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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

SUNWEST MANAGEMENT, INC.,  
CANYON CREEK DEVELOPMENT,  
INC., CANYON CREEK FINANCIAL,  
LLC, AND JOHN M. HARDER,

Defendants,

DARRYL E. FISHER, ET AL.,

Relief Defendants.

Case No. 09-6056-HO

**RECEIVER MICHAEL A.  
GRASSMUECK'S MOTION FOR  
APPROVAL OF SETTLEMENTS  
WITH DAVIS WRIGHT TREMAINE  
LLP, K&L GATES LLP, AND  
THOMPSON & KNIGHT LLP, AND  
FOR ENTRY OF FINAL CLAIMS  
BARS**

Oral Argument Requested

Hearing Date: February 4, 2010

MICHAEL GRASSMUECK, Receiver,

Plaintiff,

vs.

DAVIS WRIGHT TREMAINE LLP, a  
Washington limited liability partnership,

Defendant.

Case No. 09-CV-0651-HO

MICHAEL GRASSMUECK, Receiver,  
Plaintiff,  
vs.  
K&L GATES LLP, a Delaware limited  
liability partnership,  
Defendant.

Case No. 09-CV-06202-HO

MICHAEL GRASSMUECK, Receiver,  
Plaintiff,  
vs.  
THOMPSON & KNIGHT, LLP, a  
Texas limited liability partnership,  
Defendant.

Case No. 09-CV-06199-HO

### **MOTION**

Michael A. Grassmueck, the duly appointed receiver ("Receiver") pursuant to orders in *SEC v. Sunwest Mgmt., Inc.*, Case No. 09-CV-6056-HO ("The "SEC Action") for Sunwest Management, Inc., Canyon Creek Development, Inc., Canyon Creek Financial, LLC, Fuse Advertising, Inc., KDA Construction, Inc., and other entities (collectively, "the Receivership Entities"), moves the Court for an order approving each of the settlements and settlement agreements ("the Settlements" and "Settlement Agreements") entered into between the Receiver and certain represented "Investor Claimants" (as defined in the Settlement Agreements)<sup>1/</sup> on the one hand, and the law firms of Davis Wright Tremaine LLP ("DWT"), K&L Gates LLP ("KLG"), and, Thompson & Knight LLP ("T&K"), on the other hand, in connection with three lawsuits brought by the Receiver:

- (1) *Grassmueck v. Davis Wright Tremaine, LLP*, Case No. 09-0651-HO;

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<sup>1/</sup> Terms not otherwise defined herein are as defined in the Settlement Agreements.

- (2) *Grassmueck v. K&L Gates LLP*, Case No. 09-CV-06202-HO; and,
- (3) *Grassmueck v. Thompson & Knight, LLP*, Case No. 09-CV-06199-

HO.

True and correct copies of the Settlement Agreements, with two exhibits redacted, are attached hereto.

The Settlements concern all parties to these Actions and, individually and collectively, will represent a significant recovery for the Litigation Trust established pursuant to the Distribution Plan in the SEC Action. One of the major issues with regard to each Settlement is the ability of the Receiver and others to provide a full release of "Claims" (as defined in the Settlement Agreements) to the settling defendants, including a release with regard to claims that might be asserted by third parties. To resolve this and other issues, each Settlement calls for entry of orders which would bar any further "Claims" by certain groups, including third parties, against each of the settling defendants relating to the legal services which they provided and any other conduct in connection with one or more of the Receivership Entities. Accordingly, the Receiver requests the Court to enter a Final Claim Bar Order as to each settling defendant.

This Motion is brought pursuant to Procedures Orders entered by this Court on October 8, 2010, and the Notices issued pursuant thereto. The Motions are based on the Memorandum of Points & Authorities, Settlement Agreements, and Declaration submitted herewith; the files of the Court in the SEC Action and the other three Actions listed above; and such further evidence and argument as may be submitted in reply to any opposition and as may be presented at the hearing on this Motion.

