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10 *Additional Counsel for Plaintiffs*
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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION

13	IN RE BANC OF CALIFORNIA,)	Lead Case No. 8:19-cv-621-DMG-DFMx
14	INC. STOCKHOLDER)	
15	DERIVATIVE LITIGATION)	(Consolidated with Case Nos. 19-cv-
16	_____)	1152 and 19-cv-05488)
17	This Document Relates To:)	
18)	DECLARATION OF MARSHALL P.
19)	DEES ON BEHALF OF HOLZER &
20	ALL ACTIONS.)	HOLZER, LLC IN SUPPORT OF
21)	PLAINTIFFS' MOTION FOR A FEE
22)	AND EXPENSE AWARD
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1 I, Marshall P. Dees, declare as follows:

2 1. I am a partner with Holzer & Holzer, LLC (“HH”), Additional Counsel for
3 plaintiffs and counsel for Kristopher Gordon (“Gordon”). I am duly licensed to practice
4 law in the State of Georgia. I submit this declaration in support of Plaintiffs’ Motions for
5 (a) Final Approval of Derivative Settlement and (b) an Award of Attorneys’ Fees,
6 Reimbursement of Expenses and Service Awards. I have personal knowledge of the matters
7 stated herein and, should I be called upon, I could and would testify competently thereto.

8 2. In its capacity as Additional Counsel for Plaintiffs and counsel for Plaintiff
9 Gordon, HH engaged in multiple tasks that resulted in the successful resolution of the
10 Action. HH’s work included, among other things: (a) conducting pre-suit/pre-demand
11 investigation and analyses, including reviewing Banc’s press releases, public statements,
12 SEC filings, and public reports and advisories about the Company, and drafting complaints;
13 (b) consulting with an accounting expert regarding Plaintiffs’ allegations regarding
14 improper accounting practices concerning employee bonus accrual; (c) researching the
15 applicable Maryland law with respect to potential derivative claims and defenses thereto;
16 (d) drafting litigation demands directed to Banc’s Board; (e) monitoring developments in
17 the related Securities Action, in addition to multiple related lawsuits between Banc and
18 certain former executives and directors; (f) reviewing and analyzing Banc’s internal
19 corporate governance documents and comparing Banc’s policies with best practices of
20 comparable companies; (g) preparing a joint settlement demand, and (h) negotiating the
21 Settlement.

22 3. HH also assisted Co-Lead Counsel in drafting the Stipulation of Settlement
23 and all filings in support of preliminary and final approval. However, such work has not
24 been included in my firm’s lodestar submitted for the Court’s consideration. Nor does HH
25 submit any time for non-attorney staff.

26 4. My firm undertook this representation on a wholly contingent basis, with the
27 understanding that we would receive no compensation, and our expenses would not be
28 reimbursed, unless our efforts resulted in the recovery of a substantial benefit for Banc.

1 None of the attorneys' fees and expenses submitted to this Court have been paid from any
2 source or have been the subject of any prior request or award in any litigation.

3 5. Included in the application is my firm's reported lodestar from the period
4 January 24, 2017 through February 6, 2018, during which time my firm prepared and then
5 prosecuted the *Gordon* Demand Futility Action, which preceded this consolidated action.
6 *Gordon v. Sznewajcs*, No. 8:17-cv-01678-CJC-DFM. As described in the Declaration of
7 Willem F. Jonckheer in Support of Motion for Final Approval of Derivative Settlement
8 and for an Award of Attorneys' Fees, Reimbursement of Expenses and Service Awards,
9 the *Gordon* Demand Futility Action was based on the same essential facts and
10 circumstances at issue in this consolidated demand refused action, except Plaintiff Gordon
11 alleged that making a demand on the Banc Board to bring the asserted claims was excused
12 for futility.

13 6. I have included only such time from the *Gordon* Demand Futility Action spent
14 investigating the allegations and filing the original complaint and the amended complaint
15 in the *Gordon* Demand Futility Action. Excluded from this date range is all time spent after
16 my firm filed the amended complaint in the *Gordon* Demand Futility Action, including all
17 work done litigating the motion to dismiss. Specifically, I have excluded all lodestar
18 incurred between February 7, 2018 (the day after the amended complaint was filed in the
19 *Gordon* Demand Futility Action) and June 25, 2018 (the day the *Gordon* Demand Futility
20 Action was voluntarily dismissed), amounting to 231.75 hours for a total of \$150,923.75.

21 7. I respectfully submit that the reported lodestar incurred by HH during the
22 designated date range in litigating the *Gordon* Demand Futility Action should be included
23 for purposes of Plaintiffs' Counsel's motion for an award of attorneys' fees in this
24 consolidated demand refused action, as such lodestar was necessarily incurred and
25 instrumental to subsequent litigation efforts in this consolidated demand refused action.

26 8. From the January 24, 2017 inception of HH's pre-filing investigation into the
27 alleged wrongdoing at issue in this litigation through April 6, 2021, when the Settling
28 Parties executed the MOU documenting the substantive terms of the Settlement, HH

1 devoted 536 hours to the litigation, representing total lodestar of 353,341.22, which
2 excludes the lodestar described in ¶6, above.

3 9. Attached here as Exhibit A is the HH firm resume. The chart below
4 summarizes the total hours, hourly rates, and lodestar of each attorney and professional
5 support staff employee who worked on this matter:

Timekeeper	Rate	Hours	Lodestar
Marshall P. Dees	\$745	227.25	\$169,301.25
Corey D. Holzer	\$875	130.25	\$113,968.75
Alexandria P. Rankin	\$375	151.25	\$56,718.75
Luke R. Kennedy	\$490	27.25	\$13,352.50
Total:		536.00	\$353,341.25

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13 10. HH's lodestar reported above was prepared from contemporaneous, daily time
14 records prepared and maintained by the firm. HH's hourly rates are the firm's usual and
15 customary rates. These rates are set based on market rates for attorneys of comparable skill
16 and experience, and they have been approved by federal and state courts throughout the
17 nation.

18 11. Set forth in paragraphs 12 through 14, below is a detailed breakdown of the
19 hours spent by my firm during three distinct phases on the case, in particular: (a) pre-filing
20 investigation of the claims leading up to the filing of Gordon's initial demand refused
21 complaint filed in this action, including time incurred in the *Gordon Demand Futility*
22 *Action* as described above (January 24, 2017 through April 2, 2019); (b) litigation activity
23 in the demand refused action following the filing of Gordon's initial complaint and through
24 consolidation with the *Johnston* and *Witmer* actions (April 3, 2019 through December 11,
25 2019); and (c) settlement negotiations leading to the negotiation and signing of the MOU
26 (December 12, 2019 through April 6, 2021).

1 12. Pre-filing Investigation: The chart below describes the hours and lodestar
 2 incurred by each timekeeper at my firm during the period February 10, 2017 through April
 3 2, 2019, along with a short description of the work done:

Timekeeper	Hours	Lodestar	Description of Work
Marshall P. Dees	145.5	\$108,397.50	Communicate with Banc investors, including Plaintiff Gordon; Manage overall litigation activities for my firm; assist in drafting demand futility complaint and amended complaint; assist in drafting shareholder demand and related correspondence; assist in drafting demand refused complaint; participate in consultation with accounting expert; interact with defendants regarding litigation management; confer with counsel regarding litigation strategy.
Corey D. Holzer	112.5	\$98,437.50	Assist in drafting demand futility complaint and amended complaint; assist in drafting shareholder demand and related correspondence; assist in drafting demand refused complaint; conduct oversight of litigation strategy.
Alexandria P. Rankin	151.25	\$56,718.75	Communicate with Plaintiff Gordon; research factual background and assist in drafting initial <i>Gordon</i> demand futility complaint; research and review case law and facts relevant to litigation.
Total	409.25	263,553.75	

25 13. Litigation Activity in the Consolidated Action: The chart below describes the
 26 hours and lodestar incurred by each timekeeper at my firm during the period April 3, 2019
 27 through December 11, 2019, along with a short description of the work done:

Timekeeper		Lodestar	Description of Work
Marshall P. Dees	65.75	\$48,983.75	Communicate with Plaintiff Gordon; Review and edit drafts of pleadings and relevant correspondence; confer with lead counsel regarding strategy and litigation oversight.
Corey D. Holzer	11.25	\$9,843.75	Manage litigation strategy regarding consolidation with related cases; review and edit additional shareholder demand; review and edit consolidated demand refused complaint.
Luke R. Kennedy	27.25	\$13,352.50	Draft and edit stipulations and procedural filings; research SLC report and discovery issues; review and analyze status of factually related cases.
Total	104.25	\$72,180.00	

14. Settlement Negotiations: The chart below describes the hours and lodestar incurred by each timekeeper at my firm during the period during the period December 12, 2019 through April 6, 2021, along with a short description of the work done:

Timekeeper	Hours	Lodestar	Description of Work
Marshall P. Dees	16.0	\$11,920.00	Assist in settlement negotiations with co-counsel; assist in researching and developing corporate governance proposals; assist in negotiating terms of settlement; confer with counsel regarding settlement strategy; assist in drafting MOU.
Corey D. Holzer	6.5	\$5,687.50	Conduct oversight of settlement negotiations.
Total	22.5	\$17,607.50	

1 15. As the partner responsible for performing most of my firm's work on the case,
2 and supervising my firm's work, I reviewed HH's time records to prepare this declaration.
3 The purpose of this review was to confirm both the accuracy of the time entries and the
4 necessity for, and reasonableness of, the time committed to the litigation. HH has only
5 submitted time through execution of the MOU, and therefore, has excluded all time spent:
6 (a) negotiating attorneys' fees; (b) drafting and negotiating the Stipulation of Settlement;
7 and (c) drafting motions in support of preliminary and final approval of the settlement and
8 Plaintiffs' motion for final approval, and all related appearances.

9 16. Following this review, I believe that the time reflected in my firm's lodestar
10 calculation as stated in this declaration is reasonable in amount and were necessary for the
11 effective and efficient prosecution and resolution of the case. I can aver that the hours
12 reported and the work they reflect were reasonably necessary to the successful
13 commencement, prosecution, and settlement of the derivative claims.

14 17. HH incurred a total of \$4,621.84 in unreimbursed expenses in connection with
15 the prosecution of the litigation, as summarized in the chart below:

Category of Expense	Amount
Expert Fees	\$3,750.00
Express Mail	\$75.37
Filing Fees	\$30.00
Legal Research	\$566.47
Travel	\$200.00
Total	\$4,621.84

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22 18. These expenses are reflected in records maintained by my firm in the ordinary
23 course of business. These records are prepared from expense vouchers, invoices, and other
24 billings records submitted contemporaneously as they are incurred. I have reviewed the
25 expense records in detail and can aver that they were reasonably necessary for the effective
26 and efficient pre-filing investigation, commencement, prosecution, and resolution of the
27 derivative claims brought on behalf of Banc and are reasonable in amount.
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1 I declare under penalty of perjury under the laws of the United States of America
2 that the foregoing is true and correct.

3 Dated: October 29, 2021

4 /s/ Marshall P. Dees

5 Marshall P. Dees
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