

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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ARKANSAS TEACHER RETIREMENT SYSTEM,  
on behalf of itself and all others similarly situated,

Plaintiff,

v.

STATE STREET BANK AND TRUST COMPANY,

Defendant.

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No. 11-cv-10230 MLW

ARNOLD HENRIQUEZ, MICHAEL T. COHN, WILLIAM R.  
TAYLOR, RICHARD A. SUTHERLAND, and those similarly  
situated,

Plaintiff,

v.

STATE STREET BANK AND TRUST COMPANY, STATE  
STREET GLOBAL MARKETS, LLC and DOES 1-20,

Defendants.

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No. 11-cv-12049 MLW

THE ANDOVER COMPANIES EMPLOYEE SAVINGS AND  
PROFIT SHARING PLAN, on behalf of itself, and JAMES  
PEHOUSHEK-STANGELAND, and all others similarly  
situated,

Plaintiff,

v.

STATE STREET BANK AND TRUST COMPANY,

Defendant.

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No. 12-cv-11698 MLW

**MOTION FOR LEAVE TO CALL ADDITIONAL WITNESS**  
**AT THE JUNE 24-26 HEARING**

Labaton Sucharow LLP, Thornton Law Firm LLP, and Lief Cabraser Heimann & Bernstein LLP (collectively, “Customer Class Counsel”) respectfully move for leave to call Brian T. Fitzpatrick, Professor of Law at Vanderbilt Law School, to testify as an additional witness at the hearing scheduled for June 24-26, 2019 in this matter. *See* ECF Nos. 541, 543. As grounds for this motion, Customer Class Counsel state as follows:

1. Professor Fitzpatrick is an expert on the subject of attorneys’ fees in class action cases, and has written extensively on the subject in academic journals and elsewhere.

2. Professor Fitzpatrick is the author of *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. EMPIRICAL LEGAL STUD. 811 (2010) (the “Fitzpatrick Study”), a complete copy of which was submitted to the Court on September 15, 2016 (*see* ECF No. 104-31) in support of the request for attorneys’ fees made on that same date on behalf of all Plaintiffs’ Counsel.<sup>1</sup>

3. The Fitzpatrick Study is also cited in the memorandum of law that was submitted on September 15, 2016 by Labaton Sucharow LLP, as Lead Counsel for the Settlement Class, on behalf of all Plaintiffs’ Counsel in support of Plaintiffs’ Counsel’s request for attorneys’ fees. ECF No. 103-1 (the “Fee Brief”) at 10-11.

4. Among other things, the Court has requested argument as to whether the Fitzpatrick Study was “misrepresented” in the Fee Brief. *See* ECF No. 543 at 2-3.

WHEREFORE, for the reasons set forth herein, Customer Class Counsel respectfully request leave to call Prof. Fitzpatrick as a witness for the hearing scheduled for June 24-26, 2019 in this matter.

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<sup>1</sup> “Plaintiffs’ Counsel” includes Customer Class Counsel as well as counsel for the ERISA plaintiffs, including but not limited to Keller Rohrback LLP, Zuckerman Spaeder LLP, and McTigue Law LLP.

Dated: June 11, 2019

Respectfully submitted,

Lieff Cabraser Heimann & Bernstein, LLP  
275 Battery Street, 29<sup>th</sup> Floor  
San Francisco, CA 94111-3339

By: /s/ Richard M. Heimann

Richard M. Heimann (*pro hac vice*)  
Lieff Cabraser Heimann & Bernstein, LLP

(On behalf of Customer Class Counsel)

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)**

On Tuesday, June 11, 2019, I caused counsel for the other parties and the Special Master in this case to be informed of this motion. State Street, Keller Rohrback LLP, Zuckerman Spaeder LLP, and McTigue Law LLP do not oppose this motion. The Special Master takes no position on this motion.

/s/ Richard M. Heimann

Richard M. Heimann

**CERTIFICATE OF SERVICE**

I certify that the foregoing document was filed electronically on June 11, 2019 and thereby delivered by electronic means to all registered participants as identified on the Notice of Electronic Filing (“NEF”).

*/s/ Richard M. Heimann*

Richard M. Heimann