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24 **UNITED STATES DISTRICT COURT**  
25 **NORTHERN DISTRICT OF CALIFORNIA**

26 June Newirth, by and through her Guardian  
27 ad Litem, Frederick J. Newirth; Barbara  
28 Feinberg; and Elizabeth Barber, Andrew  
Bardin, and Thomas Bardin as successors-in-  
interest to the Estate of Margaret Pierce; on  
their own behalves and on behalf of others  
similarly situated,

Plaintiffs,

vs.

Aegis Senior Communities, LLC, dba Aegis  
Living; and Does I - 100,

Defendants.

CASE NO. 4:16-cv-03991-JSW

**DECLARATION OF PATRICK  
KENNEDY, PhD, IN SUPPORT OF  
SETTLEMENT APPROVAL**

[REVISED REDACTED VERSION OF  
DOCUMENT SOUGHT TO BE  
SEALED]

1 I, Patrick Kennedy, hereby declare:

2 1. I have been retained by Plaintiffs in this matter, through one of their attorneys,  
3 Dentons US LLP, as an expert in this case. Unless otherwise indicated, the following is set forth on  
4 my own personal knowledge, and if called upon to testify, I would do so competently.

5 2. I am an economist and Managing Director with Torrey Partners. Torrey Partners is  
6 an expert services firm providing independent expert testimony, analysis, valuation and strategic  
7 consulting services to clients. I hold a bachelor's degree in economics from the University of  
8 California, San Diego and a doctorate in economics from Stanford University. Prior to joining  
9 Torrey Partners, I was a managing director with LECG, a shareholder with Mack[Barclay, Inc., a  
10 director of economic research with International Securities Group and an economist with the Board  
11 of Governors of the Federal Reserve System in Washington, D.C.

12 3. My professional experience includes economic damages analysis within and outside  
13 of the litigation environment; many of these matters have required that I present qualified expert  
14 testimony in state and federal courts. I have provided analysis and testimony in numerous class  
15 action matters including matters involving claims asserted under California's Consumer Legal  
16 Remedies Act ("CLRA") and Unfair Competition Law ("UCL"). Pertinent to the issues in this  
17 matter, I testified in the Skilled Healthcare trial, which involved claims asserted under the CLRA,  
18 UCL and Health & Safety Code § 1430(b) with respect to alleged understaffing at skilled nursing  
19 facilities in the State of California. My curriculum vitae is set forth at **Exhibit A**.

20 4. In preparing the analysis set forth herein, I have relied upon the following documents:

- 21 • Injunction;
- 22 • Aegis documentation regarding monthly fees charged at California Facilities  
23 (AEGIS00132483);
- 24 • Class list for Aegis of California facilities;
- 25 • Aegis documentation regarding monthly fees charged at Washington  
26 Facilities (AEGIS\_MORRISON\_299-316);
- 27 • Class list for Aegis of Washington facilities;

28

- 1 • Aegis documentation regarding average resident length of stay
- 2 (AEGIS00083565, 33135, 93844, 88430)
- 3 • Declaration of Cristina Flores in Support of Plaintiffs’ Motion for Class
- 4 Certification (California)
- 5 • Declaration of Dale Schroyer in Support of Plaintiffs’ Motion for Class
- 6 Certification (California); and
- 7 • Shortfall analysis conducted on Aegis of Issaquah (Washington).

8 In addition, I have conferred with counsel regarding various legal assumptions and available  
9 remedies to the residents in this matter.

10 5. I understand the Injunction in this matter provides, in addition to other requirements,  
11 that Aegis’ “Communities”<sup>1</sup> maintain an adequate number of resident care personnel sufficient to  
12 provide the services necessary to meet the aggregate assessed needs of all residents at each of the  
13 Communities. Specifically, the Injunction provides that “Aegis shall ensure continued compliance  
14 with all applicable regulations, including those related to providing staffing levels sufficient to  
15 provide current residents with the care services set forth in their service plans...”<sup>2</sup> The Injunction  
16 further states, “Aegis shall set staffing at its facilities based on Aegis’s determination of the staffing  
17 hours reasonably required to perform the assessed care tasks needed by the residents as determined  
18 by Aegis’s assessment procedures, the amount of time it takes to accomplish the given tasks, the  
19 experience and/or education of the staff, and the ability of staff to perform various tasks in parallel.”<sup>3</sup>  
20 I understand that these requirements set forth in the Injunction are being implemented to avoid  
21 alleged failures to provide sufficient staffing at the Communities. The period of the Injunction is  
22 three years commencing on the Effective Date (as defined in the Settlement Stipulation).<sup>4</sup>

23 6. I have been retained by Plaintiffs’ counsel for purposes of valuing this Injunction.  
24 As detailed below, I examined the value of the Injunction based on the economic harm avoided by

25 \_\_\_\_\_  
26 <sup>1</sup> Per the Injunction, the term “Community” and “Communities” means any residential care facility  
27 for the elderly (RCFE) or assisted living facility (ALF) that is owned or operated by Aegis in  
28 California and Washington.  
<sup>2</sup> Injunction, paragraph 5.  
<sup>3</sup> Injunction, paragraph 6.  
<sup>4</sup> Injunction, paragraph 9.

1 residents of the Communities, or equivalently the benefit received, due to the implementation of the  
2 Injunction. The analytical approach described below for providing an economic valuation of  
3 injunctive relief in understaffing cases has been approved by other courts, including the Northern  
4 District of California in *Walsh v. Kindred Healthcare*, C 11-00050 JSW, 2013 WL 6623190 (N.D.  
5 Cal. Dec. 16, 2013).

6  
7 **Aegis' California Facilities**

8 **Staffing Analysis**

9 7. It is my understanding that Plaintiffs' retained Dr. Cristina Flores, Ph.D., R.N., to  
10 provide expert opinions with respect to the extent to which Aegis staffing was sufficient to provide  
11 Aegis residents in California with the level of care services identified in their individual assessments.  
12 I understand this analysis was conducted on a sample basis for six facilities in California with  
13 differing twelve-month periods during the class period.

14 8. For each of the six sample facilities, I understand Dr. Flores' analysis calculates (a)  
15 the total number of each type of line-item service required by the patient population at each facility  
16 on a daily basis based on Aegis resident assessment data and other information, (b) the total amount  
17 of staff time *required* to provide these line-item services, (c) the amount of staff time *available* to  
18 provide these line-item services, and (d) the daily gap, if any, between the amount of care time  
19 *required* versus the amount of time actually *available* to staff.<sup>5</sup> If the available hours at a  
20 Community fell below the required hours as determined by the resident assessments, this represents  
21 a shortfall in required resident care at that Community.

22 9. To determine the total number of hours of staff time required at each of the Aegis  
23 sample facilities, Dr. Flores multiplied the count of each line-item service by the task time (minutes  
24 required) for each line-item service.<sup>6</sup> Dr. Flores provided two alternative calculations based on the  
25 staff time required for each task using: 1) task times identified from Aegis' documents and 2) task  
26 times identified from Aegis' documents and adjusted by Dr. Flores.

27  
28 <sup>5</sup> Declaration of Cristina Flores, paragraph 40.

<sup>6</sup> Declaration of Cristina Flores, paragraph 17-18, 27.

1           10. Under both approaches, Dr. Flores' staffing analysis found that the number of hours  
2 required to perform the daily line-item services at each facility (workload) exceeded the number of  
3 daily staffing hours available at each facility during the sample period.<sup>7</sup> Specifically, for the data  
4 analyzed for the six sample facilities, Dr. Flores' staffing analysis shows the following:

5           (i). Based on Aegis task times: the average available hours per day fell below the  
6 average required hours per day at each of the six Communities analyzed by approximately 38% to  
7 58%.<sup>8</sup> On average, for the six Communities analyzed, the available hours per day fell below the  
8 required hours per day by 46.2%.

9           (ii). Based on Flores adjusted task times: the average available hours per day fell  
10 below the average required hours per day at each of the six Communities analyzed by approximately  
11 16% to 42%.<sup>9</sup> On average, for the six Communities analyzed, the available hours per day fell below  
12 the required hours per day by 27.2%.

13           11. I understand Dr. Flores' "simple math" methodology did not factor in travel time or  
14 non-service tasks which would increase the staffing shortfall percentages identified above.<sup>10</sup> I  
15 further understand Plaintiffs retained Mr. Dale Schroyer to test and measure the maximum quantity  
16 of work in a workplace that is mathematically and physically possible considering travel time, non-  
17 care related tasks, etc.<sup>11</sup> Mr. Schroyer tested the operation of the Aegis Ventura facility based on  
18 Flores adjusted task times using ProModel/MedModel testing of staffing and found that on average  
19 36.52% of the time required to deliver line-item services was omitted (i.e. mathematically and  
20 physically impossible).<sup>12</sup> This represents an additional shortfall of 9.2%, or approximately 33.5%  
21 more than Dr. Flores' simple math calculation for the same facility data.<sup>13</sup> I understand Mr.  
22 Schroyer's analysis captures additional realistic variables that more accurately represent task  
23 performance and work completion. However, for purposes of this declaration, my analysis

24  
25 <sup>7</sup> Declaration of Cristina Flores, paragraph 43.

26 <sup>8</sup> Declaration of Cristina Flores, paragraph 46.

27 <sup>9</sup> Declaration of Cristina Flores, paragraph 50.

28 <sup>10</sup> Declaration of Cristina Flores, paragraph 51-52.

<sup>11</sup> Declaration of Dale Schroyer, paragraph 5-6.

<sup>12</sup> Declaration of Dale Schroyer, paragraph 54.

<sup>13</sup> Per Dr. Flores, the percent of service time omitted (based on Flores adjusted task times) for Ventura facility was 27.35% (Declaration of Cristina Flores, paragraph 50).

1 conservatively measures the shortfall in the required number of hours based on Dr. Flores' "simple  
2 math" approach based on Flores adjusted task times.

3 12. My analysis assumes that a Community with available hours below the required  
4 number of hours would not be providing sufficient staffing to meet residents' needs on that day. For  
5 the purposes of this analysis, I have assumed that the rates presented by Dr. Flores are consistent  
6 across all of the Defendant's California Communities and I have provided an analysis of the avoided  
7 economic harm based on the average shortfall in required resident care.

8

9 Economic Harm Avoided through the Injunction

10 13. A valid measure of value for the Injunction is to assess the economic harm to the  
11 residents that will be avoided during the period of the Injunction. I have assumed that residents  
12 would not be willing to pay for care that they did not receive. The avoided economic harm to the  
13 residents can be measured by the difference between the amount residents paid for care services at  
14 Defendant's Communities versus the value of care actually received.

15 14. From an economic perspective, it is reasonable to assume that a fully informed  
16 consumer would not pay for care that was not received. I understand that the Injunction requires  
17 Aegis to ensure sufficient staffing at its Communities in accordance with the Injunction terms. If  
18 Aegis complies with the Injunction requirements, then residents will receive the care they pay for  
19 and avoid the economic harm from inadequate care.

20 15. In practice, I understand that the residents do not have the opportunity to purchase  
21 care services from Aegis for only the care services that were actually provided. Instead, residents  
22 pay a daily rate based on their assessed needs regardless of whether the Aegis Communities actually  
23 provided the assessed staffing requirements. In this Declaration I conservatively assume that the  
24 residents received the value of the care that was actually provided.

25 16. The staffing shortfall percentages described above can be used to estimate the  
26 residents' economic harm that would have been incurred but-for the Injunction. The shortfall in  
27 hours per day directly measures the difference between what was promised, 100 percent staffing,  
28

1 and what residents would have paid with the knowledge that they would receive less than 100  
2 percent of the required staffing. Multiplying the amount paid by residents for care fees times the  
3 staffing shortfall percentage provides a measure of economic harm which includes an offset for the  
4 amount of care services actually received.

5 17. I understand Aegis provided documentation regarding the monthly resident care fees  
6 paid on behalf of residents at each of Aegis' 14 California Communities from January 2012 through  
7 August 2019.<sup>14</sup> However, this information does not accurately reflect the fees that will be paid for  
8 care services during the period of the Injunction. For example, I understand care fees increase with  
9 a change in the level of residents' assessed needs. As residents age, it is likely that the assessed  
10 needs and related Care Fees would increase over the period of the Injunction. Additionally, care  
11 fees have historically increased over time as the cost of labor and other community expenses  
12 increase. According to the data provided by Aegis, the resident care fees paid on behalf of residents  
13 at Aegis' California Communities increased between [REDACTED] per year, from 2012  
14 through 2018. Additionally, for the twelve months ending August 2019, the total resident care fees  
15 increased by [REDACTED]. Therefore, to project the monthly resident care fees during the period of  
16 the Injunction, I conservatively grew the monthly care fees from August 2019 at a rate of [REDACTED] per  
17 annum through the expected Effective Date of the Injunction, November 1, 2021.<sup>15</sup> [REDACTED]

18 [REDACTED]  
19 [REDACTED].<sup>16</sup> I projected this rate of growth in resident care fees will continue for an additional three  
20 years from the Effective Date, through the period of the Injunction.

23 <sup>14</sup> AEGIS00132483. The resident care fees provided by Aegis excludes Aegis of San Rafael. I  
24 understand the parties acknowledge and agree that, with respect to Aegis of San Rafael, the  
25 Settlement Class includes only persons who resided at the Aegis of San Rafael facility between  
26 April 12, 2012 through and including March 31, 2016. Therefore, my analysis of avoided economic  
27 harm does not include this facility.

28 <sup>15</sup> The expected Effective Date of the Injunction is 60 days after the expected final approval date of  
September 1, 2021.

<sup>16</sup> See, e.g., <https://seniorhousingnews.com/2020/12/02/assisted-living-rates-increase-6-15-in-2020-and-are-set-to-go-higher/> and <https://www.grandviewresearch.com/industry-analysis/us-assisted-living-facility-market>

1           18. I calculated avoided economic harm related to inadequate care services by  
2 multiplying the projected monthly resident care fees by the average shortfall in required resident  
3 care described above. In total, for Aegis' 14 California Communities, the total avoided economic  
4 harm during the period of the Injunction based on Flores adjusted task times is [REDACTED]  
5 ([REDACTED] total projected care fees times 27.2% average daily shortfall). This represents the  
6 amount residents would have paid for care services during the period of the Injunction that, but for  
7 the Injunction, they would not have received. As noted above, Dr. Flores' "simple math"  
8 methodology did not factor in travel time or non-service tasks. Including the additional shortfall  
9 related to these real-world variables, as identified in Mr. Schroyer's analysis, would increase the  
10 total avoided economic harm identified above.

11

12           Adjustment for Current Residents

13           19. The above calculations include avoided economic harm for all residents at Aegis'  
14 California Communities during the period of the Injunction, whether or not those residents are  
15 currently members of the class in this litigation. It is my understanding that the average length of  
16 stay for residents is [REDACTED]. I therefore adjusted the above calculations  
17 to account for potential departures of residents from Defendant's California Communities during  
18 the Injunction period.

19           20. Through documents produced in this matter, Aegis represented that the average  
20 length of stay for a resident at an Aegis Community is approximately [REDACTED].<sup>17</sup>  
21 Additionally, Aegis provided a list of class members at Defendant's California Communities,  
22 including first move-in date and last move-out date. Based on this information, the length of stay  
23 at an Aegis of California community ranged from [REDACTED]. In total, the average  
24 length of stay was approximately [REDACTED]. For purposes of this analysis, I have estimated the  
25 length of time that residents will likely remain in Defendant's California Communities during the  
26

27

28           <sup>17</sup> AEGIS00083565, 33135, 93844, 88430



1 period of injunction will average [REDACTED], resulting in a departure factor of approximately  
2 [REDACTED].

3 21. I applied this rate of departure to the monthly avoided economic harm described  
4 above. After adjusting for departures, the amount of avoided economic harm, or equivalently the  
5 benefit received, for residents at Defendant's California Communities during the period of the  
6 Injunction is \$23,045,600 based on Flores adjusted task times. My analysis of the avoided economic  
7 harm at Defendant's California facilities is attached at **Exhibit B**. As noted above, this analysis  
8 conservatively measures care fees based on Dr. Flores' "simple math" shortfall analysis (using Dr.  
9 Flores' adjusted task times), which may understate the avoided economic harm during the period of  
10 Injunction.

11 22. Based on the class list for Aegis of California facilities, there are 5,440 settlement  
12 class members at Aegis' 14 California Communities analyzed above. Accordingly, the value of the  
13 Injunction on an individual class member basis, on average, is \$4,236 based on Flores adjusted task  
14 times.

15  
16 **Aegis' Washington Facilities**

17 **Staffing Analysis**

18 23. It is my understanding that an analysis of the required and available staffing hours  
19 per day was also performed for one of Aegis' facilities in Issaquah, Washington. This analysis is  
20 based on the Aegis task times, as adjusted by Dr. Flores. Similar to the analysis performed by Dr.  
21 Flores for the Aegis facilities in California described above, I understand this analysis calculates the  
22 average required hours per day based on resident assessment data and compares the required hours  
23 to the average available hours per day based on Defendant's payroll records.<sup>18</sup> This analysis shows  
24 that at the Aegis of Issaquah facility, on average, the available hours per day fell below the required  
25 hours per day by 36.3%.<sup>19</sup> As noted above, this simple math calculation does not factor in travel  
26 time or non-service tasks which would increase the staffing shortfall percentages. For purposes of  
27

28 <sup>18</sup> Total hours for Care Managers, Med Techs, LPNs and Care Directors.

<sup>19</sup> Combined shortfall for Assisted Living (AL) and Life's Neighborhood (LN).

1 this declaration, my analysis conservatively measures the shortfall in the required number of hours  
2 based on the “simple math” approach.

3 24. As indicated above, my analysis assumes that a Community with available hours  
4 below the required number of hours would not be providing sufficient staffing to meet residents’  
5 needs on that day. For the purposes of this analysis, I have assumed that the rate identified for the  
6 Issaquah facility is consistent across all of Defendant’s Washington Communities and I have  
7 provided an analysis of the avoided economic harm based on this shortfall in required resident care.

8

9 Economic Harm Avoided through the Injunction

10 25. As discussed above, a valid measure of value for the Injunction is to assess the  
11 economic harm to the residents that will be avoided during the period of the Injunction. In this  
12 analysis, I conservatively estimate the staffing shortfall percentage described above can be used to  
13 estimate the residents’ economic harm that would have been incurred but-for the Injunction.

14 26. I understand Aegis provided documentation regarding the monthly resident care fees  
15 paid on behalf of residents for 18 of Aegis’ Washington Communities from approximately March  
16 2014 through July 2019.<sup>20</sup> However, similar to the analysis of the California facilities above, this  
17 information understates the fees that will be paid for care services during the period of the  
18 Injunction. For example, I understand care fees increase with a change in the level of residents’  
19 assessed needs. As residents age, it is likely that the assessed needs and related care fees would  
20 increase over the period of the Injunction. Additionally, care fees have historically increased over  
21 time as the cost of labor and other community expenses increase. According to the data provided by  
22 Aegis, the resident care fees paid on behalf of residents for Aegis’ Washington Communities  
23 increased between [REDACTED] per year, from 2015 through 2018.<sup>21</sup> Additionally, for the  
24 twelve months ending July 2019, the total resident care fees increased by [REDACTED]. Therefore,  
25 to project the monthly resident care fees during the period of Injunction, I conservatively grew the  
26

27 <sup>20</sup> AEGIS\_MORRISON\_299 – 316. Aegis of Bothell, Aegis of Edmonds and Aegis of Northgate  
28 were closed in approximately 2015.

<sup>21</sup> For Aegis’ communities that were open during the entire period.

1 monthly care fees from July 2019 at a rate of [REDACTED] through the expected Effective Date  
2 of the Injunction, November 1, 2021. [REDACTED]

3 [REDACTED].<sup>22</sup> I projected this rate of growth in  
4 resident care fees will continue for an additional three years from the Effective Date, through the  
5 period of the Injunction.

6 27. I calculated avoided economic harm related to inadequate care services by  
7 multiplying the projected monthly resident care fees by the staffing shortfall percentage described  
8 above. In total, for Aegis' 15 Washington Communities that were open as of July 2019, the total  
9 avoided economic harm during the period of Injunction is [REDACTED] total  
10 projected care fees times 36.3% average daily shortfall). This represents the amount residents would  
11 have paid for care services during the period of the Injunction that, but for the Injunction, they would  
12 not have received. Similar to the California analysis described above, this "simple math"  
13 methodology does not factor in travel time or non-service tasks. Including the additional shortfall  
14 related to these real-world variables would increase the total avoided economic harm identified for  
15 Aegis' Washington facilities.

16  
17 Adjustment for Current Residents

18 28. This calculation includes avoided economic harm for all residents at Aegis'  
19 Washington Communities during the period of the Injunction, whether or not those residents are  
20 currently members of the class in this litigation. Similar to Aegis' California facilities, it is my  
21 understanding that the average length of stay for residents at Aegis' Washington facilities is [REDACTED]  
22 [REDACTED]. I therefore adjusted the above calculations to account for potential  
23 departures of residents from Defendant's Washington Communities during the Injunction period.

24 29. Aegis provided a list of class members at Defendant's Washington Communities,  
25 including first move-in date and last move-out date. Based on this information, the length of stay

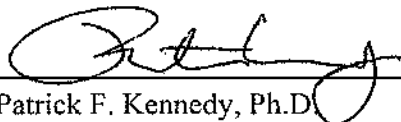
26  
27 <sup>22</sup> See, e.g., <https://seniorhousingnews.com/2020/12/02/assisted-living-rates-increase-6-15-in-2020-and-are-set-to-go-higher/> and <https://www.grandviewresearch.com/industry-analysis/us-assisted-living-facility-market>  
28

1 at an Aegis of Washington community ranged from [REDACTED]. In total, the  
2 average length of stay was approximately [REDACTED]. For purposes of this analysis, I have  
3 estimated the length of time that residents will likely remain in Defendant's Washington  
4 Communities during the period of injunction will average [REDACTED], resulting in a departure  
5 factor of approximately [REDACTED].

6 30. I applied this rate of departure to the monthly avoided economic harm described  
7 above. After adjusting for departures, the amount of avoided economic harm, or equivalently the  
8 benefit received, for residents at Defendant's Washington Communities during the period of the  
9 Injunction is \$25,933,992. My analysis of the avoided economic harm at Defendant's Washington  
10 facilities is attached at **Exhibit C**. As noted above, this analysis conservatively measures care fees  
11 based on the "simple math" shortfall analysis, which may understate the avoided economic harm  
12 during the period of Injunction.

13 31. Based on the class list for Aegis of Washington facilities, there are 3,915 settlement  
14 class members at Aegis' 15 Washington Communities analyzed above. Accordingly, the value of  
15 the Injunction on an individual class member basis, on average, is \$6,624 per class member.

16  
17  
18 I declare under penalty of perjury under the laws of the United States of America that the  
19 foregoing is true and correct. Executed on April 13, 2021 at St. Petersburg, Florida.

20  
21  
22   
23 Patrick F. Kennedy, Ph.D.

## Exhibit A



**Patrick F. Kennedy, PhD**  
Managing Director

Patrick F. Kennedy is a Managing Director at Torrey Partners based in San Diego, CA. Dr. Kennedy provides analysis, consultation, and expert opinions in business and dispute contexts. In his more than 20 years of experience, Dr. Kennedy has testified as an expert in Federal Court, the U.S. Court of Claims, Bankruptcy Court, State Court, and in private arbitrations throughout the country.

Dr. Kennedy has analyzed economic loss and damages in matters with causes of action including, but not limited to, patent, copyright, trademark and trade secret misappropriation, false advertising, breach of contract, product liability, fraud, professional malpractice, negligence, trespass, construction defect, antitrust and unfair competition, insurance bad faith, employment disputes and loss of earnings.

Dr. Kennedy has experience in a wide range of industries involving diverse technology.

**PROFESSIONAL EXPERIENCE**

2011 to present	Torrey Partners	Managing Director
2006 to 2011	LECG	Managing Director (2008)
1996 to 2006	Mack Barclay, Inc.	Shareholder (1998)
1995 to 1996	International Securities Group, Inc.	Director of Economic Research
1992 to 1995	Board of Governors of the Federal Reserve System, Washington, D.C.	Economist

**EDUCATION**

- Doctorate in Economics, Stanford University, 1992**  
Awarded Stanford University Fellowship, Bradley Foundation Dissertation Fellowship, and Outstanding Teaching Award
- Bachelor of Arts in Economics, University of California, San Diego, 1986**  
Muir College Valedictorian, Summa Cum Laude and Phi Beta Kappa. Awarded UC Regents Scholarship and the Seymour E. Harris Economics Award

**LICENSES AND PROFESSIONAL MEMBERSHIPS**

- Registered Securities Representative and Registered Principal  
(NASD Series 7, 24 and 63 – inactive)
- American Economic Association
- National Association for Business Economics
- National Association for Forensic Economics
- Licensing Executive Society

**BOARD MEMBERSHIPS**

- Torrey Pines Bank, Board of Directors
- University of California San Diego, Economic Leadership Board Member

## **SELECTED CASE AND INDUSTRY EXPERIENCE**

### **INTELLECTUAL PROPERTY**

- Patent infringement claims including cellular handset technologies, various integrated circuits, medical devices, action cameras, digital image sensors and processing, network and device security, software, social media, unmanned aerial vehicles, advertising, LED backlighting, vehicle equipment and testing, electronic lottery systems, antibacterial products, DNA-based diagnostic testing, radio frequency identification systems, apparel and other products
- Trade secret misappropriation claims including medical devices, responsive website design, drug development, network security, systems integration, merchant services, financial services, fiber-reinforced polymer systems, manufacturing, cellular handsets, Bluetooth devices and other products
- Trademark and copyright infringement claims including cloud storage, luxury watches, musical composition, a nationally branded convention, wireless headsets, food products, fashion accessories, field marketing organizations, ceiling fans, jewelry, toys, apparel, retail and other products

### **OTHER MATTERS**

- Breach of contract, intentional interference with prospective economic advantage, professional malpractice, insurance bad faith and other claims in industries including, but not limited to, oil wells and extraction, pharmaceutical clinical trials, reference microorganisms and cell lines, aircraft rescue and firefighting vehicles, wineries, gaming and casinos, satellite television, water purification filters, defense contracting, aerospace, aircraft charter, medical services, government contracts, veterans counseling services, advertising, national franchises, printing, paper and plastics, multilevel marketing, agriculture, footwear, financial services, insurance brokerage and real estate development
- Qui Tam cases involving overbilling by major systems integrators, faulty illuminating flares used in military aviation, improper testing of semiconductors used in military applications, and faulty design of a spacecraft intended to return solar wind samples to earth
- Foodborne illness and product recall
- Natural disaster business losses, including the Northern and Southern California wildfires
- Eminent domain matters involving real estate development and construction aggregates
- Valuing liabilities associated with future product liability claims for an automobile manufacturer in bankruptcy court
- Valuing technology related to motor vehicle engine diagnostics, drone anti-collision sensor technology and other products and services
- Multidistrict product liability litigation including pharmaceutical products and asbestos
- Consumer and business class actions related to solar panels, a natural gas facility blowout, automotive products, assisted living facilities, mobile home park relocation and cellular services
- Antitrust damages in convention services, telecommunications, and aircraft
- Personal loss including aviation, maritime and under the Vaccine Injury Compensation Program

## Exhibit B



**Newirth, et al. v. Aegis Living  
Analysis of Avoided Economic Harm  
California Facilities**

**Exhibit B**

Injunction Period <i>[a]</i>	Monthly Care Fees <i>[b]</i>	Avg. Shortfall between Required and Available Hours per Day <i>[c]</i>	Estimated Value of Care Fees Paid For but Not Received <i>[d]</i>	Departure Factor <i>[e]</i>	Est. Value of Care Fees Paid For but Not Received, Adjusted for Departures <i>[f]</i>	Cumulative Value
Yr 1 - Mo. 1	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 2	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 3	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 4	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 5	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 6	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 7	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 8	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 9	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 10	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 11	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 12	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 1	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 2	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 3	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 4	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 5	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 6	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 7	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 8	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 9	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 10	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 11	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 2 - Mo. 12	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 1	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 2	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 3	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 4	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 5	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 6	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 7	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 8	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 9	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 10	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 11	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 3 - Mo. 12	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Class Members:					5,440	
Per Class Member:					REDACTED	

**Notes:**

<sup>[a]</sup> Injunction shall be in effect for three years commencing on the Effective Date (Injunction paragraph 13.) The expected Effective Date of Injunction is November 1, 2021 (60 days after final approval on 9/1/2021).

<sup>[b]</sup> REDACTED

<sup>[c]</sup> REDACTED

<sup>[d]</sup>  $[d] = [b] \times [c]$

<sup>[e]</sup> REDACTED

<sup>[f]</sup>  $[f] = [d] \times [e]$

## Exhibit C

**Newirth, et al. v. Aegis Living**  
**Analysis of Avoided Economic Harm**  
**Washington Facilities**

*Exhibit C*

Injunction Period <i>(a)</i>	Monthly Care Fees <i>(b)</i>	Avg. Shortfall between Required and Available Hours per Day <i>(c)</i>	Estimated Value of Care Fees Paid For but Not Received <i>(d)</i>	Departure Factor <i>(e)</i>	Est. Value of Care Fees Paid For but Not Received, Adjusted for Departures <i>(f)</i>	Cumulative Value
Yr 1 - Mo. 1	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED	REDACTED
Yr 1 - Mo. 2						
Yr 1 - Mo. 3						
Yr 1 - Mo. 4						
Yr 1 - Mo. 5						
Yr 1 - Mo. 6						
Yr 1 - Mo. 7						
Yr 1 - Mo. 8						
Yr 1 - Mo. 9						
Yr 1 - Mo. 10						
Yr 1 - Mo. 11						
Yr 1 - Mo. 12						
Yr 2 - Mo. 1						
Yr 2 - Mo. 2						
Yr 2 - Mo. 3						
Yr 2 - Mo. 4						
Yr 2 - Mo. 5						
Yr 2 - Mo. 6						
Yr 2 - Mo. 7						
Yr 2 - Mo. 8						
Yr 2 - Mo. 9						
Yr 2 - Mo. 10						
Yr 2 - Mo. 11						
Yr 2 - Mo. 12						
Yr 3 - Mo. 1						
Yr 3 - Mo. 2						
Yr 3 - Mo. 3						
Yr 3 - Mo. 4						
Yr 3 - Mo. 5						
Yr 3 - Mo. 6						
Yr 3 - Mo. 7						
Yr 3 - Mo. 8						
Yr 3 - Mo. 9						
Yr 3 - Mo. 10						
Yr 3 - Mo. 11						
Yr 3 - Mo. 12						

Class Members: 3,915

Per Class Member: REDACTED

**Notes:**

<sup>(a)</sup> Injunction shall be in effect for three years commencing on the Effective Date (Injunction paragraph 13.) The expected Effective Date of Injunction is November 1 2021 (60 days after final approval on 9/1/2021).

<sup>(b)</sup> REDACTED

<sup>(c)</sup> REDACTED

<sup>(d)</sup>  $[d] = [b] \times [c]$

<sup>(e)</sup> REDACTED

<sup>(f)</sup>  $[f] = [d] \times [e]$