumental in negotiating a \$15.5 million settlement, which was approved by the court and distributed to the class.

- **Liaison/Lead Counsel/Executive Committee, *In Re Vierra Flying Service***, JCCP No. 4078; *Hoeffner, et al. v. Viera Flying Service*, et al. No. 97AS02993, coordinated in California Superior Court, County of Sacramento. Mr. Kershaw and his firm served as liaison and lead class counsel assisting with and overseeing arrangements for the respectful disposition of cremated remains. An equitable class was certified relating to cremated remains located by the Contra Costa County sheriff's department. The class action brought by family members of persons whose cremated remains were entrusted to Vieira Flying Service for scattering. Case settled for \$4.1 million.
- **Co-Liaison/Lead Counsel, *In Re Computer Monitors Class Action Litigation***, JCCP No. 3159, California Superior Court, County of San Francisco (Coordinated Proceedings). Mr. Kershaw served as co-lead class counsel in this nationwide action involving consumer claims under the California Consumers Legal Remedies Act and the Business and Professions Code, as well as common law claims, against computer monitor manufacturers and retailers for false and deceptive advertising.
- **Co-Liaison/Lead Counsel, *In Re Vicryl Sutures Litigation***, JCCP No. 4148, Alameda County Superior Court, California; *Neely, et al. v. Ethicon, Inc., et al.* Civil No. 1:00CV569(Th) U.S. District Court for Eastern District of Texas: This was a mass tort action initiated involving product liability cases proceeding in multiple federal and state courts throughout the United States. Mr. Kershaw and Mr. Talley served as lead class counsel in this nationwide products liability class action against Ethicon, Inc. on behalf of persons who suffered injuries caused by contaminated medical sutures designed, manufactured, distributed and sold by Ethicon, Inc. and Johnson and Johnson. Following a highly-contested certification process and hearing seeking certification of a FRCP 23(c)(4)(A) class, the case was litigated to a successful resolution in a confidential proceeding.
- **Co-Lead Counsel/Executive Committee, *In Re American Honda Dealership Relations Litigation***, MDL 1069, U.S. District Court, Baltimore, Maryland. An antitrust and RICO class action where Mr. Kershaw served as plaintiffs' lead class counsel. Class action complaint filed in E.D., California; transferred to MDL; limited liability class certified. More than 80 cases are included in this MDL proceeding. The Court approved a global settlement of \$330 million (plus) in *Borman Motor Company, et al. v. American Honda Motor Company, Inc., et al.* a class action brought by current and former Honda and Acura dealers alleging RICO and antitrust violations and fraud related to misallocation of cars. *Borman II* was a case evolving from the MDL involving misconduct on the part of certain of Honda's counsel, resulting in an additional settlement of \$60 million for a total of \$390 million.
- **Executive Committee, *In Re GCC Richmond Word Cases***, JCCP No. 2906, California Superior Court, County of Contra Costa (toxic spill at General Chemical plant in Richmond, California involving 65,000 class members). Mr. Kershaw served on the plaintiffs' Executive committee on behalf of plaintiffs and negotiated and participated in administration and

distribution of a \$180 million common fund settlement to class members; he was instrumental in establishing a claims center in Richmond, California.

- **Plaintiffs Steering Committee, *In Re DePuy ASR Hip Systems Cases***, JCCP 4649 (San Francisco County, California Judicial Council Coordination Proceeding No 4649). These proceedings are working cooperatively with MDL 2197, *In re: DePuy Orthopaedics, Inc., ASR™ Hip Implants Products Liability Litigation*. William A. Kershaw and Stuart C. Talley represented over 150 plaintiffs who had the *DePuy ASR™ Hip System* implanted into their bodies.
- **Plaintiffs Steering Committee, *In Re Stryker Rejuvenate and ABG II Hip Implant Products Liability Litigation***, MDL 2441, pending in the United States District Court, District of Minnesota. This MDL has partially settled, and with others on the PLCC, Mr. Kershaw and Mr. Talley served on the PSC and took discovery of key Stryker employees.
- **Plaintiffs Steering Committee, *In Re Depuy Orthopaedics Inc. Pinnacle Hip Implant Products Liability Litigation***, MDL 2244, pending in the United States District Court, Northern District of Texas. The Pinnacle cases recently settled in a confidential global settlement and Mr. Kershaw and Talley are currently distributing settlement proceeds among over 100 clients.
- ***Contratto v. Ethicon, Johnson & Johnson, Lifecore, et al*** U.S. District Court, Northern CA. No. C03-3804MJJ ARB, a mass tort action involving some sixty plaintiffs initially filed in the Northern District of California and ultimately prosecuted in Florida State Court, West Palm Beach, Florida. The action sought damages caused by the medical device, Intergel, a product intended to reduce adhesions in women undergoing abdominal surgery. However, in certain women, the device caused injury by actually increasing adhesions. The case was prosecuted over three years resulting in a global settlement on behalf of all the firm's clients. The settlement amount and the terms of the settlement are confidential.
- ***Campbell v. PricewaterhouseCoopers, LLP*** (Case No. 06-CV-02376-LKK-GGH). Mr. Kershaw served as **lead class counsel** in the first certified class action against a big four accounting firm for failure to pay overtime to PwC Audit Associates as well as other compensation based on their alleged non-exempt status under California's wage and hour laws. The complaint was filed alleging failure to pay overtime compensation in violation of California Labor Code section 510, failure to timely provide and pay for meal period and rest breaks in violation of Labor Code section 512 and 226.7 and failure to provide accurate pay records and waiting time penalties all in violation of California Business & Professions code 17200. Federal Court, sitting in the Eastern District of California, granted plaintiffs' motion for summary judgment on liability finding that PwC's Audit Associates were non-exempt hourly employees and that PwC had improperly designated them as exempt. The case went up and down to the 9th circuit three times on class certification and summary judgment before it settled three months before trial.
- ***Rutledge, et al., v. Hewlett-Packard Company***, Case No. 1-03-CV-817837. Mr. Kershaw served as co-class counsel in this complex case against HP. Plaintiffs contended that HP sold notebook computers that it knew or should have known contained defective inverters, which allegedly, resulted in dim,

darkened, or flickering display screens. After fourteen years of litigation, including two published opinions by the court of appeals, a class settlement was reached in 2017 on behalf of more than 120,000 potential class members.

- ***Bayshore Ford Truck Sales, Inc., et al. v. Ford Motor Company***, USDC, District of New Jersey, No. 99 CV 741 (JCL), filed as a class action on behalf of all Ford heavy truck dealers for breach of contract damages arising from Ford's unilateral sale of its heavy-truck business to Freightliner, William A. Kershaw was appointed **co-lead class counsel** on behalf of the dealer class. The class was certified as to liability and thereafter continued as individual damage cases on behalf of 77 dealers. Mr. Kershaw served as co-lead trial counsel in a bellwether jury trial on behalf of 11 dealerships and obtained \$45 million jury verdict following five week trial. The case litigated on allegations that Ford violated its franchise agreement by failing to supply the dealers with heavy trucks pursuant to that contract. The 11 bellwether dealers were located throughout the United States.
- ***Nguyen et al. v. BMW of North America, LLC***, Case No. 3:10-cv-02257, in the Northern District of California. In this class action, Mr. Kershaw and Mr. Talley represented plaintiffs alleging BMW failed to replace defective high pressure fuel pump components and altered the vehicle's software after discovering design flaws in BMW models with N54 engines. The case resolved in a settlement, valued at \$211,470,000, on behalf of approximately 200,000 class members.
- ***George Lussier Enterprises, Inc. dba Lussier Subaru, et al. v. Subaru of New England, Inc., et al.*** USDC, District of New Hampshire, No. C-99-109-B. This is an antitrust case where Mr. Kershaw served as **lead class counsel** for plaintiffs in this class action filed by Subaru dealers in New England alleging antitrust and RICO violations relating to the vehicle allocation process administered by Subaru of New England. Mr. Kershaw successfully sought class certification.
- ***Sharma et al. v. BMW of North America, LLC***, Case No. 3:13-cv-02274, in the Northern District of California, was a class action on behalf of California consumers who purchased or leased BMW vehicles that were defectively designed by locating certain electrical components in the lowest part of the trunk where they became damaged by water intrusion under ordinary driving conditions. Plaintiffs alleged that water intrusion in the vehicle trunk compartment results in electronic malfunction and related safety hazards. Mr. Kershaw and Mr. Talley served as class counsel and successfully negotiated a nationwide settlement valued at over \$ \$477.7 million.
- ***Alicaya, et al. v. Trader Joe's Company***, California Superior Court, County of Sacramento, Case No. 34-2015-00183884. Served as Lead Class Counsel in age discrimination class action. Case settled in mediation with the Court ultimately certifying a settlement class for \$1,750,000.
- ***Fafard, et al. v. Apple, Inc., et al.***, No. C-12-5125, USDC, Northern District of California, Superior Court, County of Sacramento, Case No. 34-2015-00183884. Served as Co-Lead Class Counsel in which the Court ultimately certified a settlement class in the amount of \$6.2 million.

- ***Cropper, et al. v. Digital Intelligence Systems, Corp.***, California Superior Court, County of Sacramento, Case No. 34-2011-00106513. Served as Lead Class Counsel in a wage and hour class action. Case settled in mediation and the Court ultimately certified a settlement class for \$1.510,000.
- ***Automotive Leasing Corporation v. Mahindra & Mahindra, LTD.***, USDC, Northern District of Georgia, No. 1:12-CV-2048-TWT, filed as a class action by Mr. Talley and Mr. Kershaw on behalf of 110 vehicle dealers seeking to recover franchise fees paid to operate Mahindra dealerships in the United States. The class action alleges Mahindra, an Indian car manufacturer, reneged on the deal and refused to refund the dealers over \$60 million paid in franchise fees. Mr. Talley pursued claims under various “Dealers Day in Court” acts and the case settled in 2015 for a confidential amount.
- ***Cornn, et al. v. United Parcel Service, Inc.*** (N.D. Cal C 03 2001 TEH), Mr. Kershaw served as co-lead class counsel and represented over 23,000 current and former UPS drivers which settled for an \$87 million cash payment and other monetary benefits that were valued at more than \$4 million, the largest class-action settlement in California history at that time based solely on meal, rest period violations and itemized statement violations. In addition to the monetary benefits, the *Cornn* litigation also served as a catalyst to change the complained of practices within UPS. Eight months after the *Cornn* case was filed UPS completely changed its meal and rest break policies and procedures throughout California. This was a non-reversionary settlement in which any unclaimed funds were paid in equal parts to the San Francisco and Los Angeles Food Banks. Not a single class member objected to the *Cornn* settlement, which was approved by Judge Thelton E. Henderson.
- ***A & J Liquor Co., Inc., et al., v. State Compensation Insurance Fund, et al.***, California Superior Court, County of San Francisco, No. 975982. Mr. Kershaw served as lead class counsel in a certified class filed on behalf of purchasers of workers’ compensation insurance alleging breach of implied covenant of good faith and fair dealing, breach of contract and fraud for over-estimating the cost of workers’ compensation claims resulting in higher insurance premiums. The case was exceptionally complex involving millions of data record and extensive actuarial analysis by the country’s leading experts well versed in regression methodologies. The case was tried to a defense verdict after a seven-month trial.
- ***Southeast Texas Medical Associates, LLP et al., v. VeriSign, Inc., et al.***, California Superior Court, County of Santa Clara, No. 105CV035550. Mr. Kershaw and Mr. Talley were lead class counsel on behalf of consumers against VeriSign, the nation’s largest provider of Internet security certificates. Plaintiffs allege that VeriSign violated California’s unfair competition and deceptive business practices law relating to the sale of its Internet security certificates. VeriSign charged more for its Secure Site Pro certificate that claimed to provide the consumer with a higher level of Internet security, but in fact, there was no practical difference between the higher and lower priced certificates VeriSign offered consumers. The case has currently settled and class plaintiffs are in the process of seeking final approval of a proposed \$39,000,000.00 settlement which will provide refunds and damages for a nationwide class of potentially 400,000 class members.

- ***Ellen Schenk, et al. v. Jenny Craig, Inc., et al.*** California Superior Court, County of Orange, No. 635478 (1993), class action under the Consumers Legal Remedies Act. Mr. Kershaw served as **co-lead class counsel**. The case was certified as a liability class and as a mandatory settlement class; the court approved a settlement fund valued at \$46 million consisting of cash and vouchers for products.
- ***Bushnell, et al. v. Cremar, Inc., et al.*** California Superior Court, County of Orange, No. 657778, a mass tort involving wrongful cremations. Mr. Kershaw served as **lead class counsel**. The case was certified as a liability class and settled as a mandatory settlement class. Mr. Kershaw's firm was appointed as settlement administrator to administer the claims of 16,000 class members in a court approved settlement of \$17.1 million, which Mr. Kershaw negotiated as lead counsel.
- ***Dorothea Locke and Agnes Boehner v. Pomona Cemetery Association, et al.***, (and related actions), California Superior Court, County of Los Angeles, No. 001190. Mr. Kershaw served as **lead class counsel** in a wrongful cremation class action; a litigation class of 10,000 class members was certified; final approval of a settlement class was ordered. The court approved a \$3.475 million settlement fund.
- ***Noerdinger, et al. v. City of Santa Clara, dba Mission City Memorial Cemetery, et al.*** California Superior Court, County of Santa Clara, Mass Tort No. 672565. Mr. Kershaw served as **lead class counsel** in a wrongful cremation case certified as a liability class, involving 3,500 decedents, and a mandatory settlement class. The court approved a \$4.1 million settlement.
- ***In re: Sulzer Hip Prosthesis and Knee Prosthesis Liability Litigation***, U.S.D.C., Northern District of Ohio, Eastern Division, Case No. 1:01-CV-900 MDL Docket No. 1401. Mr. Kershaw served as a member of the Plaintiffs' Executive Committee in the California State Coordinated Proceedings. The case resulted in a nationwide settlement on behalf of people implanted with a defective hip prosthesis in the grid designated amount of \$350,000 for the base award.
- ***GTI v. Microsoft Corp.; MDL case 1:00-MD-01332-JEM***; Mr. Kershaw served on the Executive Committee in litigation against Microsoft for violations of section 2 of the Sherman Act involving unreasonable restraints on trade and allegations of illegal monopoly.

PROFESSIONAL ACTIVITIES & AFFILIATIONS

- Chair of Kershaw Talley Barlow's Class Action Practice Group
- Member (Master Emeritus), Anthony M. Kennedy American Inns of Court
- Member, Sacramento County Civil Courts Advisory Committee
- Sacramento County Bar Association
- The State Bar of California
- Past Board Member, Director, California District Attorneys Association (CDAA)
- Past President, Sacramento County Bar Association (SCBA)

- Past Secretary, Treasurer, and Vice President, Sacramento County Bar Association (SCBA)
- Past Chair, Sacramento County Bar Association (SCBA) Judiciary Committee- responsible for evaluating candidates for judicial office and performance of sitting judges
- Past Chair, Sacramento County Bar Association (SCBA) Conference of Delegates Committee to the State Bar Conference of Delegates
- Past President of the Board of Trustees of St. Michael's Episcopal Day School
- Past Chair, California Consumer Protection Council
- Past Member, Board of Directors, Sacramento Downtown Rotary

PRIOR PROFESSIONAL EXPERIENCE

Partner, Kershaw, Cutter & Ratinoff, LLP (2003-2015); Kronick, Moskovitz, Tiedemann & Girard, P.C. (KMTG- 65 lawyer firm): Past Chairman of the Board and member of the firm's Board of Directors (1987-2003); Chair of KMTG's complex litigation practice group dedicated to prosecution of consumer class action and mass tort matters (1983-2003).

MEMBER

- The State Bar of California
- The State Bar of Oregon
- Sacramento County Bar Association
- Consumer Attorneys Of California
- Capitol City Trial Lawyers Association
- American Association for Justice
- Federal Bar Association

ACADEMIC BACKGROUND

- B.A. University of Santa Clara, 1969
- J.D. University of Santa Clara, 1972

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Kershaw Talley Barlow

STUART C. TALLEY

PROFESSIONAL EXPERIENCE

Mr. Talley is a partner who primarily practices in the areas of mass torts, consumer class actions, and other complex litigation. For the past 30 years, he has represented plaintiffs in numerous complex cases in both Federal and State Courts around the country. He is appointed by Federal and State Courts as lead or co-lead counsel for several high profile cases involving product liability and pharmaceuticals.

He is named a Northern California Super Lawyer for 2015-2016 and selected by his peers as a 2015-2016 Top Lawyer in the Sacramento Region. He has achieved many significant settlements and verdicts on behalf of plaintiffs. Representative cases and settlements include:

DePuy ASR Hip System Cases, Judicial Council Coordination Proceeding No. 4649, San Francisco County Superior Court, California. Stuart Talley and his partners served on the Plaintiffs' Steering committee in this mass tort involving recalled DePuy ASR hips. The case eventually resolved in a global settlement for more than \$2.8 billion.

In Re: DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation, MDL No. 3:11-MD-2244-K, U.S. District Court, Northern District of Texas. Stuart Talley and his partners were appointed to the Plaintiffs' Steering committee in this Multi-District Litigation involving DePuy Pinnacle metal on metal hips. This case is currently pending on behalf of more than 8,000 individual plaintiffs.

In Re: Bair Hugger Forced Air Warming Devices Product Liability Litigation, MDL No. 15-md-2666-JNE-FLN, U.S. District Court, District Minnesota. Stuart Talley was appointed to the Plaintiffs' Steering committee in this Multi-District Litigation involving Bair Hugger forced air warming devices manufactured by the defendant, 3M. Plaintiffs allege that these devices which are used during surgical procedures cause post-operative infections. This case is currently pending on behalf of more than 1,000 individual plaintiffs.

Nguyen et al. v. BMW of North America, LLC, Case No. 3:10-cv-02257, in the Northern District of California. In this class action, Mr. Talley represented plaintiffs alleging BMW stopped replacing defective components and altered the vehicle's software after discovering design flaws in BMW models containing N54 engines. The case resolved in a settlement on behalf of 200,000 class members for \$211,470,000.

In re Vicryl Sutures Litigation, Judicial Council Coordination proceeding No. 4148, Alameda County Superior Court, California; *Neely, et al. v. Ethicon, Inc., et al.* Civil No. 1:00CV569. U.S. District Court for Eastern District of Texas: Mr. Talley served as lead counsel in this mass tort action involving Ethicon Inc. and Johnson & Johnson's contaminated Vicryl sutures proceeding in multiple federal and state courts throughout the United States. Following a highly contested certification process and hearing seeking certification of a FRCP 23(c)(4)(A) class, the case was litigated to a successful resolution in a confidential proceeding.

Schlegel v. Kaiser Foundation Health Plan, Inc. et al - Mr. Talley was the lead attorney representing over 100 Kaiser Patients placed on the national kidney transplant list. The plaintiffs in the case alleged Kaiser dropped patients waiting for kidneys from the national transplant list due to administrative blunders. As a result, they did not obtain kidney transplants. The cases settled for a confidential sum.

Contratto v. Ethicon, Johnson & Johnson, Lifecore, et al U.S. District Court, Northern CA. No. C03-3804MJJ ARB, Mr. Talley served as lead counsel in this mass tort action involving some sixty plaintiffs initially filed in the Northern District of California and ultimately prosecuted in Florida State Court, West Palm Beach, Florida. The action sought damages caused by the medical device, Intergel, a product intended to reduce adhesions in women undergoing abdominal surgery. However, in certain women, the device caused injury by actually increasing adhesions. The case was prosecuted over three years resulting in a global settlement on behalf of KCR's clients. The settlement amount and the terms of the settlement are confidential.

In Re Guidant Defibrillator Litigation – Mr. Talley and his firm were part of the Plaintiff's Steering Committee in this MDL proceeding that sought reimbursement for more 5,000 individuals who had defective Guidant defibrillators placed in their bodies. A settlement in this case was recently announced wherein plaintiffs will receive more than \$200,000,000.

In Re AOL Spin-Off Sub Account Litigation – Mr. Talley and his firm were lead counsel in this MDL proceeding wherein it was alleged that millions of AOL subscribers improperly had screen names "spun-off" into separate accounts and were then billed additional fees for these "spun-off" accounts. The settlement in this case was valued at approximately \$25,000,000.

Larkin v. Best Buy – Mr. Talley served as lead counsel in this consumer class action against Best Buy alleging that the marketing of its extended warranties is false and misleading. Specifically, the complaint alleged that Best Buy did not have in place a sufficient number of service centers and technicians to make warranty repairs in a timely manner.

Mr. Talley has also litigated many individual personal injury actions as well as claims involving wills and trusts, oil and gas leases, Qui Tam cases, employment discrimination, and wage and hour law.

PROFESSIONAL ACTIVITIES & AFFILIATIONS

- State Bar of California
- Member, Consumer Attorneys of California
- Member, Capital City Trial Lawyers Association
- Member, Sacramento County Bar Association
- Member, Federal Bar Association
- Member, American Association for Justice
- Past Board of Directors for the Capital City Trial Lawyers Association

PRIOR PROFESSIONAL EXPERIENCE

Prior to joining Kershaw Talley Barlow PC (previously known as Kershaw, Cook & Talley PC), Mr. Talley was a partner in Kershaw, Cutter & Ratinoff, LLP and the Long Beach law firm of Taubman, Simpson, Young & Sulentor.

ACADEMIC BACKGROUND

- B.A. University of California, Santa Barbara, 1992
Graduated with High Honors
- J.D. Pepperdine University, 1995
Magna Cum Laude
- Member, Pepperdine Law Review

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LYLE W. COOK

PROFESSIONAL EXPERIENCE

Mr. Cook is a partner in the complex litigation practice area. He is responsible for the prosecution of class actions, including wage and hour, anti-trust, consumer class actions, and class actions involving the automotive industry. Mr. Cook is also responsible for prosecution of mass torts and other complex litigation in state and regional courts.

PRACTICE EXAMPLES

Specific examples of some of the class action matters Mr. Cook has handled on behalf of clients include:

A California wage and hour class action against United Parcel Service, Inc. on behalf of more than 23,000 employees.

A class action against the State Compensation Insurance Fund on behalf of approximately 160,000 California businesses.

A national class action against Ford Motor Company on behalf of Ford heavy truck dealerships.

A national class action against Subaru of New England on behalf of dealerships.

A national antitrust class action against a manufacturer of reprographic equipment on behalf of school districts.

A class action against VeriSign, the nation's largest Internet security provider for violation of California's unfair competition and deceptive business practices law related to sale of its security software.

ACADEMIC BACKGROUND

- B.A. University of California, Santa Barbara 1976
- Outstanding Graduating Senior Award in Philosophy
- J.D. University of California, Davis 1990
- Member, Jessup International Moot Court Team
- American Jurisprudence Award in Jurisprudence