

Case No. S222996

SUPREME COURT  
FILED

IN THE  
SUPREME COURT OF THE STATE OF CALIFORNIA

AUG 26 2015

---

**MARK LAFFITTE, et al.,**

Frank A. McGuire Clerk

*Plaintiffs and Respondents,*

Deputy

vs.

**ROBERT HALF INTERNATIONAL INC., et al.,**

*Defendants and Respondents,*

**DAVID BRENNAN,**

*Plaintiff and Appellant.*

---

Court of Appeal of the State of California 2nd Civil No. B249253  
Superior Court of the State of California, County of Los Angeles  
The Honorable Mary H. Strobel, Judge Presiding

Civil Case No. BC321317 [related to BC455499 and BC377930]

---

**BRIEF OF RESPONDENTS**  
**ROBERT HALF INTERNATIONAL INC. AND AFFILIATES**

---

PAUL HASTINGS LLP  
JUDITH M. KLINE (SB# 157354)  
515 South Flower Street, 25th Floor  
Los Angeles, California 90071  
Telephone: (213) 683-6000  
Facsimile: (213) 627-0705

PAUL HASTINGS LLP  
M. KIRBY C. WILCOX (SB# 078576)  
55 Second Street, 24th Floor  
San Francisco, California 94105  
Telephone: (415) 856-7000  
Facsimile: (415) 856-7100

Attorneys for Respondents  
ROBERT HALF INTERNATIONAL INC.; ROBERT HALF OF  
CALIFORNIA INC.; ROBERT HALF INCORPORATED; and ROBERT  
HALF CORPORATION

Case No. S222996

IN THE  
SUPREME COURT OF THE STATE OF CALIFORNIA

---

**MARK LAFFITTE, et al.,**

*Plaintiffs and Respondents,*

vs.

**ROBERT HALF INTERNATIONAL INC., et al.,**

*Defendants and Respondents,*

**DAVID BRENNAN,**

*Plaintiff and Appellant.*

---

Court of Appeal of the State of California 2nd Civil No. B249253  
Superior Court of the State of California, County of Los Angeles  
The Honorable Mary H. Strobel, Judge Presiding

Civil Case No. BC321317 [related to BC455499 and BC377930]

---

**BRIEF OF RESPONDENTS**  
**ROBERT HALF INTERNATIONAL INC. AND AFFILIATES**

---

PAUL HASTINGS LLP  
JUDITH M. KLINE (SB# 157354)  
515 South Flower Street, 25th Floor  
Los Angeles, California 90071  
Telephone: (213) 683-6000  
Facsimile: (213) 627-0705

PAUL HASTINGS LLP  
M. KIRBY C. WILCOX (SB# 078576)  
55 Second Street, 24th Floor  
San Francisco, California 94105  
Telephone: (415) 856-7000  
Facsimile: (415) 856-7100

Attorneys for Respondents  
ROBERT HALF INTERNATIONAL INC.; ROBERT HALF OF  
CALIFORNIA INC.; ROBERT HALF INCORPORATED; and ROBERT  
HALF CORPORATION



**TABLE OF CONTENTS**

STATEMENT OF POSITION ..... 1

CERTIFICATE OF WORD COUNT ..... 5

## TABLE OF AUTHORITIES

<b>Cases</b>	<b>Page</b>
<i>Brinker Rest. Corp. v. Superior Court</i> , 53 Cal. 4th 1004 (2012) .....	2
<i>Dunk v. Ford Motor Co.</i> , 48 Cal. App. 4th 1794 (1996) .....	1
<i>Harris v. Superior Court</i> , 53 Cal. 4th 170 (2011) .....	2
<i>Keller v. Tuesday Morning, Inc.</i> , 179 Cal. App. 4th 1389 (2009) .....	2
<i>Laffitte v. Robert Half Int'l, Inc.</i> , 231 Cal. App. 4th 860 (2014) .....	3
<i>In re Vitamin Cases</i> , 110 Cal. App. 4th 1041 (2003) .....	1
<i>Mora v. Big Lots Stores, Inc.</i> , 194 Cal. App. 4th 496 (2011) .....	2
<i>Soderstedt v. CBIZ S. Cal., LLC</i> , 197 Cal. App. 4th 133 (2011) .....	2

## STATEMENT OF POSITION

The attorneys' fee at issue here does not directly concern the respondent/defendant Robert Half entities. Section III.C.2 of the settlement agreement here provides that any difference between the maximum fee allowable (\$6,333,333.33) and the fee actually awarded reverts to the settlement class members. (2 RA 436-37.) No matter how this case is decided, Robert Half recoups nothing, and the substantive terms of the settlement with respect to Robert Half remain unchanged. (2 RA 446-48 (sections III.G.7.c and III.G.9).)<sup>1</sup> Robert Half therefore will not address the appellant/objector's contentions about the proper fee to class counsel.

Robert Half nevertheless offers this short statement to make two points.

First, Robert Half suggests that the court of appeal's order should be affirmed to bring this lawsuit to closure. This case was filed on September 10, 2004, and (although stayed for part of the time since then) it approaches its 11-year anniversary. Throughout more than a decade of highly contested litigation, plaintiffs advanced their arguments, Robert Half

---

<sup>1</sup> The settlement's terms thus reinforce normal principles of law: If a class-action fee award is reversed, that reversal normally leaves intact the underlying settlement itself. *See, e.g., Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1810 (1996) (reversing the fee and remanding on the sole issue of fees); *In re Vitamin Cases*, 110 Cal. App. 4th 1041, 1061 (2003) (remanding, limited to the issue of fees, so that the trial court could better explain its reasoning in setting fees).

responded and advanced its arguments, and the controlling legal principles evolved in several key Supreme Court and appellate cases.<sup>2</sup> Eventually Robert Half (still believing firmly that it would prevail at trial and through any appeal), thought that the lawsuit should be resolved so it could bring finality to the issues surrounding the litigation and concentrate fully on its core business. The settlement eventually was struck (after two failed mediations, as explained below). This appeal unfortunately prolongs a contentious dispute still more.

Second, Robert Half must and does respond to appellant/objector's insinuation that the settlement was collusive. Nothing is further from the truth. The parties conducted one mediation before noted mediator Jeff Krivis on August 10, 2010. It failed. (1 RA 16, 25, 38; 2 RA 412, 420; 3 RA 670, 674-75.) The parties later convened a second

---

<sup>2</sup> See, e.g., *Harris v. Superior Court*, 53 Cal. 4th 170, 186-87 (2011) (employees' exempt status depends on their actual duties, not their generic "role"); *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1023-24 (2012) ("When evidence or legal issues germane to the certification question bear as well on aspects of the merits, a court may properly evaluate them."); see also *Mora v. Big Lots Stores, Inc.*, 194 Cal. App. 4th 496, 508 (2011) (affirming denial of certification; "[W]ide store-to-store variation exists in the types of work performed and amounts of time per workweek spent by managers on different activities . . ."); *Soderstedt v. CBIZ S. Cal., LLC*, 197 Cal. App. 4th 133, 151-52 (2011) (affirming denial of certification; "[T]he availability of the administrative exemption defense would involve individualized inquiries in view of the evidence showing the Associates' and Senior Associates' different tasks and responsibilities."); *Keller v. Tuesday Morning, Inc.*, 179 Cal. App. 4th 1389, 1396 (2009) (affirming decertification: "[T]he time spent in a managerial duty is an individual inquiry.").

mediation before another noted mediator, David Rotman, on June 18, 2012. It failed, too. (1 RA 17, 25, 38; 2 RA 413, 420; 3 RA 670, 674-75.) Mediator Rotman persisted in the days that followed, however, and on July 5, 2012, he finally produced an agreement both parties accepted. (See 1 RA 17, 25; 2 RA 413, 420.) The trial court rejected appellant/objector's contention of collusion (see RT 35, 62, 63; 3 RA 726), the court of appeal found no evidence of collusion (see *Laffitte v. Robert Half Int'l, Inc.*, 231 Cal. App. 4th 860, 882 (2014)), and more than substantial evidence supports that finding. The history shows — and undersigned counsel unequivocally represents to this Court — that the settlement here was reached entirely at arm's length and (contrary to any assertion otherwise) without any diminished contentiousness between the parties.



Robert Half therefore suggests that the settlement be approved.

Respectfully submitted,

DATED: August 26, 2015

PAUL HASTINGS LLP

By: *Kirby C Wilcox*  
M. Kirby C. Wilcox

Attorneys for Defendants and Respondents

ROBERT HALF INTERNATIONAL  
INC.; ROBERT HALF OF CALIFORNIA,  
INC.; ROBERT HALF INCORPORATED;  
and ROBERT HALF CORPORATION

**CERTIFICATE OF WORD COUNT**

In accordance with California Rule of Court 8.504(d)(1), counsel for Respondents and Defendants hereby certify that the **BRIEF OF RESPONDENTS ROBERT HALF INTERNATIONAL INC. AND AFFILIATES** is proportionately spaced, uses Times New Roman 13-point typeface, and contains 739 words, including footnotes but excluding the Table of Authorities and this Certificate, as determined by the Paul Hastings LLP word processing system used to prepare this brief.

Respectfully submitted,

DATED: August 26, 2015

PAUL HASTINGS LLP

By: *Judith M. Kline/pwc*  
Judith M. Kline

**CERTIFICATE OF SERVICE**

I am employed in the City of San Francisco and County of San Francisco, State of California. I am over the age of 18, and not a party to the within action. My business address is 55 Second Street, 24th Floor, San Francisco, California 94105. On August 26, 2015, I served the foregoing document(s) described as:

**BRIEF OF RESPONDENTS ROBERT HALF**

**INTERNATIONAL INC. AND AFFILIATES**

on the interested parties by placing a true and correct copy thereof in a sealed envelope(s) addressed as follows:

Kevin T. Barnes, Esq. Gregg Lander, Esq. Law Offices of Kevin T. Barnes 5670 Wilshire Blvd., Suite 1460 Los Angeles, CA 90036-5664 Tel.: (323) 549-9100 Fax: (323) 549-0101 Email: Barnes@kbarnes.com	Attorneys for Plaintiffs/Respondents
--	---

Joseph Antonelli, Esq. Janelle Carney, Esq. Law Office of Joseph Antonelli 14758 Pipeline Avenue, Suite E Chino Hills, CA 91709-6025 Tel: (909) 393-0223 Fax: (909) 393-0471 Email: JAntonelli@antonellilaw.com	Attorneys for Plaintiffs/Respondents
---	---

Barry M. Appell, Esq.  
Mika M. Hilaire, Esq.  
Appell, Hilaire Benardo LLP  
15233 Ventura Blvd., Suite 420  
Sherman Oaks, CA 91403  
Tel: (818) 788-2300  
Fax: (818) 788-2464  
Email: Mika@ahblegal.com

Attorneys for  
Plaintiffs/Respondents

Lawrence W. Schonbrun, Esq.  
Law Office of Lawrence W.  
Schonbrun  
86 Eucalyptus Road  
Berkeley, CA 94705  
Tel.: (510) 547-8070  
Fax: (510) 923-0627  
Email: Lschon@inreach.com

Attorneys for Appellant and  
Objector David Brennan

Myron Moskovitz, Esq.  
Attorney at Law  
90 Crocker Avenue  
Piedmont, CA 94611  
Tel: (510) 384-0354  
Email: myronmoskovitz@gmail.com

Co-Counsel for Appellant and  
Objector David Brennan

Supreme Court of California  
350 McAllister Street  
San Francisco, CA 94102-4797

Supreme Court

Honorable Mary H. Strobel  
Los Angeles Superior Court  
Department 32  
111 North Hill Street  
Los Angeles, CA 90012-3014

Superior Court Judge

Clerk, Court of Appeal  
Second Appellate District  
300 South Spring Street  
Second Floor, North Tower  
Los Angeles, CA 90013  
Tel: (213) 830-7000

Court of Appeal

Appellate Coordinator  
Office of the Attorney General  
Consumer Law Section  
300 S. Spring Street  
Los Angeles, CA 90013-1230

Service pursuant to CAL. BUS. &  
PROF. CODE § 17209 (Complaint  
alleges violation of CAL. BUS. &  
PROF. CODE §§ 17200 *et seq.*)

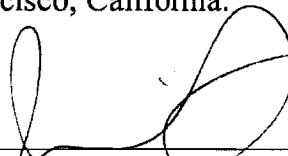
District Attorney's Office  
County of Los Angeles  
210 West Temple Street, 18th Floor  
Los Angeles, CA 90012-3210

Service pursuant to CAL. BUS. &  
PROF. CODE § 17209 (Complaint  
alleges violation of CAL. BUS. &  
PROF. CODE §§ 17200 *et seq.*)

The envelope was then sealed. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice the sealed envelope would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. I also declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on August 26, 2015, at San Francisco, California.



Isela Gonzalez