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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA, BUTTE DIVISION**

LAWRENCE ANDERSON, as
trustee for the LAWRENCE T.
ANDERSON AND SUZANNE M.
ANDERSON JOINT REVOCABLE
LIVING TRUST, ROBERT AND
NORA ERHART, and TJARDA
CLAGETT,

Plaintiffs,

v.

BOYNE USA, INC., BOYNE
PROPERTIES, INC., and SUMMIT
HOTEL, LLC,

Defendants.

Case No. 2:21-cv-00095-BMM

**DECLARATION OF
BENJAMIN J. ALKE**

I, Benjamin J. Alke, declare as follows:

1. I am one of the attorneys principally responsible for handling this matter.

2. I am personally familiar with the facts set forth in this Declaration. If called as a witness, I could competently testify to the matters stated herein.

3. I, along with Devlan Geddes, Jeffrey Tierney, John Crist, and Henry Tesar are the attorneys for the Plaintiffs and class representatives in this case and for the Class.

4. I am a lawyer admitted to practice by the Supreme Court of Montana in 2006. I am also licensed to practice in Oregon. Subsequently, I have been admitted in the United States District Court for the District of Montana, the United States Court of Appeals, and the United States Supreme Court. To the best of my knowledge, I am presently in good standing with all the above-named courts.

5. I am a partner of the law firm Crist, Krogh, Alke & Nord PLLC. I am writing this declaration in support of Plaintiffs' Motion for Class Certification and, specifically, to establish that my firm is appropriate and qualified Class Counsel pursuant to Fed. R. Civ. P. 23(a)(4) and (g), and that I will adequately and fairly represent the interests of the putative class.

6. Crist, Krogh, Alke & Nord PLLC, or predecessor law firms involving some or all these lawyers, has been in existence for over 25 years. The firm has successfully prosecuted numerous complex civil lawsuits. The firm and attorneys at the firm have also prosecuted and defended numerous class action lawsuits in Montana, notably including *Pinter v. DA Davidson & Co.*, in the United States District Court for the District of Montana, Great Falls Division, Case No. CV-09-59 (representing defendant); *Cook v. Buscher Construction, et al.*, Montana Thirteenth Judicial District Court, Yellowstone County, Cause No. DC-19-0575 (representing defendants); *Mary J. Revocable Trust v. Cenex Harvest States Cooperatives, Inc.*, Montana Fourteenth Judicial District Court, Wheatland County, Cause No. DV-0306 (representing defendant); *WBI Energy Transmission, Inc. vs. Subsurface Easements for the Storage of Natural Gas in the Judith River Subterranean Geological Formation, Et al.* CV 18-88-BLG-SPW-TJC (Plaintiff); *Williston Basin Interstate Pipeline Company vs. Property Interests Necessary to Conduct Gas Storage Operations in Subterranean Geological Formations, et. al*, CV 09-162-BLG-RFC (Plaintiff).

7. I obtained my undergraduate degree from the University of Notre Dame in 2001 and my law degree from Northwestern University

School of Law in 2005. I spent one year as a law clerk and have been litigating complex civil cases since 2006. I have represented plaintiffs and defendants in a variety of complex civil matters, including matters involving fraud, constructive fraud, embezzlement, violations of the Anti-Kickback Statute and False Claims Act, and unfair trade practices. I have been deputized as a Special Attorney General.

8. I have been counsel in the following class actions:

- a. *Pinter v. DA Davidson & Co.*, in the United States District Court for the District of Montana, Great Falls Division, Case No. CV-09-59.

9. John G. Crist is the senior partner at my firm, licensed to practice in Montana, as well as the U.S. District Court for the District of Montana, the U.S. District Court for the District of Minnesota, the U.S. Court of Appeals for the Ninth Circuit, and the U.S. Tax Court. John attended the University of Montana (graduating with high honors) and law school at the University of Montana where he graduated in 1984 with honors and served on the Montana Law Review. He practiced with the Minneapolis-based law firm of Dorsey & Whitney for 13 years as an associate and a partner. He is AV rated by Martindale Hubbell and has been recognized as a Mountain States “Super Lawyer” since 2008 and he

has been a fellow in the American College of Trial Lawyers since 2012.

John has tried or arbitrated in excess of 40 cases, and has been counsel in the following class actions:

- a. *Cook v. Buscher Construction, et al.*, Montana Thirteenth Judicial District Court, Yellowstone County, Cause No. DC-19-0575;
- b. *Mary J. Revocable Trust v. Cenex Harvest States Cooperatives, Inc.*, Montana Fourteenth Judicial District Court, Wheatland County, Cause No. DV-0306;
- c. *Eiselein, et. al v. Cohen, et. al.*, Cause No. CV 96-150-B:G-JDS, United State District Court, Billings Division;
- d. *Jurgelewicz v. McAllister, et. al.*, Case No. 1:13-CV-00047-SEH, United State District Court, Billings Division.

10. I and my firm have actively pursued complex litigation cases.

John and I have extensive experience in legal writing and complex litigation involving consumer-related matters, contract disputes, fiduciary duties, and fraud. A brief summary of a non-inclusive list of our notable cases is as follows:

- a. *United States of America et al v. Bozeman Health Deaconess Hospital*, United States District Court, Montana, Case No. 2:15-cv-00080, health care fraud;
- b. *Kessner. v. D.A. Davidson*, Montana Eight Judicial District, Judge John Warner, securities fraud, breach of contract.
- c. *Capitol Indemnity v. Fuller, et al.*, U.S. District Court, Billings Division, Judge Jack Shanstrom, RICO, fraud;
- d. *WRB-West Assoc. v. Madison Addition, et. al.*, Eighteenth Judicial District, Judge Larry Moran, breach of contract, breach of fiduciary duty, fraud;
- e. *Balback v. Keith*, Thirteenth Judicial District, Judge Todd Baugh, fraud, breach of contract, breach of fiduciary duty.
- f. *D.R. Fourbeat Alliance v. Sierra Production, et al.*, Ninth Judicial Court, Judge Wayne Phillips, breach of contract, breach of fiduciary duty, fraud;
- g. *Paradise v. Intercity Radiology*, Eighteenth Judicial District, Judge Brown;
- h. *Johnson v Global Net*, Eighteenth Judicial District, Judge Salvagni

- i. *Abbey/Land, LLC v. Glacier Construction Partners, LLC*, 2019 MT 19, 394 Mont. 135, 433 P.3d 1230, challenging collusive judgment;
- j. *Museum of the Rockies, Inc. v. Ameya Preserve, Inc.*, Montana Eighteenth Judicial District Court, Judge Michael Salvagni. Jury trial on breach of contract, fraud, and piercing the corporate veil.

11. My firm was hired as counsel in this case in 2021 on a contingency fee basis. Since then, we have diligently and vigorously prosecuted the action in collaboration with the Goetz firm by seeking and reviewing written discovery, participating in numerous depositions, engaging in motions practice and briefing, investigating and researching the legality of Defendants' business model and the practices at issue in this case, and otherwise developing and implementing litigation strategy on behalf of the plaintiffs and the class.

12. This case has been pending for over three years. The firms Crist, Krogh, Alke & Nord, PLLC and Goetz, Geddes & Gardner, P.C. have vigorously represented current and past owners of units in the Condo-Hotels at Big Sky Resort since the inception of the case, including twice at the Ninth Circuit.

13. We are incredibly proud of this settlement and believe it is the best outcome for the classes.

14. Attached hereto as Exhibit A to this affidavit is the compilation of litigation costs and expenses incurred by my law firm for between 2022 and April 18, 2025. They total \$151,202.39. These costs were incurred while prosecuting this case for over three years. They directly benefited the class in this complex case and are the type that would have been charged to a paying client in a non-contingency case. There may be some additional costs incurred from this date forward, through the final approval hearing and beyond. I believe these litigation costs and expenses are reasonable and necessary in the prosecution of this class action case.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 18, 2025, in Bozeman, Montana.

By: /s/ Ben Alke
Ben Alke

Crist, Krogh, Alke & Nord, PLLC
 The Securities Building
 2708 First Avenue North, Suite 300
 Billings, MT 59101

Invoice submitted to:
 Big Sky Class Action - Shoshone
 Larry Anderson
 Robert and Nora Erhart
 Tjarda Clagett

April 8, 2025

In Reference To: Shoshone Condominium v. Boyne USA, Inc. - Big Sky Class Action
 Case

Additional Charges :

	<u>Amount</u>
12/1/2021 ConferTel telephone conference call on 11-19-2021	56.10
12/30/2021 Court fees - Montana District Court - filing fee	402.00
1/19/2022 ConferTel telephone conference call	30.40
2/9/2022 ConferTel telephone conference call	22.90
4/1/2022 ConferTel telephone conference call on 3-2-2022	10.00
5/1/2022 ConferTel - conference call on 4-6-2022	16.10
5/19/2022 Out-of-town travel - Sacajawea Hotel - Three Forks, MT	195.43
5/23/2022 Out-of-town travel - John G. Crist - mileage Billings/Butte	265.00
6/1/2022 ConferTel - conference call on 5-4-2022	25.00
ConferTel - conference call on 5-24-2022	18.80
11/1/2022 Court fees - Clerk of Court Madison County - records request	23.25
Court fees - Madison County - Copies on Oct 25, 2022	15.00
Court fees - Madison County Copies on Oct 27, 2022	32.70
11/17/2022 Deposition transcripts - Bridger Court Reporting Inc. deposition of Tjarda Clagett	899.05
12/5/2022 Deposition transcripts - Bridger Court Reporters Inc. - deposition of Robert Erhart and Nora Erhart	1,185.15



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	<u>Amount</u>
12/7/2022 Montana Tax Appeal Board	125.00
12/22/2022 Deposition transcripts - Charles Fisher Court Reporting, Inc. - Depositions of Barb Rooney and Courtney Jones	6,845.10
1/1/2023 Deposition transcripts - Charles Fisher Court Reporting, Inc. Depositions of Taylor Middleton and Madeleine Feher	4,292.60
Deposition transcripts - Charles Fisher Court Reporting, Inc. Deposition of Brian Wheeler	2,049.00
Deposition transcripts - Bridger Court Reporters Inc. Deposition of Lawrence Anderson	679.85
1/2/2023 Court fees - I-Doc - Declarations	5.00
Court fees - Gallatin County Clerk - Declarations	66.00
1/3/2023 Court fees - I-DOC - Declarations	20.85
1/11/2023 Deposition transcripts - Charles Fisher Court Reporting, Inc. Deposition of Katie Grice	2,405.55
1/12/2023 Deposition transcripts - Charles Fisher Court Reporting, Inc. Depositions of Stephen Kircher and Barb Rooney	8,230.23
1/17/2023 Deposition transcripts - Charles Fisher Court Reporting, Inc. - deposition of Rebecca Stackus	2,020.60
1/19/2023 Deposition transcripts - Charles Fisher Court Reporting, Inc. - deposition of Michele McCabe	2,276.40
3/1/2023 Postage	7.80
3/22/2023 Yvette Heinze - transcript	21.60
4/28/2023 Court fees - copies for April 2023	72.50
5/1/2023 Court fees - Clerk of District Court - Madison County - document request	90.50
Out-of-town travel - Conoco Thirftway - Manhattan MT - gas 4-19-23	79.33
Abebooks.co - book on Boyne 4-21-23	35.80
Out-of-town travel - Three Forks, MT - gas - travel to Missoula 4-25-23	77.76
Out-of-town travel - Noon's Missoula - gas 4-25-2023	24.00
5/7/2023 I-Doc - Madison County copies	15.60
5/9/2023 Clerk District Court - Gallatin County - copies of other cases involving Boyne	109.11
8/1/2023 Experts - Boyle Deveny Meyer	3,010.50
9/1/2023 Experts - Boyle Deveny Meyer	5,005.50

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	<u>Amount</u>
5/1/2024 Experts - Boyle Deveny Meyer - 3-19-2024 invoice	12,895.38
8/1/2024 Deposition transcripts - Bridger Court Reporters Inc. - Deposition of Nora Erhart	408.05
Deposition transcripts - Bridger Court Reporters Inc. - Deposition of Robert Erhart	515.85
Postage	8.18
8/8/2024 Experts - Riehle Hospitality Consulting	19,742.87
10/1/2024 JND Class Action Administration, LLC	4,519.32
Postage	8.30
11/1/2024 Postage	10.77
11/6/2024 Experts - Riehle Hospitality Consulting	20,734.15
12/1/2024 Experts - Latitude Management & Consulting	4,078.12
Experts - Boyle Deveny Meyer	17,513.88
1/1/2025 Deposition transcripts - Bridger Court Reporters Inc. - Depositions of Chris Kraus, Troy Nedved, Michelle Frederick, Zander Fogg, Yann Benjamin, Martha Johnson, Carly Tuman, Murray Morgan and Lance Wallin	4,819.90
Deposition transcripts - Bridger Court Reporters, Inc. deposition of Lawrence Anderson	537.25
Deposition transcripts - Bridger Court Reporters, Inc. deposition of Tjarda Clagett	590.00
1/14/2025 Phillips ADR - Mediation Services	15,250.00
1/17/2025 FedEx to Phillips ADR Enterprises, PC	37.27
2/6/2025 Out-of-town travel - Meals \$88.00 and Parking \$29.50	117.50
2/7/2025 Out-of-town travel - AC Hotels by Marriott - Bozeman	326.66
2/8/2025 Out-of-town travel - AC Hotels by Marriott - Bozeman	273.48
2/11/2025 Out-of-town travel - Mileage	197.40
3/1/2025 Experts - Riehle Hospitality Consulting - Legal and Operations	7,855.00
Total additional charges	<u>\$151,202.39</u>