

1 ROBBINS GELLER RUDMAN
& DOWD LLP
2 SHAWN A. WILLIAMS (213113)
KENNETH J. BLACK (291871)
3 Post Montgomery Center
One Montgomery Street, Suite 1800
4 San Francisco, CA 94104
Telephone: 415/288-4545
5 415/288-4534 (fax)
shawnw@rgrdlaw.com
6 kennyb@rgrdlaw.com

LEVI & KORSINSKY, LLP
SHANNON L. HOPKINS
GREGORY M. POTREPKA
1111 Summer Street, Suite 403
Stamford, CT 06905
Telephone: 203/992-4523
212/363-7171 (fax)
shopkins@zlk.com
gpotrepka@zlk.com

7 JAMES E. BARZ
FRANK A. RICHTER
8 200 South Wacker Drive, 31st Floor
Chicago, IL 60606
9 Telephone: 312/674-4674
312/674-4676 (fax)
10 jbarz@rgrdlaw.com
frichter@rgrdlaw.com

11 *Lead Counsel for Plaintiffs*

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 In re NUTANIX, INC. SECURITIES)
16 LITIGATION)

) Case No. 3:19-cv-01651-WHO
) Case No. 3:21-cv-04080-WHO

17 _____)
18 JOHN P. NORTON, ON BEHALF OF THE)
NORTON FAMILY LIVING TRUST UAD)
11/15/2002, Individually and On Behalf of All)
19 Others Similarly Situated,)

) CLASS ACTION

20 Plaintiff,)

) DECLARATION OF ROBERT D.
) KLAUSNER FILED ON BEHALF OF
) KLAUSNER, KAUFMAN, JENSEN &
) LEVINSON IN SUPPORT OF
) APPLICATION FOR AWARD OF
) ATTORNEYS' FEES AND EXPENSES

21 vs.)

22 NUTANIX, INC., DHEERAJ PANDEY, and)
23 DUSTON M. WILLIAMS,)

24 Defendants.)
25 _____)
26)
27)
28)

1 I, Robert D. Klausner, declare as follows:

2 1. I am a Principal at the firm of Klausner Kaufman Jensen & Levinson (“KKJ&L” or
3 the “Firm”). I am submitting this declaration in support of the application for an award of attorneys’
4 fees and expenses/charges (“expenses”) in connection with services rendered in *In re Nutanix, Inc.*
5 *Securities Litigation*, Case No. 3:19-cv-01651-WHO (N.D. Cal.) (the “*Nutanix Action*”).

6 2. This Firm is special counsel for Plaintiff City of Miami Fire Fighters’ and Police
7 Officers’ Retirement Trust the *Nutanix Action*.

8 3. The information in this declaration regarding the Firm’s time is taken from reports
9 and supporting documentation prepared and/or maintained by the Firm in the ordinary course of
10 business. I am the Principal who oversaw and/or conducted the activities in the litigation performed
11 by KKJ&L and I reviewed these reports (and backup documentation where necessary or appropriate)
12 in connection with the preparation of this declaration. The purpose of this review was to confirm
13 both the accuracy of the entries as well as the necessity for, and reasonableness of, the time
14 committed to the litigation. Based on this review, I believe that the time reflected in the Firm’s
15 lodestar calculation herein was reasonable and were necessary for the effective and efficient
16 prosecution and resolution of the litigation.


17 4. My Firm spent 88.6 hours on the litigation. A breakdown of the lodestar is provided
18 in Exhibit A. The lodestar amount for attorney/paralegal (or attorney/paraprofessional) time based
19 on the Firm’s current rates is \$ 66,450. The hourly rates shown in Exhibit A are consistent with
20 hourly rates submitted by the Firm in other securities class action litigation. The Firm’s rates are set
21 based on periodic analysis of rates charged by firms performing comparable work both on the
22 plaintiff and defense side. For personnel who are no longer employed by the Firm, the “current rate”
23 used for the lodestar calculation is based upon the rate for that person in his or her final year of
24 employment with the Firm.

25 DECLARATION OF ROBERT D. KLAUSNER FILED ON BEHALF OF KLAUSNER, KAUFMAN,
26 JENSEN & LEVINSON IN SUPPORT OF APPLICATION FOR AWARD OF ATTORNEYS’ FEES
27 AND EXPENSES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. The identification and background of my Firm and its partners is attached hereto as Exhibit B.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of August, 2023, at Plantation, Florida.



ROBERT D. KLAUSNER

EXHIBIT A

EXHIBIT A

In re Nutanix Securities Litigation
Case No. 3:19-cv-01651-WHO (N.D. Cal.)
Case No. 3:21-cv-04080-WHO (N.D. Cal.)

KLAUSNER, KAUFMAN, JENSEN & LEVINSON

TIME REPORT

| NAME | HOURS | HOURLY RATE | LODESTAR |
|--------------------|--------------|--------------------|-----------------|
| Partners | | | |
| Robert D. Klausner | 88.6 | \$750 | \$66,450 |
| | | | |
| | | | |
| TOTALS: | 88.6 | \$750 | \$66,450 |

EXHIBIT B

EXHIBIT B

In re Nutanix Securities Litigation
Case No. 3:19-cv-01651-WHO (N.D. Cal.)
Case No. 3:21-cv-04080-WHO (N.D. Cal.)

KLAUSNER, KAUFMAN, JENSEN & LEVINSON

FIRM RESUME

The law firm of **Klausner, Kaufman, Jensen & Levinson** specializes exclusively in the representation of retirement and benefit systems and related labor and employment relations matters. The firm has provided legal services to more than 200 state and local government retirement systems in more than 25 states and territories. The firm is composed of 8 lawyers in South Florida and Robert E. Tarzca, Of Counsel (New Orleans). In addition, we have six clerical/paraprofessional employees, an administrator, and a deputy administrator/conference director.

As a result of our substantial involvement on a national level in public employee retirement matters, we have developed a unique level of knowledge and experience. By concentrating our practice in the area of public employee retirement and related employment issues, we are able to keep a focus on changing trends in the law that more general practitioners would consider a luxury.

The law firm of Klausner, Kaufman, Jensen & Levinson, among the most highly regarded in the country in the area of pension issues, is frequently called upon as an educational and fiduciary consultant by state and local governments throughout the United States on some of the newest and most sophisticated issues involving public retirement systems. The examples of those areas are:

Plan Design

The firm provides services to dozens of public employee pension plans throughout the United States in the area of plan review, design, and legislative drafting. On both the state and local levels, statutes and ordinances are reviewed for the purposes of maintaining compliance with current and pending Internal Revenue Code Regulations affecting public plans, as well as compliance with provisions of the Americans With Disabilities Act, the Older Workers Protections Act, Veterans' re-employment laws, and the Pension Protection Act. When benefit changes occur we prepare all necessary legislative drafts and appear before the appropriate legislative body to answer questions concerning those drafts. We also offer creative solutions to plan design issues brought about by unexpected economic pressures and balancing those solutions against constitutional or statutory benefit guarantees.

Fiduciary Education

The primary duty of a pension fund lawyer is to ensure that the trustees do the right thing. It is our practice to design and present a variety of educational materials and programs which explain the general principles of fiduciary responsibility, as well as more specific principles regarding

{00241828.DOCX;1}

voting conflicts, compliance with open meeting laws, conflict of interest laws, etc. We regularly apprise the boards of trustees and administrators through newsletters, memoranda and updates on our website of changes in the law, both legislatively and judicially, which impact upon their duties. We also conduct training workshops to improve the trustees' skills in conducting disability and other benefit hearings. As a result of our regular participation and educational programs on a monthly basis, all of the materials prepared as speaker materials for those programs are distributed without additional charge to our clients.

Plan Policies, Rules, and Procedures

It has been our experience that boards of trustees find themselves in costly and unnecessary litigation because of inconsistency in the administration of the fund. Accordingly, we have worked with our trustee clients in developing policies, rules, and procedures for the administration of the trust fund. The development of these rules ensures uniformity of plan practices and guarantees the due process rights of persons appearing before the board. They also serve to help organize and highlight those situations in which the legislation creating the fund may be in need of revision. By utilizing rule making powers, the board of trustees can help give definition and more practical application to sometimes vague legislative language.

Legal Counseling

In the course of its duties, the board of trustees and administrators will be called upon from time to time to interpret various provisions of the ordinance or statute which governs its conduct. The plan will also be presented with various factual situations which do not lend themselves to easy interpretation. As a result, counsel to the plan is responsible for issuing legal opinions to assist the trustees and staff in performing their function in managing the trust. It is our practice to maintain an orderly system of the issuance of legal opinions so that they can form part of the overall body of law that guides the retirement plan. As changes in the law occur, it is our practice to update those legal opinions to ensure that the subjects which they cover are in conformance with the current state of the law.

Summary Plan Descriptions

Many state laws require that pension plans provide their members with a plain language explanation of their benefits and rights under the plan. Given the complexity of most pension laws, it is also good benefits administration practice. Part of the responsibilities of a fiduciary is to ensure that plan members understand their rights and the benefits which they have earned. We frequently draft plain language summary plan descriptions using a format which is easily updatable as plan provisions change. We are also advising plans on liability issues associated with electronic communication between funds and members as part of our continuing effort at efficient risk management.

Litigation

Despite the best efforts and intentions of the trustees and staff, there will be times when the plan finds itself as either a plaintiff or defendant in a legal action. We have successfully defended retirement plans in claims for benefits, actions regarding under-funding, constitutional questions,

{00241828.DOCX;1}

discrimination in plan design, and failure of plan fiduciaries to fulfill their responsibilities to the trust. The firm has substantial state and federal court trial and appellate experience, including the successful defense of a state retirement system in the Supreme Court of the United States. The firm also has a substantial role in monitoring securities litigation and regularly argues complex appellate matters on both the state and federal levels. We pride ourselves on the vigorous representation of our clients while maintaining close watch on the substantial costs that are often associated with litigation. We are often called upon to provide support in a variety of cases brought by others as expert witnesses or through appearance as an *amicus curiae* (Friend of the Court).

ATTORNEY BIOGRAPHY

ROBERT D. KLAUSNER:

Born Jacksonville, Florida, December 20, 1952; admitted to Florida Bar 1977; Texas Bar 2019; Wisconsin Bar 2021; U.S. District Court, Southern District of Florida, 1978; U.S. Court of Appeals, Fifth Circuit, 1981; U.S. Court of Appeals, Eleventh Circuit, 1997; U.S. Court of Claims, 1998; U.S. Court of Appeals, Eighth Circuit, 2000; U.S. Supreme Court, 2000; U.S. Court of Appeals, Sixth Circuit, 2004; U.S. District Court, Middle District of Florida, 2005; U.S. Court of Appeals, Second Circuit, 2011; U.S. District Court, Northern District of Texas, 2011; U.S. Court of Appeals, Fourth Circuit, 2013; U.S. Court of Appeals, Third Circuit, 2020.

Education: University of Florida (B.A. with honors, 1974); University of Florida College of Law (J.D., 1977). Adjunct professor, Nova University Law School (1987 - 2005); adjunct professor, New York Institute of Technology, School of Labor Relations (1999-2003); instructor, Florida State University Center for Professional Development and Public Service (1980 - present); instructor, International Foundation of Employee Benefit Plans (1986 - present); instructor, National Association of State Retirement Administrators Conference (1996 - present); instructor, National Education Association Benefit Conferences (1989 - present); instructor, Florida Division of Retirement Pension Trustees School (1980 - present); instructor, Texas Association of Public Employee Retirement Systems (1990-present); instructor, Georgia Association of Public Pension Trustees (2020-present).

Member: The Florida Bar; Texas Bar; Wisconsin Bar; American Bar Association; Phi Beta Kappa; Phi Kappa Phi.

Publication: Co-Author, State and Local Government Employment Liability, Thomson-Reuters Publishing Co. (annually)

Author, State and Local Government Retirement Law: A Guide for Lawyers, Trustees, and Plan Administrators, Thomson-Reuters Publishing Co. (annually)