

1 THE WAGNER FIRM
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8 *Counsel for Plaintiff*

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 MELVYN KLEIN, Derivatively on
12 Behalf of Nominal Defendant OPUS
13 BANK,
14 Plaintiff,

15 v.

16 STEPHEN H. GORDON, MARK
17 CICIRELLI, MARK E. SCHAFFER,
18 MICHAEL MEYER, ROBERT
19 SHACKLETON, THOMAS M.
20 BOWERS, CURTIS A. GLOVIER, and
21 DAVID KING,

22 Defendants,

23 And

24 OPUS BANK, a California Corporation,
25 Nominal Defendant.
26
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Case No. 8:17-CV-00123(AB)(JPR)

DECLARATION OF AVI N. WAGNER
IN SUPPORT OF PLAINTIFF'S
MOTION FOR AWARD OF FEES
AND EXPENSES

Hearing Date: July 20, 2018
Time: 10:00 a.m.

Judge: Hon. André Birotte, Jr.
Courtroom: 7B – First Street
Action Filed: January 24, 2017

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I, Avi N. Wagner, declare as follows:

1. I am the principal of The Wagner Firm and local counsel for Plaintiff Melvyn Klein (“Plaintiff Klein”) in the instant derivative action. I am a member of the State Bar of California. I submit this declaration in support of Plaintiff Klein’s Motion for an Awards of Fees and Expenses, filed contemporaneously herewith. The testimony herein is based on my personal knowledge and, if called upon, I could and would competently testify hereto.

2. I am the attorney at my firm charged with primary responsibility for the shareholder derivative claims asserted on behalf of nominal defendant Opus Bank (“Opus”). I also supervised my firm’s staff who worked on the litigation.

3. My firm performed the following professional services in connection with this litigation: investigating potential claims against defendants; drafted, edited, and reviewed various pleadings filed in the *instant action*; and edited the settlement agreement and related exhibits and assisted with finalizing the terms of the proposed settlement and the papers in support.

4. The total number of hours devoted to the litigation by my firm to date is 35.7. The total lodestar for attorney, paralegal, and professional staff time generated from these hours is \$ 16,400.00.

Name	Status	Total Hours	Total Current Lodestar
A.W.	(P)	25.1	\$13,750.00
H.K.	(PL)	10.6	\$2,650.00
TOTAL:		35.7	\$16,400.00

*(P) -- Partner
(A) -- Associate
(PL) -- Paralegal

DECLARATION OF AVI N. WAGNER IN SUPPORT OF PLAINTIFF’S
MOTION FOR AWARD OF FEES AND EXPENSES

1 5. These hours are based on contemporaneous time records maintained by
2 the firm. I reviewed the entries to confirm the reasonableness of the time and
3 expenses committed to the litigation. I believe that the time reflected in my firm's
4 lodestar calculation is reasonable in amount and was reasonably necessary for the
5 effective prosecution and resolution of the litigation.

6 6. Attached hereto as Exhibit A is a resume describing my firm and the
7 background and experience of my firm's lawyers.

8 7. My firm incurred a total of \$226.74 in unreimbursed expenses in
9 connection with the prosecution of the litigation.

<u>Category</u>	<u>Amount</u>
Computer Research/Services	\$ 29.19
Photocopying/Reproduction	\$ 77.55
Postage/Messenger/Federal Express	\$ 120.00
TOTAL:	\$ 226.74

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18 8. The expenses incurred are reflected in the books and records
19 contemporaneously prepared by my firm from expense vouchers, invoices, and other
20 billing records, and are an accurate record of expenses actually incurred. I have
21 reviewed the expenses for which reimbursement is sought, and believe they are
22 reasonable in amount and were reasonably necessary for the effective prosecution and
23 settlement of the litigation. The expenses are all of a type that would normally be
24 charged to a fee-paying client in the private legal marketplace.

1 I declare under penalty of perjury that the foregoing is true and correct.
2 Executed this 12th day of June 2018, in Los Angeles, California.
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4 /s/ Avi N. Wagner
5 Avi N. Wagner
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28 DECLARATION OF AVI N. WAGNER IN SUPPORT OF PLAINTIFF'S
MOTION FOR AWARD OF FEES AND EXPENSES

EXHIBIT A

THE WAGNER FIRM
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Los Angeles, CA 90067
(310) 491-7949
info@thewagnerfirm.com

The Wagner Firm has a broad based business litigation practice encompassing a variety of contract and business tort disputes. Since his graduation from Georgetown University Law Center in 2002, where he was fortunate enough to work for the SEC, firm principal Avi Wagner has successfully litigated in state and federal trial courts, federal bankruptcy courts, and state and federal appellate courts across the United States, including California, New York, New Jersey, Texas and Indianapolis. He has also pursued arbitrations before AAA and FINRA.

The firm's practice is principally focused on investment and insurance related disputes:

Securities Arbitration and Litigation:

Mr. Wagner has been involved as an attorney in investment disputes from multiple different angles, representing plaintiffs/claimants, defendants, and insurers in investment and partnership related disputes. He has represented broker-dealers, private equity funds, investment funds, pension plans and individuals in securities litigation and arbitration, as well as shareholder derivative litigation. He also represented investors in claims of stock fraud and stock broker misconduct. The ability to see a case cogently from each of these views is a significant component in his ability to formulate a case strategy.

Insurance Litigation:

Mr. Wagner has represented both insurers and insureds in insurance coverage disputes, related third-party claims, rescission, interpleader and subrogation issues. Mr. Wagner also assists clients in assessing the scope and sufficiency of their insurance program. Mr. Wagner has extensive experience in dealing with issues relating to Directors and Officers liability and Errors and Omissions liability insurance, having represented bank, broker-dealer and registered investment advisor clients in this respect. He has also provided counseling and the successful resolution of a dispute to a fashion wholesaler and to a individuals associated with an educational non-profit, ensuring they received a defense under an employment practices liability policy.

On the pro bono side, Mr. Wagner has been involved in the favorable resolution of several landlord-tenant disputes and has provided pro bono counseling to Holocaust victims seeking restitution from the German government.

For more information please contact Avi Wagner at (310) 491-7949 x 1 or by email at avi@thewagnerfirm.com

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PROOF OF SERVICE BY ELECTRONIC POSTING

I, the undersigned say:

I am not a party to the above case, and am over eighteen years old. On June 15, 2018, I served true and correct copies of the foregoing document, by posting the document electronically to the ECF website of the United States District Court for the Central District of California, for receipt electronically by the parties listed on the Court’s Service List.

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 15, 2018, at Los Angeles, California.

s/ Avi Wagner _____
Avi Wagner

Mailing Information for a Case 8:17-cv-00123-AB-JPR Melvyn Klein v. Stephen H. Gordon et al

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Eric A Kuwana**
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- **Alexandra Rex Mayhugh**
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- **Samantha A Strauss**
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- **Avi N Wagner**
avi@thewagnerfirm.com,anwagneresq@hotmail.com

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)