

1 ROBBINS GELLER RUDMAN
 & DOWD LLP
 2 SPENCER A. BURKHOLZ (147029)
 3 THOMAS E. EGLER (189871)
 SCOTT H. SAHAM (188355)
 4 NATHAN R. LINDELL (248668)
 5 ASHLEY M. ROBINSON (281597)
 655 West Broadway, Suite 1900
 6 San Diego, CA 92101
 7 Telephone: 619/231-1058
 619/231-7423 (fax)
 8 spenceb@rgrdlaw.com
 9 tome@rgrdlaw.com
 scotts@rgrdlaw.com
 10 nlindell@rgrdlaw.com
 11 arobinson@rgrdlaw.com

12 KESSLER TOPAZ MELTZER
 & CHECK, LLP
 13 ANDREW L. ZIVITZ
 14 SHARAN NIRMUL
 15 KIMBERLY JUSTICE
 JENNIFER L. JOOST
 16 280 King of Prussia Road
 Radnor, PA 19087
 17 Telephone: 610/667-7706
 18 610/667-7056 (fax)
 19 azivitz@ktmc.com
 snirmul@ktmc.com
 20 kjustice@ktmc.com
 21 jjoost@ktmc.com

COHEN MILSTEIN SELLERS
 & TOLL PLLC
 STEVEN J. TOLL (*pro hac vice*)
 JULIE GOLDSMITH REISER (*pro hac vice*)
 JOSHUA S. DEVORE (*pro hac vice*)
 1100 New York Avenue, N.W.
 West Tower, Suite 500
 Washington, DC 20005-3964
 Telephone: 202/408-4600
 202/408-4699 (fax)
 stoll@cohenmilstein.com
 jreiser@cohenmilstein.com
 jdevore@cohenmilstein.com

22 Co-Lead Counsel in the *Luther*
 and *Western Conference* actions

Lead Counsel in the *Maine State* action only

24
 25 UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

26 MAINE STATE RETIREMENT) No. 2:10-cv-00302-MRP(MANx)
 27 SYSTEM, Individually and On Behalf)
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of All Others Similarly Situated,

Plaintiff,

vs.

COUNTRYWIDE FINANCIAL
CORPORATION, et al.,

Defendants.

[Caption continued on following page.]

) CLASS ACTION
)
) **DECLARATION OF JOHN**
) **MILAZZO, CHIEF DEPUTY**
) **EXECUTIVE DIRECTOR &**
) **GENERAL COUNSEL FOR THE**
) **MAINE PUBLIC EMPLOYEES**
) **RETIREMENT SYSTEM, IN**
) **SUPPORT OF (I) PLAINTIFFS'**
) **MOTION FOR FINAL APPROVAL**
) **OF CLASS ACTION**
) **SETTLEMENT AND PLAN OF**
) **ALLOCATION AND (II)**
) **PLAINTIFFS' COUNSEL'S**
) **MOTION FOR AN AWARD OF**
) **ATTORNEYS' FEES AND**
) **EXPENSES**

1	WESTERN CONFERENCE OF)	No. 2:12-cv-05122-MRP(MANx)
	TEAMSTERS PENSION TRUST)	
2	FUND, Individually and On Behalf of)	<u>CLASS ACTION</u>
3	All Others Similarly Situated,)	
4)	
	Plaintiff,)	
5	vs.)	
6	COUNTRYWIDE FINANCIAL)	
7	CORPORATION, et al.,)	
8)	No. 2:12-cv-05125-MRP(MANx)
	Defendants.)	
9	_____)		<u>CLASS ACTION</u>
10	DAVID H. LUTHER, et al.,)	
11	Individually and On Behalf of All)	
12	Others Similarly Situated,)	
	Plaintiffs,)	
13	vs.)	
14	COUNTRYWIDE FINANCIAL)	
15	CORPORATION, et al.,)	
16)	
	Defendants.)	
17	_____)		
18)	
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1 I, John Milazzo, declare as follows:

2 1. I am the Chief Deputy Executive Director & General Counsel for the
3 Maine Public Employees Retirement System (formerly known as the Maine State
4 Retirement System) (“MSRS”) a state court appointed co-lead plaintiff in the
5 *Luther* litigation (the “*Luther* Action”).¹ My duties as Chief Deputy Executive
6 Director & General Counsel specifically include monitoring and supervising
7 securities-related litigation, such as the *Luther* Action, in which MSRS is involved.
8 In that capacity, I have monitored the *Luther* Action at all times since MSRS’s
9 entry into the case in October 2008.²

10 2. MSRS is a public pension fund that operates for the benefit of current
11 and former employees of the state of Maine and has approximately \$11 billion in
12 assets under management. MSRS is charged with making and overseeing
13 investments for the current and former employees of the state.

14 3. MSRS has served as a named plaintiff in other securities litigations
15 and, thus, has experience in cases like the *Luther* Action. Given the size and
16 importance of MSRS’s investments to its state employees, MSRS has taken an
17 interest in the integrity of the securities markets.

18 4. I am aware of and understand the requirements and responsibilities of
19 a representative plaintiff in a securities class action including those set forth in the
20 Private Securities Litigation Reform Act of 1995. Throughout the course of this

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22 ¹ Unless otherwise defined herein, capitalized terms have the meanings ascribed to
23 them in the Stipulation and Agreement of Settlement (“Stipulation”), previously
24 filed with the Court on July 9, 2013. *Luther* ECF 151.

25 ² By Stipulation and Order of Appointment of Lead Plaintiff and Co-Lead Counsel
26 dated October 6, 2008, the California Superior Court appointed MSRS as one of
27 the co-lead plaintiffs in the state court action. By Order Granting Preliminary
28 Approval to Settlement and Directing Dissemination of Notice to the Class dated
August 7, 2013, the Court for the Actions appointed MSRS as one of the class
representatives for purposes of effectuating the Settlement.

1 litigation, I have taken those duties and responsibilities seriously and executed
2 them to the best of my ability. I submit this Declaration on behalf of MSRS and in
3 support of (a) Plaintiffs' Motion for Final Approval of the proposed \$500 million
4 Settlement (the "Settlement") and Plan of Allocation and (b) Plaintiffs' Counsel's
5 Motion for an Award of Attorneys' Fees and Expenses. I have personal
6 knowledge of the matters set forth in this Declaration, based on my personal
7 involvement in monitoring and overseeing both (a) the prosecution of the *Luther*
8 Action and (b) the negotiations leading to the Settlement. I could and would testify
9 competently to the matters set forth herein if called upon to do so.

10 **I. Work Performed by MSRS on Behalf of the Class**

11 5. In fulfillment of its responsibilities as a Lead Plaintiff, and on behalf
12 of all Class Members, MSRS performed its role as a Lead Plaintiff in pursuit of a
13 favorable result in the *Luther* Action.

14 6. Prior to being appointed as a Lead Plaintiff in the *Luther* Action, I, on
15 behalf of MSRS, discussed with Darren Check, Esq. at Kessler Topaz Meltzer &
16 Check, LLP (formerly, Barroway Topaz Kessler Meltzer & Check, LLP)
17 ("KTMC") the responsibilities of serving as a Lead Plaintiff, MSRS's commitment
18 to fulfilling these responsibilities, and the factual and legal bases for the claims that
19 MSRS eventually asserted against Defendants.

20 7. Since being appointed as a Lead Plaintiff in October 2008 by the
21 California Superior Court, MSRS has devoted substantial time in connection with
22 its representation of the Class. On behalf of MSRS, I and other MSRS officials
23 have, among other things: (a) reviewed and approved pleadings filed in the *Luther*
24 Action; (b) had extensive and regular meetings, telephone calls and email
25 communications with Plaintiffs' Counsel (primarily through direct
26 communications with Darren Check, Esq. and Andrew Zivitz, Esq. of KTMC)
27 regarding strategy and developments in the *Luther* Action; (c) kept fully informed
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1 regarding the status of the *Luther* Action in both state and federal court; (d) kept
2 apprised of other MBS-litigation (including, but not limited to, the *Maine State*
3 action) and rulings by district and appellate courts that bear on MBS-related issues;
4 and (e) consulted with certain of Plaintiffs' Counsel during the course of their 6-
5 month effort to mediate a successful settlement of all claims asserted in the Actions
6 on behalf of the Class. I was personally involved in discussions concerning what
7 MSRS believed would be an appropriate range for settling the various claims
8 asserted in the Actions and arriving at an equitable plan for allocating the
9 settlement proceeds to the Class, and was responsible for obtaining and conveying
10 appropriate authority to Plaintiffs' Counsel with respect to the Settlement Amount
11 and the proposed Plan of Allocation.

12 **II. MSRS Strongly Endorses Approval of the Settlement by the**
13 **Court**

14 8. Based on its involvement throughout the prosecution and resolution of
15 the *Luther* Action, MSRS approved the decisions to enter into the Settlement and
16 to tier the Plan of Allocation. In this regard, I reviewed, analyzed and evaluated
17 the merits of this case, and was kept apprised of the scheduling and progress of the
18 case.

19 9. In making the determination that the \$500 million Settlement
20 represented a fair, reasonable and adequate result for the Class, MSRS did so with
21 an appreciation of both the strengths and weaknesses of Plaintiffs' claims,
22 including but not limited to (a) the hurdles Plaintiffs would have had to overcome
23 in order to prove liability, (b) Defendants' arguments on loss causation and (c)
24 Plaintiffs' difficulty in proving damages at trial. For example, MSRS took into
25 consideration the fact that Defendants repeatedly have argued that any losses
26 suffered by Countrywide MBS investors were caused by the financial crisis rather
27 than by any alleged misstatements by Defendants, thereby materially affecting
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1 Plaintiffs' recoverable damages. MSRS also considered the varying rulings of
2 district and appellate courts nationwide on the appropriate scope of standing and
3 tolling.

4 10. MSRS also weighed the immediate benefits of resolving the claims
5 asserted in the Actions now for a sum of \$500 million, versus the costs and
6 uncertainties of further years' worth of protracted litigation and inevitable appeals
7 – including the substantial risk that Plaintiffs and the Class would recover
8 significantly less than \$500 million (or even nothing at all) had the Actions been
9 litigated to the very end. In addition to the uncertainties associated with continued
10 litigation generally as well as the risks unique to this litigation, I also considered
11 the real possibility that Countrywide could declare bankruptcy before any
12 judgment could be collected from this litigation.

13 11. Based on the absolute dollar size of the Settlement (which I've been
14 advised constitutes the largest Securities Act MBS class action settlement to date)
15 and the fact that the Settlement represents a remarkably large percentage of
16 reasonably recoverable losses suffered by the live claim holders in this case
17 (assuming that Plaintiffs prevailed on liability), MSRS believes that the Settlement
18 represents an exceptional recovery for the Class in the face of substantial litigation
19 risks. Accordingly, MSRS strongly recommends approval of the Settlement.

20 12. MSRS also participated in developing the proposed Plan of Allocation
21 and, in doing so, considered the strengths and weaknesses of the claims held by all
22 putative Class Members. MSRS believes the proposed Plan of Allocation is fair
23 and reasonable as it balances the relative strength of the claims brought, without
24 excluding any absent Class Members from the recovery, including those whose
25 claims had been dismissed by the Court.

26 13. On behalf of MSRS, I commend the efforts of Plaintiffs' Counsel in
27 all of the Actions for obtaining such a recovery for the benefit of the Class and
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1 their perseverance in prosecuting the *Luther* matter for nearly six years (and the
2 *Maine State* matter for 3 ½ years), including after the case was dismissed by the
3 California Superior Court. Their work has been of an exceptionally high caliber,
4 with a strong commitment to professionalism and diligence. Counsel for the
5 *Luther* Plaintiffs have dutifully and effectively advocated for the interests of MSRS
6 and the Class throughout the course of the *Luther* Action. I believe that without
7 the skill and dedication of Plaintiffs' Counsel, this Settlement would not have been
8 achieved.

9 **III. MSRS Supports Plaintiffs' Counsel's Motion for an Award of**
10 **Attorneys' Fees and Expenses**

11 14. Prior to submitting their present fee and expense application, KTMC
12 discussed with MSRS Plaintiffs' Counsel's intention to apply for an award of
13 attorneys' fees not to exceed 17% of the Settlement Fund, as well as
14 reimbursement of litigation expenses not to exceed \$4 million, subject to approval
15 by the Court. I understand this fee and expense request applies to all counsel in
16 *Luther*, *Western Conference* and *Maine State*.

17 15. With respect to the reasonableness of Plaintiffs' Counsel's fee request,
18 MSRS recognizes that any determination of fees is left to the discretion of the
19 Court. In an attempt to aid the Court in that determination, MSRS provides the
20 following based on its observations over the past six years and wishes to advise the
21 Court that it fully supports Plaintiffs' Counsel's request for an award of attorneys'
22 fees and reimbursement of litigation expenses. MSRS has evaluated Plaintiffs'
23 Counsel's fee request by considering the work performed by Plaintiffs' Counsel
24 over the past six years in the *Luther* Action, and by considering the substantial
25 recovery obtained for the Class by counsel in *Luther*, *Western Conference* and
26 *Maine State* in light of the substantial risks of litigation. In fact, after the
27 California Superior Court dismissed the *Luther* Action in January 2010, MSRS
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1 believed the case to be over, and was impressed by Plaintiffs' Counsel's ability to
2 convince the California Court of Appeal to reinstate the *Luther* case, which was a
3 significant factor paving the way for the Settlement.

4 16. In considering Plaintiffs' Counsel's 17% fee request, MSRS
5 considered that the \$500 million recovery in the Actions represents the largest
6 recovery ever in a MBS case brought under the Securities Act. Likewise, MSRS
7 recognizes that the area of law governing MBS cases is unsettled, to say the least,
8 and obtaining a \$500 million recovery given the prior rulings in this jurisdiction is
9 an impressive result. MSRS also recognizes that Plaintiffs' Counsel took a risk in
10 commencing this matter nearly six years ago and has shouldered the cost and
11 expense of litigating it during that time without receiving any compensation.
12 MSRS believes that the fee request properly compensates Plaintiffs' Counsel for
13 their exhaustive efforts in all of the Actions.

14 17. In sum, MSRS is extremely pleased with the result obtained in all of
15 the Actions and the work of Plaintiffs' Counsel in achieving this result. Based on
16 the result obtained and the other factors discussed above, MSRS has endorsed
17 Plaintiffs' Counsel's request for a fee award equal to 17% of the Settlement Fund,
18 and believes that it reflects fair and reasonable compensation for Plaintiffs'
19 Counsel on the facts of this case.

20 18. MSRS also has reviewed Plaintiffs' Counsel's request for
21 reimbursement of litigation expenses and believes this request represents costs and
22 expenses necessarily incurred in prosecuting and resolving the Actions. MSRS
23 likewise endorses Plaintiffs' Counsel's expense request as fair and reasonable.

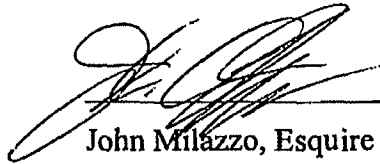
24 **IV. Conclusion**

25 19. For the foregoing reasons, MSRS respectfully requests that the Court
26 approve in full (a) Plaintiffs' Motion for Final Approval of Class Action
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1 Settlement and Plan of Allocation and (b) Plaintiffs' Counsel's Motion for an
2 Award of Attorneys' Fees and Expenses.

3 20. I declare under penalty of perjury under the laws of the United States
4 of America that that the foregoing is true and correct, and that I have authority to
5 execute this Declaration on behalf of MSRS.

6 Executed this 16TH day of September, 2013

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9  _____
John Milazzo, Esquire

10 *Chief Deputy Executive Director & General*
11 *Counsel for the Maine Public Employees*
12 *Retirement System*

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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2013, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 23, 2013.

s/ Spencer A. Burkholz

SPENCER A. BURKHOLZ

ROBBINS GELLER RUDMAN
& DOWD LLP

655 West Broadway, Suite 1900
San Diego, CA 92101-3301
Telephone: 619/231-1058
619/231-7423 (fax)

E-mail: spenceb@rgrdlaw.com

Mailing Information for a Case 2:12-cv-05125-MRP-MAN

Electronic Mail Notice List

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

- **Leiv H Blad , Jr**
leiv.blad@bingham.com
- **Spencer Alan Burkholz**
spenceb@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **Christopher G Caldwell**
caldwell@caldwell-leslie.com,hammer@caldwell-leslie.com, hong@caldwell-leslie.com,perigoe@caldwell-leslie.com,pettit@caldwell-leslie.com,records@caldwell-leslie.com,hayes@caldwell-leslie.com,popescu@caldwell-leslie.com,strother@caldwell-leslie.com
- **Michelle K Camp**
mpulley@gibsondunn.com
- **Matthew D Caplan**
matthew.caplan@dlapiper.com,susan.byrd@dlapiper.com
- **Michele E Connolly**
mconnolly@goodwinprocter.com
- **Brian Charles Devine**
bdevine@goodwinprocter.com,ABoivin@goodwinprocter.com
- **Rajiv S Dharnidharka**
rajiv.dharnidharka@dlapiper.com
- **Jenifer Q Doan**
jeniferdoan@paulhastings.com,jenniferroussillon@paulhastings.com
- **Daniel S Drosman**
ddrosman@rgrdlaw.com,tholindrake@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **Thomas E Egler**
tome@rgrdlaw.com,jillk@rgrdlaw.com
- **John O Farley**
jfarley@goodwinprocter.com
- **Inez H Friedman-Boyce**
ifriedmanboyce@goodwinprocter.com,MConnolly@goodwinprocter.com
- **Jeanne A Fugate**
fugate@caldwell-leslie.com,records@caldwell-leslie.com,harper@caldwell-leslie.com
- **Joshua G Hamilton**
joshuahamilton@paulhastings.com,melmanahan@paulhastings.com,lindayoung@paulhastings.com
- **Jennifer L Joost**
jjoost@ktmc.com
- **Kimberly A Justice**
kjustice@ktmc.com,dpotts@ktmc.com
- **Deborah Kang**
deborahkang@paulhastings.com
- **Dean J Kitchens**
dkitchens@gibsondunn.com,MOstryc@gibsondunn.com
- **Jennifer Y Lai**
jlai@leonardcarder.com
- **Seth E Lipner**
proflipner@aol.com

- **Teodora Manolova**
tmanolova@goodwinprocter.com
- **Azra Z Mehdi**
azram@themehdifirm.com,ghamilton@themehdifirm.com
- **Alexander K Mircheff**
amircheff@gibsondunn.com,mostrye@gibsondunn.com,inewman@gibsondunn.com,cnowlin@gibsondunn.com,mpulley@gibsondunn.com
- **Nicolas Morgan**
nicolas.morgan@dlapiper.com,sonji.leblanc@dlapiper.com,paul.puzon@dlapiper.com
- **Sharan Nirmul**
snirmul@ktmc.com,mswift@ktmc.com
- **Christopher Anthony Nowlin**
cnowlin@gibsondunn.com,hkim@gibsondunn.com
- **Brian E Pastuszewski**
bpastuszewski@goodwinprocter.com,aboivin@goodwinprocter.com,ashapiro@goodwinprocter.com
- **Eric Stephen Pettit**
pettit@caldwell-leslie.com,records@caldwell-leslie.com
- **David A Priebe**
david.priebe@dlapiper.com,carmen.manzano@dlapiper.com
- **Ashley M Robinson**
ashleyr@rgrdlaw.com
- **Scott H Saham**
scotts@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **Jennifer M Sepic**
jennifer.sepic@bingham.com
- **Alexis L Shapiro**
ashapiro@goodwinprocter.com
- **William F Sullivan**
williamsullivan@paulhastings.com,lisavermeulen@paulhastings.com,lindayoung@paulhastings.com
- **Michael C Tu**
mtu@orrick.com,cchiang@orrick.com
- **Avi N Wagner**
avi@thewagnerfirm.com,anwagneresq@hotmail.com
- **Shirli Fabbri Weiss**
shirli.weiss@dlapiper.com,emiko.gonzales@dlapiper.com
- **Lloyd Winawer**
lwinawer@goodwinprocter.com,cburgos@goodwinprocter.com
- **Andrew L Zivitz**
azivitz@ktmc.com,dpotts@ktmc.com,jenck@ktmc.com,cchiappinelli@ktmc.com,acashwell@ktmc.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)