

1 ALTSHULER BERZON LLP  
 EVE CERVANTEZ (SBN 164709)  
 2 ecervantez@altshulerberzon.com  
 JONATHAN WEISSGLASS (SBN 185008)  
 3 jweissglass@altshulerberzon.com  
 DANIELLE E. LEONARD (SBN 218201)  
 4 dleonard@altshulerberzon.com  
 MEREDITH A. JOHNSON (SBN 291018)  
 5 mjohanson@altshulerberzon.com  
 TONY LOPRESTI (SBN 289269)  
 6 tlopresti@altshulerberzon.com  
 177 Post Street, Suite 300  
 7 San Francisco, CA 94108  
 Telephone: (415) 421-7151  
 8 Facsimile: (415) 362-8064

9 COHEN MILSTEIN SELLERS & TOLL PLLC  
 10 ANDREW N. FRIEDMAN (admitted *pro hac vice*)  
 afriedman@cohenmilstein.com  
 11 GEOFFREY GRABER (SBN 211547)  
 ggraber@cohenmilstein.com  
 12 SALLY M. HANDMAKER (SBN 281186)  
 shandmaker@cohenmilstein.com  
 13 ERIC KAFKA (admitted *pro hac vice*)  
 ekafka@cohenmilstein.com  
 14 1100 New York Ave. NW  
 Suite 500, West Tower  
 15 Washington, DC 20005  
 Telephone: (202) 408-4600  
 16 Facsimile: (202) 408-4699

17 *Co-Lead Plaintiffs' Counsel*

18 **UNITED STATES DISTRICT COURT**  
 19 **NORTHERN DISTRICT OF CALIFORNIA**  
 20 **SAN JOSE DIVISION**

21 *In Re Anthem, Inc. Data Breach Litigation*

Case No: 15-md-02617-LHK (NC)

22 **SUPPLEMENTAL DECLARATION OF EVE**  
 23 **H. CERVANTEZ IN SUPPORT OF MOTION**  
 24 **FOR ATTORNEYS' FEES, LITIGATION**  
 25 **EXPENSES, AND SERVICE AWARDS TO**  
 26 **CLASS REPRESENTATIVES**

Date: February 1, 2017

Time: 1:30 p.m.

Judge: Lucy H. Koh

Crtrm: 8, 4th Floor

1 I, Eve H. Cervantez, declare as follows:

2 1. I am a member in good standing of the California State Bar and the bar of this Court, a  
3 partner at Altshuler Berzon LLP, and court-appointed Co-Lead Plaintiffs' Counsel in this multi-district  
4 litigation. I have personal knowledge of the matters set forth herein, and could and would testify  
5 competently thereto if called upon to do so. I submit this supplemental declaration in Support of  
6 Plaintiffs' Motion for Attorneys' Fees, Litigation Expenses, and Service Awards to Class  
7 Representatives, and in response to the Court's January 29, 2018 Order re: Updated Information on  
8 Class Settlement (ECF 954 ("January 29 Order")) and the Court's January 30, 2018 Order re: Updated  
9 Information on Billing Records (ECF 955 ("January 30 Order")).

10 2. **Current Allocation of Funds.** The Court's January 29 Order directed Plaintiffs to file a  
11 chart showing "the current allocation of funds." Attached as **Exhibit 1** is the chart the Court requested.  
12 Plaintiffs' Counsel compiled this information using the claims figures as of January 30, 2018, which  
13 were provided to Counsel by the Settlement Administrator and are set forth in the concurrently filed  
14 Supplemental Declaration of the Settlement Administrator (KCC).

15 3. **Time Removed In Exercise of Billing Judgment.** The Court's January 29 Order  
16 directed Plaintiffs to file documentation of "what time, if any, was stricken as duplicative or inefficient  
17 billing." Attached as **Exhibit 2** is an exhibit documenting the time I struck as duplicative, inefficient,  
18 or otherwise non-compensable.

19 4. The following explains how I compiled the information in Exhibit 2: I, together with  
20 attorneys at the firms who submitted time in this case, engaged in an iterative process of striking any  
21 time that was duplicative, inefficient, or otherwise non-compensable (*e.g.* an attorney performing  
22 clerical work). As set forth in my Declaration in Support of Plaintiffs' Motion for Final Approval,  
23 Service Awards to Named Plaintiffs, and an Award of Attorneys' Fees and Costs ("Declaration in  
24 Support of Attorneys' Fees"), I required all firms to submit time records to me on a monthly basis to  
25 ensure that it was contemporaneously recorded. (*See* ECF 916-8 ¶ 44; *see also* ECF 46 (Order on  
26 Billing).) I specifically instructed all law firms submitting time in this case that a senior partner should  
27 review the time and exercise billing judgment to excise any inefficient or duplicative billing prior to  
28 sending the time records to me. It is my understanding that law firms reviewed their time and cut it

1 prior to submitting their time records to me. (The time law firms spent reviewing their time to exercise  
2 billing judgement is not itself compensable, and is not included in our lodestar hours).

3 5. I reviewed the time records that firms submitted to me upon receipt, and sent emails if I  
4 saw patterns of non-compensable billing practices. In addition to this ongoing review and instruction  
5 regarding billing practices throughout the litigation, I also reviewed all firms' time records in more  
6 detail between approximately August 2017 and November 2017. (*See* ECF 916-8 ¶ 46.) During this  
7 time, I reviewed each law firm's billing records twice. (*See* ECF 916-8 ¶ 46.) First, I reviewed the  
8 time generally, and sent an email to each firm asking that it review and cut its time once again, and  
9 gave general directions based on my review of that firm's time of areas that I thought might have been  
10 duplicative, inefficient, or otherwise non-compensable. Each firm then sent me revised time records. I  
11 then reviewed and edited thousands of pages of time records line-by-line to personally ensure that none  
12 of the time submitted in this case was duplicative, inefficient, or otherwise non-compensable.

13 6. The hours set forth in Column 2 of Exhibit 2 ("Time Submitted to Lead Counsel") are  
14 the hours that each firm initially submitted to me, in aggregate, over the course of the litigation. The  
15 hours set forth in Column 3 ("Revised Time After Lead Counsel Exercise of Billing Judgment") are the  
16 hours Plaintiffs' Counsel used to calculate the lodestar cross-check for purposes of this Motion for  
17 Attorneys' Fees. The difference between the hours submitted to me and the hours that Plaintiffs'  
18 Counsel used to calculate the lodestar cross-check is reflected in Column 4 ("Hours Deleted"). That  
19 figure reflects time that I cut because it was duplicative, inefficient, or otherwise not compensable. In  
20 total, I cut approximately, 4,459 hours of time from what all firms originally submitted to me in this  
21 case.

22 7. The 4,459 hours of deleted time reflected in Exhibit 2 grossly understate the amount of  
23 time that was actually written off in the exercise of billing judgment. This is because the figures set  
24 forth in Exhibit 2 reflect only the hours that I cut after receiving time records from other law firms. All  
25 law firms were instructed to review their own time and delete non-compensable time before sending it  
26 to me. For some firms, I had to cut very little time, which I assume is because the attorneys at those  
27  
28

1 law firms carefully reviewed and reduced their own time before sending it to me.<sup>1</sup> Because many firms  
 2 cut time within their time keeping system itself, it is not possible to go back and retrieve the precise  
 3 number of hours they cut before sending the time to me for further revision. The time deleted for  
 4 Altshuler Berzon reflects all time that was cut, including after review by my partner Danielle Leonard  
 5 and after review by me. Our firm alone cut more than 500 hours of time in the exercise of billing  
 6 judgment.

7       8.       **Historical Billing Rates.** The Court’s January 29 Order also directed Plaintiffs to file,  
 8 for all individuals who have billed time in this case, “the applicable billing rates at the time the work  
 9 was performed.” Attached as **Exhibit 3** is a revised version of the “Detailed Lodestar Information by  
 10 Firm and Biller” chart that Plaintiffs’ Counsel previously submitted as part of Exhibit E to the Reply  
 11 Declaration of Eve H. Cervantez in Support of Motions for Final Approval of Class Action Settlement  
 12 and Attorneys’ Fees, Litigation Expenses, and Service Awards to Class Representatives. (*See* ECF  
 13 944-6.) Plaintiffs’ Counsel have updated this exhibit to reflect, for each biller, the historical billing rate  
 14 for any year in which that biller performed compensable work for this case. For any year in which the  
 15 biller did not perform compensable work on this case, the chart says “n/a.”<sup>2</sup> To the extent that a  
 16 timekeeper changed position during that time, we have noted this information as well. We have also  
 17 corrected the positions of three timekeepers (James Gilyard, Eva Guo, and Donna Solen) for Lief  
 18 Cabraser Heimann & Bernstein, whom Michael Sobol had correctly identified as contract attorneys in  
 19 his Declaration in Support of Plaintiffs’ Motion for Attorneys’ Fees (ECF 916-13), but whose positions  
 20 had been erroneously identified as staff attorneys in a prior version of this chart. We similarly  
 21 corrected the title of Evan Ballan, a timekeeper for Lief Cabraser Heimann & Bernstein (whose  
 22

23 <sup>1</sup> In addition to striking or reducing time line by line when I believed that a particular entry reflected  
 24 time that had been inefficient, duplicative, or otherwise non-compensable, I also reduced the total  
 25 number of hours billed for the Law Firm of Angela Edwards by 5% for purposes of the lodestar cross-  
 26 check, in order to account for the manner in which that firm had billed for exchange of emails.

27 <sup>2</sup> Exhibit 3 also shows the rate for each biller that was used to calculate the lodestar cross-check. As  
 28 explained in our Motion for an Award of Attorneys’ Fees, we used firms’ current 2017 rates to  
 calculate fees, supported by a listing of Court Orders approving those or similar rates. *See* ECF 916-7  
 at 19 n.7; *see also* ECF 916-12 (non-PSC firms); ECF 916-8, 916-29, 916-30, 916-31 (PSC firms). As  
 explained previously, in some instances I capped certain law firm or timekeeper rates because they did  
 not have Court Orders supporting their rates, which explains why there are some instances in which the  
 historical billing rate exceeds the rate used for the lodestar crosscheck. *See* ECF 916-8 ¶ 47.

1 position was Law Clerk, not Staff Attorney), and Patrick Nagler, a timekeeper for Gibbs Law Group  
2 (whose position was Associate, not Contract Attorney).

3           9.       **Billers and Task Chart.** The Court’s January 30 Order directed Plaintiffs to provide “a  
4 chart that breaks down, by each biller for whom fees are claimed, the biller’s work on this case by  
5 general category, and by specific types of tasks performed within that category, and the hours worked  
6 on each category.” Attached as **Exhibit 4** are firm-by-firm charts showing each biller’s work by each  
7 of the 14 task codes that we used in this litigation:

8           Task Code 1: Identifying and communicating with potential plaintiffs and with Plaintiffs

9           Task Code 2: Review of documents produced by Defendants

10          Task Code 3: Factual investigation

11          Task Code 4: Discovery (other than depositions and review of Defendants’ documents)

12          Task Code 5: Depositions

13          Task Code 6: Pleadings and Briefs

14          Task Code 7: Experts

15          Task Code 8: Preparation for and appearance at court hearings

16          Task Code 9: Litigation Strategy and Analysis

17          Task Code 10: Class Certification

18          Task Code 11: Settlement

19          Task Code 12: Clerical

20          Task Code 13: Miscellaneous

21          Task Code 14: Case management

22 The more specific types of tasks that each biller performed are set forth in Exhibits 5 et al, the detailed  
23 time entries.

24           10.       **Contemporaneous Time Records.** In the Court’s January 29 Order, the Court ordered  
25 Plaintiffs to file “detailed contemporaneous billing records of all individuals who have billed time in  
26 this case.” Those records, as edited first within each firm in the exercise of billing judgment, and then  
27 by me as described above, to delete any inefficient, duplicative, or otherwise non-compensable time,  
28 are attached beginning at **Exhibit 5**, in both partially redacted and entirely unredacted form.

