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12

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

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15 MAUREEN HARROLD, individually and on  
behalf of all others similarly situated,

16 Plaintiff,

17 v.

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19 MUFG UNION BANK, N.A.,

20 Defendant.

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Case No. BC680214

**(Assigned for All Purpose to the Honorable  
Yvette M. Palazuelos, Dept. 9)**

**PLAINTIFF'S SUPPLEMENTAL  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: September 7, 2023

Time: 10:00 a.m.

Action Filed: October 19, 2017

Amended Complaint Filed: July 29, 2020

Trial Date: None Set

1 Plaintiff files this supplemental brief in response to the Court’s April 19, 2023 Tentative  
2 Ruling (“Order”) and the Court’s April 26, 2023 Further Clarification (“Supplemental Order”)   
3 regarding Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement  
4 (“Motion”), in which the Court requested additional information to support Preliminary Approval.<sup>1</sup>  
5 During the April 26, 2023 hearing on the Motion, the Court noted that following its review of this  
6 briefing, it might determine that the currently set September 7, 2023 hearing on the Motion is  
7 unnecessary and grant Preliminary Approval without a hearing. Plaintiff respectfully requests entry  
8 of the Preliminary Approval Order without a hearing.

9 **1. Attorneys’ Fees Will Be Split Commensurate to Each Firm’s Relative Contribution.**

10 The first issue raised by the Court is a request to clarify how the attorneys’ fees will be split.  
11 (Order at 4.) Attorneys who are barred in California or admitted to this case *pro hac vice* from five  
12 law firms were retained by and have contributed to the investigation, prosecution, and proposed  
13 Settlement of the Action. Under the Joint Prosecution Agreement among the firms, which Plaintiff  
14 approved, the McCune Law Group and The Kick Law Firm, APC will collectively receive 25% of  
15 the total attorneys’ fees or their relative lodestar, whichever is greater; Tycko and Zavareei LLP and  
16 Kopelowitz Ostrow P.A. will each receive 40% of the remainder of the attorneys’ fees; and  
17 KalieGold PLLC will receive the final 20% of the attorneys’ fees. Supplemental Declaration of  
18 Proposed Class Counsel (“Supp. Joint Decl.”) attached as *Exhibit 1*, at ¶ 5. As the Motion notes,  
19 this fee division was entered into via written agreement to which Plaintiff has consented in writing,  
20 and the total fee has not increased solely by reason of this agreement, as required by Cal. R. Prof.  
21 Con. 1.5.1.

22 At final approval, the Court will be able to determine the reasonableness of any requested  
23 agreement regarding the payment of attorneys’ fees, which Plaintiff’s counsel must “set forth in  
24 full.” *See* Cal. Civ. Rule 3.769(b). Once attorneys’ fees are awarded, Plaintiff’s counsel is required  
25 to distribute those fees proportionately among themselves, according to any applicable fee  
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28 <sup>1</sup> The capitalized terms used herein are defined and have the same meaning as used in the Settlement  
Agreement and Releases attached to the Motion as *Exhibit A* unless otherwise stated.

1 arrangement. In so doing, counsel is not required to abide by a strict lodestar method, but rather may  
2 agree upon a method to apportion fees that recognizes each firm's relative contribution to the  
3 investigation, litigation, and settlement. *See In re Vitamin Cases*, No. 301803, 2004 WL 5137597,  
4 at \*7-8 (Cal. Super. Ct. Apr. 12, 2004). Here, the proposed division of fees compensates each firm  
5 consistent with their contribution, beyond merely counting up the number of hours each one worked.

6 **2. The Release Effective Date Is Appropriate Because Settlement Class Members Will**  
7 **Receive Payments or Credits Promptly.**

8 The Court asked the parties to consider changing the effective date of the Releases so that it  
9 occurs after Settlement Class Member Payments are fully disbursed. (Order at 6; Supplemental  
10 Order No. 1.) The Settlement Agreement provides that the Releases are effective on the Effective  
11 Date, defined as 10 days after the time to appeal the Judgment has expired or after all appeals are  
12 decided and there is no further right to appeal. (Agreement ¶¶ 44, 109.) The Agreement also  
13 provides that the Net Settlement Fund will be distributed by check or Account credit no later than  
14 60 days after the Effective Date. It further provides for the possibility that Defendant will be unable  
15 to provide credits for a small number of Settlement Class Members whose Accounts closed between  
16 the time when the Settlement Administrator transfers funds and the date when credits are issued, so  
17 funds provided for this purpose by the Settlement Administrator will be returned to the Settlement  
18 Administrator for issuance of checks. (*Id.* ¶ 106.)

19 A hallmark of the Settlement is no claims process and automatic Settlement Class Member  
20 Payments. Current Accountholder Settlement Class Members are best served by receiving an  
21 Account credit so funds will be immediately available. Account credits also lower Settlement  
22 Administration Costs. Checks to Past Accountholders using mailing addresses possessed by  
23 Defendant, updated for newer addresses, where available, is a direct and efficient form of payment  
24 for those Settlement Class Members.

25 The effective date of the Releases is appropriate because it is a date certain disclosed in the  
26 Agreement, reflected in the Court records, and is the same for all Settlement Class Members. Basing  
27 the Releases' effective date on when checks are mailed or credits are completed to Settlement Class  
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1 Members would require inquiry of the Settlement Administrator and Defendant and could vary by  
2 Settlement Class Member, including if a check has to be re-mailed due to an address change. It is  
3 more efficient to have any easy to identify release date, without the need for the Settlement  
4 Administrator to incur time and expense to document differing effective dates for the Releases for  
5 each Settlement Class Member, which will be passed on as Settlement Administration Costs.

6 In addition, there is no need to tie the effective date of the Releases to the date when the  
7 checks are mailed or Account credits are issued because there is no risk that Settlement Class  
8 Members will not be sent checks or receive credits. The Settlement Fund will be deposited no later  
9 than 10 days after Preliminary Approval. (*Id.* ¶ 72.) Once deposited in the Escrow Account, the  
10 Settlement Fund will accrue interest for the Settlement Class’s benefit and be subject to the Court’s  
11 jurisdiction. (*Id.* ¶ 46.)

12 Although the Court asked the Parties to consider the possibility that Defendant will not return  
13 funds it received from the Escrow Account to credit Accounts that will instead be used to send  
14 checks (Supplemental Order at 1), the Court should have no such concern and it does not justify  
15 differing dates on which the Releases will take effect for any of the Settlement Class Members.  
16 Defendant will have already delivered the entire Settlement Fund long before receiving a portion of  
17 the Settlement Fund to credit Accounts. Plaintiff and the Settlement Administrator will be aware  
18 immediately if Defendant does not send back the required funds. Ultimately, following Final  
19 Approval, the Court will retain jurisdiction and could address any unlikely failure of the Defendant  
20 to promptly return funds from unsuccessful Account credits.

21 Finally, the number of Settlement Class Members who do not receive a credit or are not sent  
22 a check within 60 days of the Effective Date will be very small. Class Counsel’s experience in  
23 dozens of similarly structured bank fee class settlements indicates that a few Current  
24 Accountholders’ Accounts will be closed between (1) the date Defendant updates the Current  
25 Accountholder and Past Accountholder lists following Final Approval and (2) the date Defendant  
26 completes the Account credits. The funds necessary to promptly pay this small group by check  
27 instead of Account credit will be efficiently transferred back to the Settlement Administrator,  
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1 resulting in only a short delay for a very small number of Settlement Class Members. (*Id.* ¶ 106.b.)

2         With these considerations in mind, the Court should grant Preliminary Approval without  
3 requiring the Agreement to be modified to provide for different dates on which the Releases will be  
4 effective as to subgroups of the Settlement Class. Sufficient safeguards are in place regarding  
5 Settlement Class Member Payments from the Net Settlement Fund.

6         **3. Use of Residual Funds to Reimburse Payment of Settlement Administration Costs and**  
7         **Distribution of the Remainder to the *Cy Pres* Are Effective and Reasonable Uses of**  
8         **Unclaimed Funds.**

9         The next issue the Court asked the parties to consider is why is it fair to Past Accountholders  
10 that residual funds from uncashed checks will go toward reimbursing Defendant for the Settlement  
11 Administration Costs or be distributed to a *cy pres* recipient Pres instead of being escheated to the  
12 State as unclaimed property. (Order at 7.) Starting with reimbursement of Settlement  
13 Administration Costs, the mechanism for reimbursement of Defendant’s payment of such costs up  
14 to the amount of Residual Funds maximizes the amount received by Current Accountholders and  
15 by Past Accountholders who the Settlement Administrator is able to locate and who cash their  
16 checks. It is typical for settlement administration costs to be deducted from the settlement fund,  
17 reducing the amount distributed to all settlement class members. This structure reflects the fact that  
18 settlement administration benefits settlement class members just like attorney’s fees and costs,  
19 making it appropriate for those costs to be paid from the settlement fund.

20         The Parties bargained at arm’s-length for Defendant to pay Settlement Administration Costs  
21 and how Residual Funds would be distributed following the initial distribution of the Net Settlement  
22 Fund. Had this agreement not been reached after protracted litigation, Defendant likely would have  
23 required that Settlement Administration Costs be paid in the first instance from the Settlement Fund.  
24 In that event, all Settlement Class Members would have paid a portion of the Settlement  
25 Administration Costs and received a smaller distribution as a result.

26         Instead, the administration process the Parties agreed to requires Defendant to pay  
27 Settlement Administration Costs in addition to the Settlement Fund and allows Defendant to be  
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1 reimbursed only from Residual Funds resulting from uncashed checks. (Agreement ¶ 108.) The  
2 Agreement ensures the number of Past Accountholders who do not cash the check and the total  
3 amount of Residual Funds will be as small as possible, including by requiring the Settlement  
4 Administrator to re-mail any checks that are initially returned undeliverable. (Agreement ¶¶ 106-  
5 107.)

6 Defendant will be reimbursed for Settlement Administration Costs only up to the amount of  
7 those costs paid through the initial distribution of the Net Settlement Fund, with the remaining costs  
8 paid from the Residual Funds. (Agreement ¶ 108(a), (e)). If the Residual Funds are insufficient to  
9 cover these costs incurred through the initial distribution, Defendant will not be fully reimbursed.  
10 Either way, the process agreed to by the parties maximizes the amount distributed to Current  
11 Accountholders and Past Accountholders whom the Settlement Administrator is able to locate and  
12 who cash their checks.

13 The second issue raised by the Court's comment is whether the residual funds should go to  
14 the California Controller's Officer for Unclaimed Property rather than to a *cy pres* recipient  
15 approved by the Court. (Order at 7.) The Parties are not aware of any reason why providing Residual  
16 Funds to the Unclaimed Property Fund would be any more fair or appropriate. Given the time and  
17 effort the Settlement Administrator will be required to spend locating valid addresses for Past  
18 Accountholders after being provided the last known address those Past Accountholders gave  
19 Defendant, and the fact that the Unclaimed Property Law does not require greater efforts to locate  
20 these individuals, it is unlikely Past Accountholders will claim their payments from the Unclaimed  
21 Property Fund if they did not cash or receive their checks. Additionally, Residual Funds will only  
22 go to a *cy pres* recipient, if it determined that it is *not* financially feasible and practical to provide a  
23 second distribution to participating Settlement Class Members (meaning those who received an  
24 Account credit or cashed a check), or Residual Funds still exist following a second distribution from  
25 undelivered or uncashed second distribution checks. (Agreement ¶ 108.)

26 The Unclaimed Property Law does not require greater efforts than will already have been  
27 taken to deliver Settlement Class Member Payments. Because the law requires these Residual Funds

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1 be put to their “next best use,” payments that Settlement Class Members will likely not claim if they  
2 are sent to the Unclaimed Property Fund should instead be put to better use. *See In re Microsoft I-V*  
3 *Cases*, 135 Cal. App. 4th 706, 716 (2006) (approving distribution of unredeemed settlement funds  
4 to *cy pres* because such distribution met the requirement that unclaimed class payments must  
5 “benefit[] as many of the class members are possible, despite the probability that some class  
6 members will not benefit whereas some nonmembers will”).

7 Under California’s Unclaimed Property Law, Cal. Civ. Pro. Code § 1500 *et seq.*, “if the  
8 holder has in its records an address for the apparent owner of property valued at fifty dollars (\$50)  
9 or more, which the holder’s records do not disclose to be inaccurate, the holder shall make  
10 reasonable efforts to notify the owner by mail or, if the owner has consented to electronic notice,  
11 electronically, that the owner’s property will escheat to the state pursuant to this chapter.” Cal. Civ.  
12 Pro. Code § 1520(b). Many Settlement Class Members are unlikely to receive *any* notice under this  
13 statute because of the \$50 threshold. Also, this notification requirement applies only to addresses  
14 already available in a holder’s records, in this case the Defendant’s records, which the Settlement  
15 Administrator will already have used to send Notice and the Settlement Class Member Payment  
16 check, after already conducting “reasonable efforts” to locate newer addresses for returned Notices  
17 and checks. Past Accountholder Settlement Class Members may also update their addresses before  
18 payment is made. Cashing a check received is significantly less effort than what is required for a  
19 recipient of an uncashed check to reclaim property under California law.<sup>2</sup>

20 Ultimately, California Code of Civil Procedure section 384(a) recognizes that distribution  
21 of residual funds to a *cy pres* recipient meeting specified requirements is the “policy of the State of  
22 California.” (Cal Cod. Civ. Proc. § 384.) The Los Angeles Superior Court Model Class Action and  
23 PAGA Settlement Agreement likewise permits parties to choose the *cy pres* method for distributing  
24 residual funds instead of the Unclaimed Property Fund. (*Available at*  
25 <https://www.lacourt.org/forms/pdf/LACIV296.pdf> at § 4.4.3.) Here, the Parties have determined  
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27 <sup>2</sup>*See* [sco.ca.gov/Files-UPD/guide\\_claim\\_owner.pdf](https://sco.ca.gov/Files-UPD/guide_claim_owner.pdf) (stating requirements to present claim).  
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1 that providing the Residual Funds to the California Jump\$Start Coalition will benefit Californians,  
2 including Settlement Class Members, consistent with the Model Settlement Agreement and Code of  
3 Civil Procedure section 384, as it “works to promote financial literacy in California.” (Agreement,  
4 ¶ 108.c.)

5 Accordingly, Plaintiff respectfully requests that the Court grant Preliminary Approval  
6 without requiring any changes to the Agreement’s Residual Funds terms.

7 **4. The Settlement Does Not Need a Dispute Resolution Procedure.**

8 The next issue the Court asked Plaintiff to address is “whether Counsel anticipate any  
9 possible disputes submitted by Current or Past Accountholders regarding the number of APSNs that  
10 they are being credited or in the event of any complications?” (Supp. Order at 2.) The Settlement  
11 provides for automatic Settlement Class Member Payments from the Net Settlement Fund without  
12 the need to file a claim, eliminating any need to incorporate a procedure for Settlement Class  
13 Members to prove their entitlement to or dispute the amount of a Settlement Class Member Payment.  
14 Based on their experience in dozens of bank account fee settlements, Class Counsel do not anticipate  
15 disputes from Current Accountholders or Past Accountholders as to the amount of their Settlement  
16 Class Member Payments. (Supp. Joint Decl. ¶ 4.) Nor should the Court. (*Id.*) Indeed, Settlement  
17 Class Members will receive notice of the plan of allocation of the Net Settlement Fund and the  
18 calculations which will determine the Settlement Class Member Payments.

19 An expert’s analysis of transaction data maintained by Defendant for the Class Period was  
20 necessary to identify the subset of Overdraft Fees that are APSN Fees and any refunds of those  
21 Overdraft Fees. APSN Fees cannot be gleaned from monthly account statements or otherwise  
22 determined apart from the analysis performed by Plaintiff’s expert. So, the Parties would not expect  
23 Settlement Class Members to have any basis to dispute the expert’s determination.

24 Class Counsel have represented plaintiffs and settlement classes in dozens of other bank  
25 account fee class settlements, and none of those settlements included a dispute mechanism. There  
26 has never been a need or reason to allow a class member to challenge the calculation of the  
27 settlement payment under circumstances similar to the Settlement here. (*Id.* ¶ 3.)

1 Therefore, there is no need to require a dispute resolution process to the Settlement  
2 administration process.

3 **5. The Attached Declarations Confirm None of the Parties or Counsel Have an Interest**  
4 **or Involvement in the Cy Pres Recipient.**

5 The Court ordered submission of “declarations disclosing the interest or involvement (or  
6 lack thereof) by any counsel or party in the governance or work of the cy pres recipient,” and  
7 specified that “it is acceptable for counsel for the parties to submit declarations that includes the  
8 required information as to both the parties and their counsel.” (Order at 9; Supp. Order at 2.) To  
9 comply with this requirement, the Parties conferred, and it was revealed that a now former employee  
10 of Defendant volunteered on its behalf with the California Council on Economic Education.  
11 Therefore, the Parties have agreed to propose California JumpStart Coalition  
12 (<https://cajumpstart.org/about-us>) as a replacement *cy pres* recipient. That organization’s mission is  
13 “to further personal financial knowledge among California students. We empower our partners,  
14 educators and communities to implement financial education in the classroom.”  
15 <https://cajumpstart.org/about-us/about-us/mission>. Given the Court has to approve the *cy pres*  
16 recipient, the Parties agree that it is unnecessary to amend the Agreement for this purpose. When  
17 seeking Final Approval of the Settlement, the Parties will request the Final Approval Order approve  
18 California JumpStart Coalition as the *cy pres* recipient in the event that there are Residual Funds to  
19 be distributed *cy pres*.

20 The Supplemental Declaration of Proposed Class Counsel attached as ***Exhibit 1*** and  
21 Declaration of Defendant’s Counsel attached as ***Exhibit 2*** are submitted in compliance with this  
22 provision of the Order. These declarations confirm the Parties and their counsel lack any interest or  
23 involvement in the governance or work of the proposed *cy pres* recipient, California JumpStart  
24 Coalition.

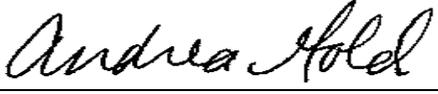
25 **6. Conclusion.**

26 Based on the foregoing and the evidence and arguments in the Motion itself, Plaintiff  
27 respectfully requests the Court grant Preliminary Approval of the Agreement and enter the proposed  
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1 Preliminary Approval Order filed contemporaneously with the Motion. Given the schedule of events  
2 summarized in Section V of the Motion, the Final Approval Hearing may be set for the week of  
3 **March 4, 2024**, or as soon thereafter as is available on the Court’s docket.

4 DATED: August 15, 2023

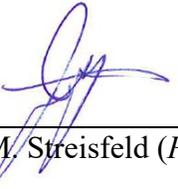
TYCKO & ZAVAREEI LLP

5 By:   
6 \_\_\_\_\_  
Andrea Gold (*Pro Hac Vice*)

7 *Attorneys for Plaintiff Maureen Harrold*

8 DATED: August 15, 2023

KOPELOWITZ OSTROW P.A.

9  
10 By:   
11 \_\_\_\_\_  
Jonathan M. Streisfeld (*Pro Hac Vice*)

12 *Attorneys for Plaintiff Maureen Harrold*

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# EXHIBIT 1

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11 *Attorneys for Plaintiff Maureen Harrold*

12  
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

15 MAUREEN HARROLD, individually and on  
behalf of all others similarly situated,

16 Plaintiff,

17 v.

18 MUFG UNION BANK, N.A.,

19 Defendant.

Case No. BC680214

**SUPPLEMENTAL JOINT  
DECLARATION OF PROPOSED CLASS  
COUNSEL IN SUPPORT OF  
UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: September 7, 2023

Time: 10:00 a.m.

Department: 9

Action Filed: October 19, 2017

Amended Complaint Filed: July 29, 2020

Trial Date: None Set

20 Jonathan M. Streisfeld and Andrea R. Gold hereby declare as follows:

21  
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23  
24  
25 1. We are proposed Class Counsel<sup>1</sup> under the Settlement being presented to the Court  
26 for Preliminary Approval. We submit this declaration in support of Plaintiff's Supplemental  
27 \_\_\_\_\_

28 <sup>1</sup> The capitalized terms have the same meaning as used in the Settlement Agreement and Releases.

1 Memorandum of Points and Authorities in Support of Unopposed Motion for Preliminary Approval  
2 of Class Action Settlement. We have personal knowledge of the facts set forth in this declaration  
3 and could testify competently as to them if called upon to do so.

4         2.         On April 26, 2023, the Court issued an Order regarding the Plaintiff's Unopposed  
5 Motion for Preliminary Approval of Class Action Settlement, ordering the Parties to provide  
6 additional explanation and evidence of specified items on the Court's checklist for preliminary  
7 approval of class action settlements.

8         3.         One requirement of the Court's Order's requires a response for why it is unnecessary  
9 for the Settlement terms to include a dispute process for Settlement Class Members to challenge the  
10 Settlement Class Member Payment amount. As noted in their initial Joint Declaration in support of  
11 Preliminary Approval, Class Counsel have extensive experience litigating similar bank fee class  
12 actions. In none of the similar bank account fee cases that Class Counsel has settled for a class has  
13 there been a need or reason to permit a class member to challenge the amount of the Settlement  
14 Class Member Payment amount. Instead, the expert's analysis is reliably applied to the net  
15 settlement fund to be distributed following final approval when the Court has determined the  
16 attorneys' fees and costs, service award, and settlement administration cost amounts to be deducted  
17 from the Settlement Fund.

18         4.         The calculation or formula used by the expert to arrive at the Settlement Class  
19 Member Payment amount is disclosed to Settlement Class Members in the Settlement Agreement.  
20 Before Final Approval, if a Settlement Class Member does not agree with the allocation formula, he  
21 or she may opt-out of or object to the Settlement. However, a dispute resolution process to be  
22 undertaken *after* the court-approved allocation formula has been applied has not been used in other  
23 cases and should not be required here because, at that point, the settlement administrator is simply  
24 using the expert's prior analysis and reliably applying the disclosed formula to the net settlement  
25 fund to be distributed following final approval. Based on our experience in dozens of bank account  
26 fee settlements, Class Counsel do not anticipate disputes from Current Accountholders or Past  
27 Accountholders as to the amount of their Settlement Class Member Payments. Nor should the Court.

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1           5.       The Court’s Order also requires an explanation of the split of attorneys’ fees between  
2 counsel for the Plaintiff. In this case, attorneys who are barred in California or admitted to this case  
3 *pro hac vice* from five law firms were retained by and have contributed to the investigation,  
4 prosecution, and proposed settlement of the Action. Under the Joint Prosecution Agreement among  
5 the firms, which Plaintiff approved, McCune Law Group and The Kick Law Firm, APC will  
6 collectively receive 25% of the total attorneys’ fees or their relative lodestar, whichever is greater;  
7 Tycko & Zavareei LLP and Kopelowitz Ostrow P.A. will each receive 40% of the remainder of the  
8 attorneys’ fees; and KalieGold PLLC will receive the final 20% of the attorneys’ fees.

9           6.       Another requirement of the Court’s Order requires “declarations disclosing the  
10 interest or involvement (or lack thereof) by any counsel or party in the governance or work of the  
11 *cy pres* recipient.” To comply with this requirement, the Parties conferred, and it was revealed that  
12 a now former employee of Defendant volunteered on its behalf with the California Council on  
13 Economic Education. Therefore, the Parties have agreed to propose California JumpStart Coalition  
14 (<https://cajumpstart.org/about-us>) as a replacement *cy pres* recipient. That organization’s mission is  
15 “to further personal financial knowledge among California students. We empower our partners,  
16 educators and communities to implement financial education in the classroom.”  
17 <https://cajumpstart.org/about-us/about-us/mission>. Neither proposed Class Counsel nor the Plaintiff  
18 have any interest or involvement in the governance or work of this new proposed *cy pres* recipient.

19           7.       As confirmed in the attached August 10, 2023 email from California JumpStart  
20 Coalition, we have also asked and confirmed that our co-counsel with McCune Law Group, The  
21 Kick Law Firm, APC, and KalieGold PLLC have no interest or involvement with the governance  
22 or work of California JumpStart Coalition.

23           We declare under penalty of perjury under the laws of the State of California that the  
24 foregoing is true and correct.

25 Executed on August 15, 2023

26   
27 \_\_\_\_\_  
28 Jonathan Streisfeld

  
\_\_\_\_\_  
Andrea R. Gold

## Jonathan M. Streisfeld

---

**From:** Tena Lozano <tlozano@rmjfoundation.org>  
**Sent:** Thursday, August 10, 2023 1:47 PM  
**To:** Jonathan M. Streisfeld  
**Cc:** Thomas, Nancy; Andrea Gold (agold@tzlegal.com); Carmen Berry  
**Subject:** RE: information for possible cy pres donation - CA Jump\$tart Introduction and Connection

You don't often get email from tlozano@rmjfoundation.org. [Learn why this is important](#)

Jonathan,

Thanks for your continued efforts to contact me. I can confirm that none of the parties you listed below (U.S. Bank/Union Bank or any of the attorneys) have any interest or involvement in the governance or work of the California Jump\$tart Coalition.

**Defendant Side:** U.S. Bank and Union Bank (please also confirm no employees of the bank has served in an officer or director category); Morrison Foerster (counsel for the Defendant)

**I can confirm that no one from U.S. Bank or Union Bank has served in a director or officer position for at least the past 10 years. Further, no one from Morrison Foerster has any interest or involvement in our work.**

**Plaintiff's Side:** Maureen Harrold (Plaintiff); Kopelowitz Ostrow P.A., Tycko & Zavareei LLP, KalielGold PLLC, The Kick Law Firm, and McCune Wright aka McCune Wright Arevalo Vercoski Kusel Weck Brandt APC (all five law firms representing Plaintiff). Attorneys from the law firms you should also check by name include Jonathan Streisfeld, Andrea Gold, Annick Persinger, Hassan Zavareei, Jeffrey Kaliel, Taras Kick, and Richard McCune.

**I can confirm that no individuals or law firms listed on the Plaintiff's side have any interest or involvement in the work of the California Jump\$tart Coalition.**

Please let me know if you need any additional information or clarification. Thank you for this opportunity.

Best regards,  
Tena Lozano  
Chair, California Jump\$tart Coalition

Tena Lozano

*Executive Director*

Richard Myles Johnson Foundation

(909) 212-6057

---

**From:** Jonathan M. Streisfeld <streisfeld@kolawyers.com>  
**Sent:** Thursday, August 10, 2023 10:17 AM  
**To:** Tena Lozano <tlozano@rmjfoundation.org>  
**Cc:** Thomas, Nancy <NThomas@mofo.com>; Andrea Gold (agold@tzlegal.com) <agold@tzlegal.com>  
**Subject:** RE: information for possible cy pres donation - CA Jump\$tart Introduction and Connection

Tena, thank you for speaking with me. I have copied Nancy Thomas who is counsel for MUFG Union Bank which now known as U.S. Bank due to a recent acquisition. I have also copied by co-counsel, Andrea Gold.

To confirm that we can identify CA Jump\$start as a proposed cy pres recipient, the court is requiring the parties and their counsel to confirm in declarations that they have no interest or involvement in the governance or work of the cy pres recipient. Therefore, we request that you check the following names and entities against your organization's records:

**Defendant Side:** U.S. Bank and Union Bank (please also confirm no employees of the bank has served in a officer or director category); Morrison Foerster (counsel for the Defendant)

**Plaintiff's Side:** Maureen Harrold (Plaintiff); Kopelowitz Ostrow P.A., Tycko & Zavareei LLP, KalielGold PLLC, The Kick Law Firm, and McCune Wright aka McCune Wright Arevalo Vercoski Kusel Weck Brandt APC (all five law firms representing Plaintiff). Attorneys from the law firms you should also check by name include Jonathan Streisfeld, Andrea Gold, Annick Persinger, Hassan Zavareei, Jeffrey Kaliel, Taras Kick, and Richard McCune.

We would very much appreciate having a response from you by tomorrow. Today would be even better.

Thank you.

**Jonathan M. Streisfeld**

Direct: 954-332-4218



---

**From:** Tena Lozano <[tlozano@rmjfoundation.org](mailto:tlozano@rmjfoundation.org)>

**Sent:** Thursday, August 10, 2023 12:31 PM

**To:** Variny Yim <[variny.yim@jumpstart.org](mailto:variny.yim@jumpstart.org)>; Jonathan M. Streisfeld <[streisfeld@kolawyers.com](mailto:streisfeld@kolawyers.com)>

**Subject:** RE: information for possible cy pres donation - CA Jump\$start Introduction and Connection

You don't often get email from [tlozano@rmjfoundation.org](mailto:tlozano@rmjfoundation.org). [Learn why this is important](#)

Thanks Variny! Jonathan and I just spoke. I appreciate your help on this!

Tena Lozano

*Executive Director*

Richard Myles Johnson Foundation

(909) 212-6057

---

**From:** Variny Yim <[variny.yim@jumpstart.org](mailto:variny.yim@jumpstart.org)>

**Sent:** Thursday, August 10, 2023 9:24 AM

**To:** [streisfeld@kolawyers.com](mailto:streisfeld@kolawyers.com); Tena Lozano <[tlozano@rmjfoundation.org](mailto:tlozano@rmjfoundation.org)>

**Subject:** FW: information for possible cy pres donation - CA Jump\$start Introduction and Connection

**Importance:** High

Hi, Jonathan and Tena!

I have communicated with both of you separately, but want to connect you two directly by email so you can get in touch with one another. As I mentioned, I asked Tena to reach out to you this morning so hopefully, the two of you are able to speak soon.

In the meantime, I am copying you both here and wish you a wonderful and productive conversation! THANK YOU for your time and consideration!

Warm regards,

Variny Yim  
Director of Partner and Affiliate Relations  
Jump\$tart Coalition for Personal Financial Literacy  
510-243-1622  
[Variny.yim@jumpstart.org](mailto:Variny.yim@jumpstart.org)

---

**From:** Laura Levine <[laura.levine@jumpstart.org](mailto:laura.levine@jumpstart.org)>  
**Date:** Thursday, August 10, 2023 at 8:36 AM  
**To:** "Jonathan M. Streisfeld" <[streisfeld@kolawyers.com](mailto:streisfeld@kolawyers.com)>, Amina Carter <[amina.carter@jumpstart.org](mailto:amina.carter@jumpstart.org)>  
**Cc:** "Thomas, Nancy" <[NThomas@mofo.com](mailto:NThomas@mofo.com)>, Variny Yim <[variny.yim@jumpstart.org](mailto:variny.yim@jumpstart.org)>  
**Subject:** RE: information for possible cy pres donation

Hi Jonathan, terribly sorry about that. Our state affiliates are grassroots operations and most of them do not have permanent staffs or bricks and mortar offices. I've copied in Variny Yim who is our liaison to our state affiliates. I'm going to ask her to try to reach out to CA Jump\$tart and help you connect. As she is copied in, you are most welcome to connect with her directly. Thanks for your patience with our CA group.

Laura

---

**From:** Jonathan M. Streisfeld <[streisfeld@kolawyers.com](mailto:streisfeld@kolawyers.com)>  
**Sent:** Thursday, August 10, 2023 10:07 AM  
**To:** Laura Levine <[laura.levine@jumpstart.org](mailto:laura.levine@jumpstart.org)>; Amina Carter <[amina.carter@jumpstart.org](mailto:amina.carter@jumpstart.org)>  
**Cc:** Thomas, Nancy <[NThomas@mofo.com](mailto:NThomas@mofo.com)>  
**Subject:** RE: information for possible cy pres donation

Ms. Levine, I just tried to call you to follow up on your communications with Nancy Thomas.

We have both tried to speak with the California affiliate of your organization. Messages left have gone unanswered. I spoke to new receptionist who said she was going to track down the right person to call me but never heard back. If you have direct dial number to someone in management from this organization, please share that with us. Otherwise, we are going to move onto another CA organization. This is time sensitive as we have a court filing due early next week.

Thank you.



**Jonathan M. Streisfeld**  
 Partner  
**KOPELOWITZ OSTROW**  
**FERGUSON WEISELBERG GILBERT**  
 One West Las Olas Blvd., Suite 500  
 Fort Lauderdale, Florida 33301  
**Main:** 954-525-4100 • **Direct:** 954-332-4218  
**Fax:** 954-525-4300 • **Web:** [www.kolawyers.com](http://www.kolawyers.com)

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In accordance with Internal Revenue Service Circular 230, we advise you that unless otherwise stated, any discussion of a federal tax issue in this communication or in any attachment is not intended to be used, and it cannot be used, for the purpose of avoiding federal tax penalties.

**From:** Laura Levine <[laura.levine@jumpstart.org](mailto:laura.levine@jumpstart.org)>  
**Sent:** Wednesday, August 2, 2023 6:01 PM  
**To:** Thomas, Nancy <[NThomas@mofo.com](mailto:NThomas@mofo.com)>  
**Cc:** Amina Carter <[amina.carter@jumpstart.org](mailto:amina.carter@jumpstart.org)>  
**Subject:** RE: information for possible cy pres donation

**External Email**

**⚠ This message could be suspicious**  
 • Similar name as someone in your company.

Report or Mark Safe Powered by Mimecast

Hi Nancy, I'm sorry we missed your first message. I just retrieved this one from spam.

The Jump\$tart Coalition is a national nonprofit organization. We have received sponsorships from US Bank, but I don't believe we have ever received funds from Union Bank. No one from these organizations has ever been represented on our Board. Jump\$tart is based in Washington, DC, but our national staff is decentralized and we have two team members in CA. We have partner organizations in CA and have served many teachers from CA. US Bank is a former partner organization, but we haven't worked with them recently.

We also have a California state affiliate, California Jump\$tart. This is an independent affiliate and so we don't have record of sponsorships they've received. Here is a link to help you reach our CA affiliate: <https://cajumpstart.org/about-us/contact-us>

Thank you for reaching out to us. Please contact Amina Carter or me if we can assist you further.

*Laura Levine*  
 President and CEO @NatlJumpStart  
[Laura.Levine@jumpstart.org](mailto:Laura.Levine@jumpstart.org) 202.846.6791 @LLevine  
 Don't forget to [#CheckYourSchool!](https://twitter.com/CheckYourSchool)

---

**From:** Thomas, Nancy <[NThomas@mofo.com](mailto:NThomas@mofo.com)>  
**Sent:** Wednesday, August 2, 2023 1:16 PM  
**To:** Jumpstart Inquiry <[info@jumpstart.org](mailto:info@jumpstart.org)>  
**Subject:** RE: information for possible cy pres donation

Hi all – following up on this. It would be great if someone could get back to me re presence in California and also whether anyone from US Bank or Union Bank has ever been on your Board or made donations to the organization.  
Thanks, Nancy

**Nancy R. Thomas** (she/her)  
[nthomas@mofo.com](mailto:nthomas@mofo.com)  
T +1 (213) 892-5561

**MORRISON  
FOERSTER**  
[mofo.com](http://mofo.com) | [LinkedIn](#) | [vCard](#)

---

**From:** Thomas, Nancy  
**Sent:** Friday, July 28, 2023 10:24 AM  
**To:** 'info@jumpstart.org' <[info@jumpstart.org](mailto:info@jumpstart.org)>  
**Subject:** information for possible cy pres donation

Hi all – I am a lawyer working on a class action settlement in a case pending in CA. We are looking for possible cy pres recipients for the amount of any uncashed checks. Can you please send me some information about your organization's presence in CA, if any? Glad to exchange emails or you can reach me at the number below.

Thanks,  
Nancy

**Nancy R. Thomas** (she/her)  
[nthomas@mofo.com](mailto:nthomas@mofo.com)  
T +1 (213) 892-5561

**MORRISON  
FOERSTER**  
[mofo.com](http://mofo.com) | [LinkedIn](#) | [vCard](#)

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# **EXHIBIT 2**

1 NANCY R. THOMAS (CA SBN 236185)  
NThomas@mofo.com  
2 MORRISON & FOERSTER LLP  
707 Wilshire Boulevard, Suite 6000  
3 Los Angeles, California 90017-3543  
Telephone: 213.892.5200  
4 Facsimile: 213.892.5454

5 *Attorneys for Defendant*  
6 U.S. Bank National Association as  
successor in interest to MUFG Union Bank, N.A.  
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

10 MAUREEN HARROLD, individually and  
on behalf of all others similarly situated,

11 Plaintiffs,

12 v.

13 MUFG UNION BANK, N.A.,

14 Defendant.  
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Case No. BC680214

Assigned to Hon. Yvette M. Palazuelos,  
Dept. 9 for all purposes

**DECLARATION OF NANCY R.  
THOMAS REGARDING PROPOSED  
CY PRES RECIPIENT**

Date: September 7, 2023  
Time: 10:00 a.m.

Date Action Filed: October 19, 2017  
Trial Date: None Set

1 I, Nancy R. Thomas, declare:

2 1. I am an attorney licensed to practice law in California and am a senior counsel at  
3 Morrison & Foerster LLP, counsel of record for Defendant U.S. Bank National Association as  
4 successor in interest to MUFG Union Bank, N.A. I have personal knowledge of the facts set forth  
5 herein, and if sworn as a witness, I could and would testify competently thereto.

6 2. I submit this declaration in response to the Court ordered submission of  
7 “declarations disclosing the interest or involvement (or lack thereof) by any counsel or party in  
8 the governance or work of the cy pres recipient,” (April 19, 2023 Tentative Ruling regarding  
9 Plaintiff’s Unopposed Motion for Preliminary Approval of Class Action Settlement at 9; April 26,  
10 2023 Further Clarification regarding Plaintiff’s Unopposed Motion for Preliminary Approval of  
11 Class Action Settlement at 2). The Court advised that “it is acceptable for counsel for the parties  
12 to submit declarations that includes the required information as to both the parties and their  
13 counsel.” (*Id.*)

14 3. I do not have any interest or involvement in the governance or work of the  
15 California Jump\$tart Coalition. Per the attached true and correct copy of an email from the Chair  
16 of the Coalition sent August 10, 2023 on which I was copied, neither my firm nor MUFG Union  
17 Bank, N.A., nor U.S. Bank National Association (which is the successor in interest to MUFG  
18 Union Bank, N.A) has had any involvement in the governance or work of the Coalition for at  
19 least the last ten years.

20 I declare under penalty of perjury under the laws of the State of California that the  
21 foregoing is true and correct.

22 Dated: August 14, 2023

23 

24 \_\_\_\_\_  
25 Nancy R. Thomas  
26  
27  
28

**From:** [Tena Lozano](#)  
**To:** [Jonathan M. Streisfeld](#)  
**Cc:** [Thomas, Nancy](#); [Andrea Gold \(agold@tzlegal.com\)](mailto:agold@tzlegal.com); [Carmen Berry](#)  
**Subject:** RE: information for possible cy pres donation - CA Jump\$tart Introduction and Connection  
**Date:** Thursday, August 10, 2023 10:47:13 AM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[image005.png](#)

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## External Email

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 **This message needs your attention**

- This is their first email to your company.

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Jonathan,

Thanks for your continued efforts to contact me. I can confirm that none of the parties you listed below (U.S. Bank/Union Bank or any of the attorneys) have any interest or involvement in the governance or work of the California Jump\$tart Coalition.

**Defendant Side:** U.S. Bank and Union Bank (please also confirm no employees of the bank has served in an officer or director category); Morrison Foerster (counsel for the Defendant)  
**I can confirm that no one from U.S. Bank or Union Bank has served in a director or officer position for at least the past 10 years. Further, no one from Morrison Foerster has any interest or involvement in our work.**

**Plaintiff's Side:** Maureen Harrold (Plaintiff); Kopelowitz Ostrow P.A., Tycko & Zavareei LLP, KalielGold PLLC, The Kick Law Firm, and McCune Wright aka McCune Wright Arevalo Vercoski Kusel Weck Brandt APC (all five law firms representing Plaintiff). Attorneys from the law firms you should also check by name include Jonathan Streisfeld, Andrea Gold, Annick Persinger, Hassan Zavareei, Jeffrey Kaliel, Taras Kick, and Richard McCune.

**I can confirm that no individuals or law firms listed on the Plaintiff's side have any interest or involvement in the work of the California Jump\$tart Coalition.**

Please let me know if you need any additional information or clarification. Thank you for this opportunity.

Best regards,

Tena Lozano

Chair, California Jump\$tart Coalition

[Tena Lozano](#)

*Executive Director*

[Richard Myles Johnson Foundation](#)

(909) 212-6057

---

**From:** Jonathan M. Streisfeld <streisfeld@kolawyers.com>

**Sent:** Thursday, August 10, 2023 10:17 AM

**To:** Tena Lozano <tlozano@rmjfoundation.org>

**Cc:** Thomas, Nancy <NThomas@mofocom.com>; Andrea Gold (agold@tzlegal.com) <agold@tzlegal.com>

**Subject:** RE: information for possible cy pres donation - CA Jump\$Start Introduction and Connection

Tena, thank you for speaking with me. I have copied Nancy Thomas who is counsel for MUFJ Union Bank which now known as U.S. Bank due to a recent acquisition. I have also copied by co-counsel, Andrea Gold.

To confirm that we can identify CA Jump\$Start as a proposed cy pres recipient, the court is requiring the parties and their counsel to confirm in declarations that they have no interest or involvement in the governance or work of the cy pres recipient. Therefore, we request that you check the following names and entities against your organization's records:

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We would very much appreciate having a response from you by tomorrow. Today would be even better.

Thank you.

**Jonathan M. Streisfeld**

Direct: [954-332-4218](tel:954-332-4218)



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**Sent:** Thursday, August 10, 2023 12:31 PM

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**Subject:** RE: information for possible cy pres donation - CA Jump\$Start Introduction and Connection

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Thanks Variny! Jonathan and I just spoke. I appreciate your help on this!

Tena Lozano  
*Executive Director*  
Richard Myles Johnson Foundation  
(909) 212-6057

---

**From:** Variny Yim <[variny.yim@jumpstart.org](mailto:variny.yim@jumpstart.org)>  
**Sent:** Thursday, August 10, 2023 9:24 AM  
**To:** [streisfeld@kolawyers.com](mailto:streisfeld@kolawyers.com); Tena Lozano <[tlozano@rmjfoundation.org](mailto:tlozano@rmjfoundation.org)>  
**Subject:** FW: information for possible cy pres donation - CA Jump\$tart Introduction and Connection  
**Importance:** High

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In the meantime, I am copying you both here and wish you a wonderful and productive conversation! THANK YOU for your time and consideration!

Warm regards,

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Director of Partner and Affiliate Relations  
Jump\$tart Coalition for Personal Financial Literacy  
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Laura

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**Sent:** Thursday, August 10, 2023 10:07 AM  
**To:** Laura Levine <[laura.levine@jumpstart.org](mailto:laura.levine@jumpstart.org)>; Amina Carter <[amina.carter@jumpstart.org](mailto:amina.carter@jumpstart.org)>  
**Cc:** Thomas, Nancy <[NThomas@mofo.com](mailto:NThomas@mofo.com)>  
**Subject:** RE: information for possible cy pres donation

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We have both tried to speak with the California affiliate of your organization. Messages left have gone unanswered. I spoke to new receptionist who said she was going to track down the right person to call me but never heard back. If you have direct dial number to someone in management from this organization, please share that with us. Otherwise, we are going to move onto another CA organization. This is time sensitive as we have a court filing due early next week.

Thank you.



**Jonathan M. Streisfeld**  
Partner  
**KOPELOWITZ OSTROW**  
**FERGUSON WEISELBERG GILBERT**  
One West Las Olas Blvd., Suite 500  
Fort Lauderdale, Florida 33301  
**Main:** [954-525-4100](tel:954-525-4100) • **Direct:** [954-332-4218](tel:954-332-4218)  
**Fax:** [954-525-4300](tel:954-525-4300) • **Web:** [www.kolawyers.com](http://www.kolawyers.com)

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In accordance with Internal Revenue Service Circular 230, we advise you that unless otherwise stated, any discussion of a federal tax issue in this communication or in any attachment is not intended to be used, and it cannot be used, for the purpose of avoiding federal tax penalties.

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**Cc:** Amina Carter <[amina.carter@jumpstart.org](mailto:amina.carter@jumpstart.org)>  
**Subject:** RE: information for possible cy pres donation

### **External Email**

---

Hi Nancy, I'm sorry we missed your first message. I just retrieved this one from spam.

The Jump\$tart Coalition is a national nonprofit organization. We have received sponsorships from

US Bank, but I don't believe we have ever received funds from Union Bank. No one from these organizations has ever been represented on our Board. JumpStart is based in Washington, DC, but our national staff is decentralized and we have two team members in CA. We have partner organizations in CA and have served many teachers from CA. US Bank is a former partner organization, but we haven't worked with them recently.

We also have a California state affiliate, California JumpStart. This is an independent affiliate and so we don't have record of sponsorships they've received. Here is a link to help you reach our CA affiliate: <https://cajumpstart.org/about-us/contact-us>

Thank you for reaching out to us. Please contact Amina Carter or me if we can assist you further.

*Laura Levine*

President and CEO [@NatlJumpStart](#)

[Laura.Levine@jumpstart.org](mailto:Laura.Levine@jumpstart.org) 202.846.6791 [@LLevine](#)

Don't forget to [#CheckYourSchool!](#)

---

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**Sent:** Wednesday, August 2, 2023 1:16 PM  
**To:** Jumpstart Inquiry <[info@jumpstart.org](mailto:info@jumpstart.org)>  
**Subject:** RE: information for possible cy pres donation

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**Nancy R. Thomas** (she/her)  
[nthomas@mofo.com](mailto:nthomas@mofo.com)  
T +1 (213) 892-5561



[mofo.com](#) | [LinkedIn](#) | [vCard](#)

---

**From:** Thomas, Nancy  
**Sent:** Friday, July 28, 2023 10:24 AM  
**To:** 'info@jumpstart.org' <[info@jumpstart.org](mailto:info@jumpstart.org)>  
**Subject:** information for possible cy pres donation

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Thanks,  
Nancy

**Nancy R. Thomas** (she/her)  
[nthomas@mofo.com](mailto:nthomas@mofo.com)  
T +1 (213) 892-5561



[mofo.com](#) | [LinkedIn](#) | [vCard](#)

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1 Hassan A. Zavareei (CA Bar No. 181547)  
hzavareei@tzlegal.com  
2 Andrea R. Gold\*  
agold@tzlegal.com  
3 TYCKO & ZAVAREEI LLP  
2000 Pennsylvania Avenue, Northwest, Suite 1010  
4 Washington, District of Columbia 20006  
Telephone: (202) 973-0900  
5 Facsimile: (202) 973-0950

6 Jonathan M. Streisfeld\*  
streisfeld@kolawyers.com  
7 KOPELOWITZ OSTROW  
FERGUSON WEISELBERG GILBERT  
8 One West Las Olas Boulevard, Suite 500  
Fort Lauderdale, Florida 33301  
9 Telephone: (954) 525-4100  
Facsimile: (954) 525-4300

10 \*pro hac vice

11 *Attorneys for Plaintiff Maureen Harrold*

12  
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**  
15

16 MAUREEN HARROLD, individually and on  
behalf of all others similarly situated,

17 Plaintiff,

18 v.

19  
20 MUFG UNION BANK, N.A.,

21 Defendant.

Case No. BC680214

**PROOF OF SERVICE**

**(Assigned for All Purpose to the Honorable  
Yvette M. Palazuelos, Dept. 9)**

Date: September 7, 2023

Time: 10:00 a.m.

Action Filed: October 19, 2017

Amended Complaint Filed: July 29, 2020

Trial Date: None Set

22  
23  
24 At the time of service, I was over 18 years of age and not a party to this action. I am employed  
25 in the District of Columbia. My business address is 2000 Pennsylvania Avenue NW, Suite 1010,  
26 Washington, D.C. 20006.

27 On August 15, 2023, I served true copies of the following documents described as:  
28

