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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

RENEE KVEK, individually and as a  
representative of a class of all others similarly  
situated and on behalf of the Cushman &  
Wakefield 401(k) Plan,

Plaintiff,

v.

CUSHMAN & WAKEFIELD, U.S., INC.,  
CUSHMAN & WAKEFIELD INVESTMENT  
COMMITTEE, and JOHN and JANE DOES  
1-20,

Defendants.

No. 2:26-cv-736

COMPLAINT—CLASS ACTION

DEMAND FOR JURY TRIAL

Plaintiff Renee Kvek, by and through her attorneys, on behalf of herself, all others similarly  
situated, and the Cushman & Wakefield 401(k) Plan, states and alleges as follows:

**I. NATURE OF THE ACTION**

1. This is a civil enforcement action brought pursuant to Sections 502(a)(2) and  
502(a)(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29  
U.S.C. § 1132(a)(2) and (a)(3). Plaintiff brings this action on behalf of the Cushman & Wakefield

1 401(k) Plan (the “Plan”), and the class of participants and beneficiaries of the Plan described  
2 below. Plan participants are current or former employees of Cushman & Wakefield U.S., Inc. and  
3 certain of its affiliates (“Cushman” or the “Company”).

4 2. This case concerns the failure by Cushman—a highly-sophisticated fiduciary of one  
5 of the largest retirement plans in the United States—to engage in the thorough, unbiased  
6 deliberative process that is legally mandated under ERISA when selecting and monitoring the  
7 401(k) investment options that it offers to tens of thousands of its employees.

8 3. This fiduciary failure is laid bare by Cushman’s selection and retention of a wholly  
9 unsuitable fund in spite of numerous glaring red flags, including chronic underperformance,  
10 dangerous aggregation of climate change-related financial risk, unreasonably high fees, and  
11 limited market acceptance. This resulted in employees suffering losses to their retirement savings,  
12 and to this day exposes those savings to undue risk of even more severe losses going forward.

13 4. When enacting ERISA, Congress imposed strict duties on retirement plan  
14 fiduciaries, requiring them to act prudently and solely in the interest of plan participants. Among  
15 other things, fiduciaries must establish and follow processes to ensure that plan participants’  
16 savings are not exposed to excessive levels of risk, and must monitor investment options to ensure  
17 that their fees, performance, and risk levels are appropriate for retirement savings.

18 5. ERISA was designed to protect retirement security and requires fiduciaries to  
19 protect workers from risks that would undermine that goal.

20 6. Climate change-related risk presents precisely that kind of threat: it is financially  
21 substantial, it is escalating, and it imperils the value and stability of investments across asset classes  
22 – causing both sudden and long-term harms. And because such risk is not constrained to one or  
23 two industries, it can accumulate within diversified portfolios if not properly evaluated and  
24 managed as a discrete concern.

25 7. The significant cross-sector financial impacts of climate change have become  
26 increasingly apparent in recent years. Wildfires, storms, droughts, and other weather-related events

1 have increased in frequency and destructive capacity, resulting in severe financial losses. Likewise,  
2 policy, regulatory, and technological changes responding to climate change have altered the risk-  
3 return outlook for companies and industries that rely heavily on climate pollutants like fossil fuels.  
4 This has prompted investors and companies to assess and model climate-related financial risks,  
5 and to construct their investment portfolios to manage those risks.

6 8. Defendants themselves are acutely aware of these risks. When it comes to  
7 protecting shareholder value and its clients' portfolios, Cushman has a long track record of  
8 managing climate-related financial risks. In its own operation, Cushman has implemented a  
9 sophisticated climate risk strategy, employing a range of climate risk management tools to inform  
10 its financial decisions and marketing itself as an expert in assessing and mitigating climate-related  
11 risks. In so doing, Cushman publicly cautions that "[c]limate risk is financial risk"<sup>1</sup> and solicits  
12 clients for its climate risk advisory business with the tagline: "We help you understand how  
13 climate change could affect your assets or portfolio and guide you in managing and disclosing  
14 your climate-related risks and opportunities."<sup>2</sup>

15 9. Defendants' prudent and proactive management of climate-related financial risks  
16 in their own operations stands in stark contrast to their mismanagement of the Plan. With their  
17 workers' money at stake, rather than their own, Defendants exposed employee retirement savings  
18 to significant, unreasonable climate-related financial risk—apparently failing to employ any  
19 climate risk management strategy at all.

20 10. A prime example of this failure is the inclusion of the Westwood Quality SmallCap  
21 Fund (the "Westwood Fund" or the "Fund") as a fund option on the Company's 401(k) menu.

22 11. The Westwood Fund does not belong anywhere near anyone's retirement savings.  
23 It boasts an unsavory combination of financial underperformance and unreasonably high fees,

24  
25 <sup>1</sup> Cushman & Wakefield, *Climate Risk: Global Cities Outlook 6* (2024/2025),  
[https://assets.cushmanwakefield.com/-/media/cw/apac/vietnam/insights/2024/climate-risk-report\\_en.pdf](https://assets.cushmanwakefield.com/-/media/cw/apac/vietnam/insights/2024/climate-risk-report_en.pdf).

26 <sup>2</sup> *Id.* at 16; Cushman & Wakefield, Sustainability Services,  
<https://www.cushmanwakefield.com/en/services/sustainability> (last visited Feb. 27, 2026).

1 while at the same time exposing investors to massive amounts of climate-related financial risk that  
2 threaten to wipe out years of savings under any number of highly plausible scenarios.

3 12. The Westwood Fund is openly indifferent to climate risk: its managers declare that  
4 they neither model nor manage climate risk in the Fund's portfolio. Unsurprisingly, this climate  
5 risk blindness has led the Fund to aggregate inordinate levels of climate-related financial risk  
6 across its investment sectors.

7 13. Compared to its benchmark index, the Westwood Fund is more than twice as  
8 exposed to sectors that are particularly vulnerable to climate-related financial risk. This  
9 overweighting in risky sectors is bad enough, but even in sectors that should provide a hedge  
10 against climate risk, the Fund invests disproportionately in companies with high climate risk  
11 exposure.

12 14. Where serious financial risks are allowed to aggregate, losses can materialize  
13 rapidly and in devastating fashion. Consider, for example, the fall-out from mortgage-backed  
14 securities in 2008. There, the bundling of sub-prime mortgages concentrated risk in the same  
15 vehicles, such that, when an adverse event occurred, those "secure" investments were anything but  
16 secure. Climate-related risk can likewise accumulate across a portfolio and materialize through  
17 physical events, regulatory developments, or market shifts, which could result in sudden,  
18 substantial losses. Given the availability of information and tools to assess and mitigate climate-  
19 related financial risk, exposing Plan participants to highly concentrated levels of this risk is neither  
20 prudent nor in participants' sole interest.

21 15. The Westwood Fund's aggregation of climate-related financial risk threatens the  
22 retirement security of every worker whose 401(k) savings are invested in the Fund. That those  
23 workers are already being harmed by the Westwood Fund's high fees and lackluster performance  
24 throws the unreasonableness of this risk into stark relief.

25 16. The Westwood Fund's elevated risk, poor performance, and high fees were known  
26 to Defendants when they selected the investment for the Plan, and these warning signs have only

1 grown more obvious since that point. Nevertheless, Defendants have allowed the Westwood Fund  
2 to remain in the Plan for years.

3 17. Worse yet, Defendants' selection and retention of the Westwood Fund was not the  
4 result of mere imprudence. Rather, it was influenced by Fidelity, who benefited from the Plan's  
5 investment in the Westwood Fund. Fidelity—who, though various affiliates, served as the Plan's  
6 trustee, recordkeeper, and investment advisor—stood to earn additional compensation from  
7 Cushman's investment of the Plan's assets in the Westwood Fund. As discussed below in Section  
8 V.B., Defendants should have, but failed to, properly account for Fidelity's conflict of interest  
9 before selecting the Westwood Fund for the Plan.

10 18. Plaintiffs therefore bring this action to require Defendants to restore the losses  
11 caused by their mismanagement of the Plan and to obtain injunctive relief to prevent further  
12 mismanagement.

## 13 II. JURISDICTION AND VENUE

14 19. **Subject Matter Jurisdiction.** This Court has subject matter jurisdiction over this  
15 action pursuant to 28 U.S.C. § 1331 and ERISA § 502(a), 29 U.S.C. § 1132(a).

16 20. **Personal Jurisdiction.** This Court has personal jurisdiction over Defendants  
17 because they transact business in, and have significant contacts with, this District, including  
18 activities related to the recruitment and employment of personnel residing in the District.

19 21. **Venue.** Venue is proper in this district and in this division for at least the following  
20 reasons:

21 a. Defendants' alleged breaches of fiduciary duty took place in the Western  
22 District of Washington State, where Kvek resides, because her deferred wages  
23 were diverted into an imprudent fund option in the Western District of  
24 Washington State;

25 b. Cushman and other Defendants may be found in this District, as the Company  
26 transacts business and employs individuals in the Western District of Washington

1 State.

2 **III. PARTIES**

3 **A. Plaintiff**

4 22. Plaintiff Kvek is a former employee of the Company and a current participant in  
5 the Plan within the meaning of ERISA § 3(7), 29 U.S.C. § 1002(7). Plaintiff worked for the  
6 Company from October 2021 to October 2024.

7 23. Plaintiff Kvek is fully vested in her Plan account, which is currently invested in the  
8 Westwood Fund. She has suffered a financial injury as a result of Defendants' unlawful conduct  
9 described herein.

10 24. Plaintiff Kvek receives her benefits and resides in this District.

11 **B. Defendants**

12 a. Cushman & Wakefield, U.S., Inc.

13 25. Defendant Cushman maintains its headquarters in Chicago, Illinois. Cushman  
14 resides in Seattle in Washington (King County) because it has substantial business activity and  
15 operations in Seattle, WA. It provides various commercial real estate services including property  
16 management, leasing, capital market transactions, and valuation advisory to real estate occupiers  
17 and investors. Cushman and its affiliates have approximately 53,000 employees in nearly 350  
18 offices and approximately 60 countries, managing approximately 6.5 billion square feet of  
19 commercial real estate space globally and generating over \$9 billion in revenue annually. U.S.  
20 operations account for a substantial majority of both revenue and headcount across the enterprise.

21 26. Cushman is the sponsor of the Plan within the meaning of 29 U.S.C. § 1002(16)(B).

22 27. Cushman is also the Plan administrator, 29 U.S.C. § 1002(16)(A), and according to  
23 the Summary Plan Description, the Plan is administered in Chicago, Illinois.

24 28. Cushman is a named fiduciary within the meaning of 29 U.S.C. § 1102(a) with the  
25 authority to manage the assets of the Plan.

26 29. The Plan Document provides that Defendant Cushman has responsibility for all

1 investment-related decisions of the Plan.

2 30. As such, during the Class Period (from January 1, 2021 through the date of  
3 judgement for this lawsuit), Defendant Cushman was a fiduciary to the Plan within the meaning  
4 of 29 U.S.C. § 1002(21)(A) because, *inter alia*, it had discretionary authority or discretionary  
5 responsibility in the administration of the Plan and exercised control over the Plan’s assets.

6 b. Cushman & Wakefield Investment Committee

7 31. Defendant Cushman & Wakefield Investment Committee<sup>3</sup> (the “Investment  
8 Committee”) is responsible for the oversight and management of the Plan, including selecting  
9 investment options for the Plan’s menu and monitoring those investments.

10 32. Plaintiff does not currently know the identity of the Plan’s fiduciaries who served  
11 on the Investment Committee during the Class Period. Once the identities of those not currently  
12 named, if any, are ascertained, Plaintiff will seek leave to join them under their true names. These  
13 unidentified individuals are referred to as John and Jane Does 1-20 herein.

14 33. The Investment Committee and its individual members during the Class Period,  
15 currently named as John and Jane Does 1-20, are collectively referred to as the “Investment  
16 Committee Defendants.”

17 34. The Investment Committee Defendants were responsible for selecting and  
18 monitoring the investment options available through the Plan during the Class Period. As part of  
19 this responsibility, the Investment Committee Defendants had the authority and responsibility to  
20 remove imprudent investment options from the Plan’s menu.

21 35. During the Class Period, the Investment Committee Defendants added, or caused  
22 to be added, the Westwood Fund as an investment option for the Plan.

23 36. As such, during the Class Period, the Investment Committee Defendants were  
24 fiduciaries within the meaning of 29 U.S.C. § 1002(21)(A) because, *inter alia*, they (1) exercised

25 \_\_\_\_\_  
26 <sup>3</sup> Formerly known as the Cushman & Wakefield 401(k) Plan Committee.

1 discretionary authority or discretionary control respecting management of the Plan; (2) exercised  
 2 authority or control respecting management or disposition of its assets; and (3) had discretionary  
 3 authority or discretionary responsibility over the administration of the Plan.

#### 4 **IV. BACKGROUND ON RETIREMENT RISK MANAGEMENT**

##### 5 **A. Climate Risk is Widely Recognized as a Financial Risk Impacting Investment** 6 **Returns**

7 37. Investors have long recognized climate change as a material financial risk to both  
 8 companies and the financial system. As the Supreme Court acknowledged almost 20 years ago,  
 9 “[t]he harms associated with climate change are serious and well recognized.”<sup>4</sup> Such harms, and  
 10 the risks to investment portfolios that climate change presents, have only increased in the  
 11 intervening years.<sup>5</sup> As the climate changes, so does the financial risk landscape for investors,<sup>6</sup> a  
 12 fact that Cushman has repeatedly acknowledged.<sup>7</sup> Prudent fiduciaries managing long-term  
 13 investments therefore routinely account for climate risk in their decision-making.

14 38. The changing climate is already altering weather patterns and increasing the  
 15 frequency and severity of storms, wildfires, and other extreme weather events, increasing the cost  
 16 of physical climate-related hazards to many companies that make up retirement portfolios.<sup>8</sup>  
 17 Climate change-fueled extreme weather events are currently responsible for hundreds of billions

18 <sup>4</sup> *Massachusetts v. EPA*, 549 U.S. 497, 521 (2007).

19 <sup>5</sup> See Fin. Stability Oversight Council, *Report on Climate-Related Financial Risk* 10 (2021),  
 20 <https://home.treasury.gov/system/files/261/FSOC-Climate-Report.pdf> (“The intensity and frequency of extreme  
 21 weather and climate-related disaster events are increasing and already imposing substantial economic costs. Such  
 22 costs to the economy are expected to increase further as the cumulative impacts of past and ongoing global  
 23 emissions continue to drive rising global temperatures and related climate changes, leading to increased climate-  
 24 related risks to the financial system.”).

<sup>6</sup> *Id* at 12. See, e.g., EDHEC-Risk Climate Impact Inst., *How Does Climate Risk Affect Global Equity*  
 25 *Valuations? A Novel Approach* (July 2024), [https://climateinstitute.edhec.edu/publications/how-does-climate-risk-](https://climateinstitute.edhec.edu/publications/how-does-climate-risk-affect-global-equity-valuations-novel-approach)  
 26 <https://perma.cc/Y5UF-5UKU>] (noting the downward correction in  
 global equity valuation could be as severe as 40% absent global emissions reductions).

<sup>7</sup> See, e.g., Cushman & Wakefield, *How to Manage Climate Risk: A Practical Sustainability Guide* 11 (2023),  
<https://cushwake.cld.bz/how-to-manage-climate-risk>.

<sup>8</sup> See S&P Global, *For the World’s Largest Companies, Climate Physical Risks Have a \$1.2 Trillion Annual*  
 Price Tag by the 2050s (Mar. 10, 2025), [https://www.spglobal.com/sustainable/en/insights/special-](https://www.spglobal.com/sustainable/en/insights/special-editorial/ceraweek-physical-risk)  
 editorial/ceraweek-physical-risk.

1 of dollars of losses annually, and are only expected to worsen.<sup>9</sup> In 2025 alone, the U.S. sustained  
 2 23 separate billion-dollar-plus weather and climate disasters, resulting in \$115 billion in damages  
 3 to homes, businesses, and other infrastructure.<sup>10</sup> Beyond direct property damage, physical climate-  
 4 related impacts increasingly disrupt industrial supply chains, constrain access to raw materials,  
 5 impair labor productivity, and interrupt production.<sup>11</sup> Such disruptions force companies to revise  
 6 forecasts, record impairments, and absorb losses that directly reduce enterprise value.<sup>12</sup>

7 39. And climate risk is not only physical. The need for states and institutions to mitigate  
 8 and adapt to a changing climate introduces transition risks: uncertainties associated with shifting  
 9 policy environments (such as carbon taxes or policy supports for renewables), social practices  
 10 (such as shifts in public preferences away from polluting activities), and technological  
 11 developments (such as the rapid deployment of affordable renewable energy technology like solar  
 12 and batteries that displace legacy energy sources).<sup>13</sup> A growing subset of transition risk is legal  
 13 risk, which is increasingly impacting companies' bottom lines through "direct financial penalties,  
 14 reputational harm, operational disruption and shifts in investor or regulatory expectations."<sup>14</sup>

15  
 16 <sup>9</sup> See Adam B. Smith, *2024: An Active Year of U.S. Billion-Dollar Weather and Climate Disasters* (Jan. 10,  
 2025), <https://www.climate.gov/news-features/blogs/beyond-data/2024-active-year-us-billion-dollar-weather-and-climate-disasters>.

17 <sup>10</sup> See Climate Central, *U.S. Billion-Dollar Weather and Climate Disasters* (2025),  
 18 <https://www.climatecentral.org/climate-services/billion-dollar-disasters>.

19 <sup>11</sup> See, e.g., U.S. Glob. Change Res. Program, *Fifth National Climate Assessment* (2023), chs. 11, 15 & 19,  
 20 <https://toolkit.climate.gov/NCA5>.

21 <sup>12</sup> See First Street, *The 16th Risk Assessment: The New Cost of Doing Business* 28-29 (Feb. 2026),  
 22 <https://firststreet.org/research-library/the-new-cost-of-doing-business-report> [<https://perma.cc/LJX7-ZNCS>];  
 23 Victoria Waldersee, *Porsche Cuts Forecasts Due to Alloy Shortage, Shares Fall*, Reuters (July 23, 2024),  
 24 <https://www.reuters.com/business/autos-transportation/porsche-adjusts-fy-outlook-warns-impairments-due-alloy-supply-shortage-2024-07-22> (describing how floods in Europe "wiped away the gains from [Porsche's] IPO" by  
 25 damaging the supply of aluminum alloy).

26 <sup>13</sup> See, e.g., Basel Committee on Banking Supervision, *Climate-related Risk Drivers and Their Transmission Channels* § 2.3 (Apr. 2021), <https://www.bis.org/bcbs/publ/d517.pdf>. See also *supra* note 5 at 19. See also Mkt. Risk Advisory Comm. of the Commodity Futures Trading Comm'n, *Managing Climate Risk in the U.S. Financial System* 19 (Sept. 9, 2020), <https://www.cftc.gov/sites/default/files/2020-09/9-9-20%20Report%20of%20the%20Subcommittee%20on%20Climate-Related%20Market%20Risk%20-%20Managing%20Climate%20Risk%20in%20the%20U.S.%20Financial%20System%20for%20posting.pdf>.

<sup>14</sup> Joanna Setzer & Catherine Higham, *Global Trends in Climate Change Litigation: 2025 Snapshot* 50, The

1 40. None of these observations are novel. Investors have long recognized climate  
 2 change as a serious and growing financial risk,<sup>15</sup> and for over a decade have been developing and  
 3 implementing sophisticated practices to assess and manage that risk, as described below.

4 41. Not all businesses face climate risks equally. Industry-led frameworks such as the  
 5 Recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) identify  
 6 industries with heightened exposure to climate-related financial risk.<sup>16</sup> Industries more affected by  
 7 physical risk include agriculture, buildings and infrastructure, and tourism. Those most exposed to  
 8 transition risk include fossil fuel-based industries, energy-intensive manufacturers, and  
 9 transportation providers. Experts also agree that the financial institutions – banks, insurance  
 10 companies, asset owners, and asset managers – are uniquely vulnerable to climate risk because  
 11 their core activities (lending, underwriting, and investment) depend on the value of underlying  
 12 assets which may themselves be exposed to physical and transition risks.<sup>17</sup>

13 \_\_\_\_\_  
 14 Grantham Res. Inst. on Climate Change and the Env't., London Sch. of Econ. & Pol. Sci. (2025),  
 15 <https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2025-snapshot> (last  
 16 visited Feb. 27, 2026). See also PRI, *Investor Briefing: Institutional Investor Action on Climate Risk as the World  
 17 Approaches the 1.5°C Limit of the Paris Agreement* (June 2025), <https://public.unpri.org/download?ac=23610>.

18 <sup>15</sup> Indeed, leading figures have long described the threat to the financial system as genuinely existential. For  
 19 example, in 2015, Mark Carney – then Governor of the Bank of England – warned that climate change posed a  
 20 direct threat to financial stability. In his landmark “Breaking the Tragedy of the Horizon” speech, Carney  
 21 emphasized that climate risks were foreseeable, material, and already affecting asset valuations and capital  
 22 allocation, and warned that delayed adaptation heightened the risk of abrupt market corrections, stranded assets, and  
 23 systemic disruption. Bank of England, *Breaking the Tragedy of the Horizon – Climate Change and Financial  
 24 Stability* (Sept. 29, 2015), [https://www.bankofengland.co.uk/-/media/boe/files/speech/2015/breaking-the-tragedy-of-  
 25 the-horizon-climate-change-and-financial-stability.pdf](https://www.bankofengland.co.uk/-/media/boe/files/speech/2015/breaking-the-tragedy-of-the-horizon-climate-change-and-financial-stability.pdf). More recently, Günther Thallinger, a board member at  
 26 Allianz SE – one of the world’s largest insurers – warned that once the planet reaches 3°C of warming “[t]he  
 financial sector as we know it ceases to function. And with it, capitalism as we know it ceases to be viable.” Damian  
 Carrington, *Climate Crisis on Track to Destroy Capitalism, Warns Top Insurer*, *The Guardian* (Apr. 3, 2025),  
[https://www.theguardian.com/environment/2025/apr/03/climate-crisis-on-track-to-destroy-capitalism-warns-allianz-  
 insurer](https://www.theguardian.com/environment/2025/apr/03/climate-crisis-on-track-to-destroy-capitalism-warns-allianz-insurer).

<sup>16</sup> TCFD is composed of “experts from various organizations, including ... asset managers [and] pension funds”  
 convened “[o]n request of G20 Finance Ministers and Central Bank Governors” to develop a framework for  
 disclosures given the financial materiality of climate change. TCFD, About, <https://www.fsb-tcfd.org/about> (last  
 visited Feb. 26, 2026).

<sup>17</sup> See TCFD, *Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures*  
 §§ D, E (Oct. 2021), [https://assets.bbhub.io/company/sites/60/2021/07/2021-TCFD-Implementing\\_Guidance.pdf](https://assets.bbhub.io/company/sites/60/2021/07/2021-TCFD-Implementing_Guidance.pdf)  
 (the TCFD provides supplemental guidance for the financial sector as well as non-financial industries that are “more  
 likely to be financially impacted than others due to their exposure to certain transition and physical risks around  
 greenhouse gas (GHG) emissions, energy, or water dependencies associated with their operations and products.”);  
 U.S. Dep’t of the Treasury, *Homeowners Insurance Costs Rising, Availability Declining as Climate-Related Events  
 Take Their Toll* (Jan. 16, 2025), <https://home.treasury.gov/news/press-releases/jy2791>.

42. In this way, climate risk overlaps with but is not reducible to sectoral risk. Rather, it is a risk factor that cuts across sectors, geographies, and asset classes such that companies in the same industry might face very different risk levels.<sup>18</sup> For example, regional banks along the Gulf Coast may face greater exposure to climate risk than those in the Great Lakes due to having loan portfolios that are vulnerable to losses from hurricanes and flooding; utilities with transmission lines in fire-prone regions face greater likelihood of physical risk impacts as wildfires increase in frequency and intensity; and any number of companies in diverse sectors may face different levels of risk depending on how exposed their supply chains are to both climate disasters and regulatory or market shifts.<sup>19</sup> And, as Cushman knows well, a real property management company that plans for and hardens its services against climate impacts is less risky than one that fails to proactively mitigate its exposure.<sup>20</sup> Because different companies within the same industries may face varying levels of exposure, traditional sector-level diversification alone is insufficient to manage climate risk. A climate-blind investor can assemble a sectorally-balanced portfolio that nevertheless bears a very high level of exposure to climate risk because the individual companies it invests in are disproportionately vulnerable to the financial impacts of climate change.

43. As a practical consequence of the interconnected and cross-sectoral nature of climate-risk, climate-driven shocks can produce highly-correlated financial impacts across

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<sup>18</sup> Climate risk is also understood to be transverse. That is, it can manifest through multiple risk categories and amplify existing risks. The term is used in the risk management industry to describe a variety of risks that describe “evolving interconnecting threats,” including geopolitical risk and cyber security risk. *See, e.g.,* AXA, The Transversal Risk Manager; *Adapting to Interconnected Risk* (July 9, 2025), <https://axaxl.com/fast-fast-forward/articles/the-transversal-risk-manager-adapting-to-interconnected-risk>. *See also* GARP, *Climate Change: Evolution and Impact on Financial Risk Management* (Aug. 9, 2019), <https://www.garp.org/risk-intelligence/culture-governance/climate-change-evolution-and-impact-on-financial-risk-management> (describing the financial implications of climate change’s interconnected threats: “If a bank is lending to a company that is impacted by either the transition to a low-carbon economy or by physical events (*e.g.*, hurricanes) that can inflict property damage, its credit risk profile is going to change . . . . If, on the other hand, its internal operations are affected by, say, floods or wildfires, its operational risk levels will rise.”).

<sup>19</sup> *See* Mkt. Risk Advisory Comm. of the Commodity Futures Trading Comm’n, at 12, 32 (cited *supra* note 13). *See also*, S&P Global, *Risky Business: Companies’ Progress on Adapting to Climate Change* 3, 20 (Apr. 3, 2024), <https://www.spglobal.com/sustainable/en/insights/special-editorial/risky-business-companies-progress-on-adapting-to-climate-change> [<https://perma.cc/5WED-QXH2>].

<sup>20</sup> Cushman & Wakefield, *How to Manage Climate Risk: A Practical Sustainability Guide*, *supra* note 7.

1 multiple holdings in a portfolio. A single severe weather event may simultaneously impair real  
 2 estate collateral held by regional banks, disrupt utility infrastructure, and increase insured losses.  
 3 In this way, climate risk functions as a cross-cutting financial risk factor capable of aggregating  
 4 portfolio-wide downside exposure. Accordingly, portfolios that fail to manage climate risk face  
 5 the prospect of sudden, substantial losses.

6 44. For these reasons, prudent fiduciaries must assess and manage climate as a discrete  
 7 source of financial risk. In the context of an ERISA-governed retirement plan, where risk  
 8 management is of paramount concern and sudden, severe losses have devastating consequences  
 9 for retirement security—potentially wiping out years of patient saving—it is particularly important  
 10 to assess and manage risks, like those posed by climate change, that can aggregate dangerously  
 11 inside an otherwise balanced portfolio.

12 **B. Managing Risks, Including Climate Risk, is Standard Practice for Finance**  
 13 **Professionals with Defendants’ Scale and Sophistication**

14 45. Prudent asset managers take climate risk seriously and take proactive steps to  
 15 manage it.<sup>21</sup> Indeed, climate risk analysis and management are now deeply embedded within the  
 16 financial system. As one expert has noted, “[f]orecasts of climate-related risks are increasingly  
 17 being incorporated in a wide range of private-sector decision-making, including underwriting,  
 18 credit rating, securities valuation, portfolio construction, infrastructure resilience, and operations  
 19 management.”<sup>22</sup>

20 46. For managers of large sums of money, climate risk management is a standard  
 21 practice in prudent investment. Asset managers, banks, and insurance companies routinely  
 22 incorporate climate risk modeling into their due diligence processes, and asset managers of all

23 <sup>21</sup> Cushman has gone as far as to suggest that climate risk management constitutes “necessary prudence,”  
 24 particularly in the case of investors holding “assets concentrated in geographical locations exposed to climate risk,”  
 25 and highlighted investors’ use of technological mapping tools and engagement with regulators. *See* Cushman &  
 Wakefield, *Climate Change: Global Investment Atlas* 4 (2019), [https://www.cushmanwakefield.com/-/media/cw/global/insights/research/climate\\_change\\_full.pdf](https://www.cushmanwakefield.com/-/media/cw/global/insights/research/climate_change_full.pdf).

26 <sup>22</sup> Madison Condon, *Climate Services: The Business of Physical Risk*, Ariz. St. L.J. 147, 172 (2023),  
[https://scholarship.law.bu.edu/cgi/viewcontent.cgi?article=4631&context=faculty\\_scholarship](https://scholarship.law.bu.edu/cgi/viewcontent.cgi?article=4631&context=faculty_scholarship).

1 sizes and geographies integrate climate considerations into governance, research, and portfolio  
2 construction.<sup>23</sup>

3 47. A robust ecosystem of service providers has developed to facilitate climate risk  
4 management, such that even less-sophisticated fiduciaries can readily avail themselves of the  
5 tools to account for climate risks. For example, climate risk management services are offered by  
6 a number of consultancies, financial and data technology firms, and investment advisory  
7 groups.<sup>24</sup> Moreover, several of the largest asset managers, ratings agencies, and index providers  
8 have acquired or developed their own proprietary tools (including Blackrock, Wellington, and  
9 Moody's).<sup>25</sup> Indeed, Cushman touts its use of sophisticated tools,<sup>26</sup> and even developed its own  
10 proprietary climate risk management tool that it marketed to clients.<sup>27</sup>

11 48. Finance professionals have numerous tools to address climate risk.<sup>28</sup> Among the  
12 most popular of these are Heatmapping, Exposure Analysis, Climate Risk Ratings, Scenario  
13 Analysis, Stress Testing, and Climate Value at Risk (Climate VaR):

14  
15 <sup>23</sup> See, e.g., GARP, *Fourth Annual Global Survey of Climate Risk Management at Financial Firms* (2022),  
[https://www.garp.org/hubfs/Website/SCR/PDF/GRI\\_22ClimateRiskSurveyReport.pdf](https://www.garp.org/hubfs/Website/SCR/PDF/GRI_22ClimateRiskSurveyReport.pdf).

16 <sup>24</sup> See, e.g., PRI, Directory, <https://www.unpri.org/supporters> (449 signatories to the Principles for Responsible  
Investment categorized as Service Providers) (last visited February 28, 2026).

17 <sup>25</sup> Condon, *supra* note 22, at 151, 172-77.

18 <sup>26</sup> See, e.g., Cushman & Wakefield, *2022 Environmental, Social, and Governance Report* 102-03,  
[https://cwechinox.com/app/uploads/2023/09/Cushman-Wakefield-2022-Environmental-Social-Governance-ESG-  
Report.pdf](https://cwechinox.com/app/uploads/2023/09/Cushman-Wakefield-2022-Environmental-Social-Governance-ESG-Report.pdf) (describing its use of a climate risk data analytics tool as part of its “best-in-class research and advisory  
services”).

19 <sup>27</sup> Cushman & Wakefield, Press & News: Cushman & Wakefield Finds Decarbonizing Existing Real Estate  
Vital to Addressing Climate Change; Defines Business Case for Net-Zero Buildings (Nov. 18, 2022),  
20 [https://www.cushmanwakefield.com/en/news/2022/11/cw-finds-decarbonizing-existing-real-estate-vital-to-  
addressing-climate-change](https://www.cushmanwakefield.com/en/news/2022/11/cw-finds-decarbonizing-existing-real-estate-vital-to-addressing-climate-change) (describing the launch of C&W Green Buildings, a proprietary digital software  
assessment tool that allows clients to guard against transition risks via “a fast, cost-effective, accurate and auditable  
way to estimate energy consumption and create a roadmap to greener real estate assets.”).

21 <sup>28</sup> See, e.g., UN Environment Programme, *Database: Sustainability Risk Tool Dashboard* (July 2025),  
22 <https://www.unepfi.org/themes/climate-change/the-sustainability-risk-tool-dashboard/>.

## Industry Tools for Climate Risk Management

<b>Heatmapping</b>	Identifies concentration of investments in locations exposed to physical risk. <sup>29</sup> Often used by Real Estate Investment Trusts (REITs) and banks with respect to asset-based lending.
<b>Exposure Analysis</b>	Assesses the concentration of vulnerability to climate-related risks across sectors geographies, and issuers. Often used to determine where climate risks may accumulate. <sup>30</sup>
<b>Climate Risk Ratings</b>	Assessments by independent researchers that rate sectors, companies, or funds based on risk exposure. Provide a reference point for evaluating climate risk across holdings. <sup>31</sup>
<b>Scenario Analysis</b>	Evaluates how portfolios may perform under potential future warming and decarbonization trajectories. <sup>32</sup> A common tool of established institutional investors. <sup>33</sup>
<b>Stress Testing</b>	A form of scenario analysis that models a stress-event on a portfolio to see how it might behave under acute stress conditions and identify vulnerabilities. <sup>34</sup>

<sup>29</sup> See, e.g., Impax Asset Management. *Impax Climate Report 2025* (July 2025), [http://fidante.com/sites/default/files/2025-07/2025%20Climate%20Report\\_0.pdf](http://fidante.com/sites/default/files/2025-07/2025%20Climate%20Report_0.pdf) (showing how it integrates portfolio-level physical climate risk heatmaps into its investment and risk processes to identify exposures to key climate hazards across holdings and sectors).

<sup>30</sup> See, e.g., First Street, *Asset-Level Due Diligence*, <https://firststreet.org/pricing/asset-managers> (last visited Feb. 27, 2026).

<sup>31</sup> See, e.g., Sci. Climate Ratings: An EDHEC Venture, *Scientific Climate Ratings: From Exposure to Financial Impact: A New Standard in Climate Risk Ratings*, <https://scientificratings.com/climate-risk-ratings/#> (last visited Feb. 28, 2026); See, e.g., Fin. Stability Bd., Task Force on Climate-related Financial Disclosures (TCFD), *2023 Status Report* (2023), <https://www.fsb.org/uploads/P121023-2.pdf> (noting that a majority of asset managers and owners had conducted some form of scenario analysis). See also BlackRock, *Navigating Climate Risk - Aladdin Climate*, <https://www.blackrock.com/aladdin/products/aladdin-climate> (last visited Feb. 28, 2026) (a proprietary scenario analysis tool developed by BlackRock for their own investment management and offered to third parties).

<sup>32</sup> See, e.g., Task Force on Climate-related Financial Disclosures (TCFD), *2023 Status Report*. Fin. Stability Bd. (2023), <https://www.fsb.org/uploads/P121023-2.pdf> (noting that a majority of asset managers and owners had conducted some form of scenario analysis). See also BlackRock, cited *supra* note 31.

<sup>33</sup> See, e.g., BlackRock. *2024 Climate Report (Aligned with the Taskforce on Climate-related Financial Disclosure Framework)* (2024) 17-19, <https://www.blackrock.com/corporate/literature/continuous-disclosure-and-important-information/climate-report-blkinc.pdf>; TIAA-CREF, *STAYING THE COURSE: 2024 CLIMATE REPORT*, pp. 27-28, [https://www.tiaa.org/public/pdf/c/climate\\_report\\_2024.pdf](https://www.tiaa.org/public/pdf/c/climate_report_2024.pdf).

<sup>34</sup> See, e.g., Amundi Inv. Sols., *From Climate Stress Testing to Climate Value-at-Risk: A Stochastic Approach* 146 (July 2023), <https://research-center.amundi.com/article/climate-stress-testing-climate-value-risk-stochastic-approach>.

**Climate VaR  
(Value at Risk)**

Widely used by major investors, this tool provides forward-looking, return-based valuation assessment to the potential loss in value of an asset, portfolio, or company under various future temperature scenarios.<sup>35</sup>

49. Sophisticated institutions, including asset managers – and the consultants who advise them – regularly use and advocate for the use of these risk management tools.<sup>36</sup> Industry experts that engage with defined contribution plan sponsors (like Defendants here) have similarly noted that climate-related research (carbon emissions, transition and physical risk research, etc.) can support investment committees and other fiduciaries in managing Plans.<sup>37</sup>

50. For investors with long-term horizons, the need to manage climate risk is even more pronounced. The longer the investment horizon, the greater the likelihood that climate-related risks will materialize and compound. And given the centrality of retirement savings to the security of retired workers, protecting those savings against significant loss is especially important. The duty to mitigate the risk of such loss is enshrined in ERISA. Accordingly, in the ERISA context, asset managers and other fiduciaries must guard against material risks that could irreparably impair participants' savings.<sup>38</sup>

<sup>35</sup> State St. Glob. Advisors, *2024 Task Force on Climate-related Financial Disclosures (TCFD) Report* (June 2025), <https://www.ssga.com/library-content/assets/pdf/global/sustainable-investing/2025/inst-tcfd-report-2024.pdf>

<sup>36</sup> See, e.g., Mercer, *Preparing Portfolios for Climate Change* (Nov. 1, 2022), <https://www.mercer.com/insights/investments/investing-sustainably/preparing-portfolios-for-climate-change>; Meketa Inv. Grp., *Climate Scenario Frameworks* (May 2023), [https://meketa.com/wp-content/uploads/2023/05/MEKETA\\_Climate-Scenario-Frameworks.pdf](https://meketa.com/wp-content/uploads/2023/05/MEKETA_Climate-Scenario-Frameworks.pdf). See also UT News, *Investors Want Better Climate Risk Disclosure* (July 26, 2023), <https://news.utexas.edu/2023/07/26/investors-want-better-climate-risk-disclosure/> (noting a comprehensive survey of 439 institutional investors found an overwhelming majority of investors demanding disclosure of climate risk, because that information can affect a company's health and performance).

<sup>37</sup> See, e.g., Ed McCarthy, *Climate Change and Benchmarking Risk for Retirement Plans*, Plansponsor (Aug. 18, 2021), <https://www.plansponsor.com/in-depth/climate-change-benchmarking-risk-retirement-plans/>.

<sup>38</sup> Climate-related events have already bankrupted companies such that the risk of total asset wipe-out is a real, material concern that requires modelling. For example, Pacific Gas & Electric, one of the largest utilities in the U.S., filed for bankruptcy in 2019 due to wildfire liability exacerbated by extreme heat and drought. See BloombergNEF, *PG&E Liabilities for California Wildfires Led to Bankruptcy* (2024), [https://tnfd.global/wp-content/uploads/2024/10/BNEF\\_When-the-Bee-Stings\\_PGE.pdf](https://tnfd.global/wp-content/uploads/2024/10/BNEF_When-the-Bee-Stings_PGE.pdf).

1 51. Accordingly, climate risk management tools have been widely adopted by  
 2 retirement plan fiduciaries, in view of their long-term investment horizons and heightened  
 3 exposure to systemic shocks late in the investment lifecycle.<sup>39</sup> Such practices represent the  
 4 baseline expectation for prudent investment management.

5 52. If anything, standard climate risk management tools likely underestimate the risks  
 6 posed by climate change and the need for aggressive mitigation measures.<sup>40</sup> Against this  
 7 backdrop, institutions that fail to adopt even the most basic climate risk management practices  
 8 are not just behind the curve – they are dangerously out of step with current practices. And  
 9 institutions that have integrated climate risk tools actively manage climate risk as an evolving  
 10 risk, updating their practices to reflect expert advice, improved data, and evolving due diligence  
 11 standards.<sup>41</sup>

12 53. As detailed below, Cushman has demonstrated exactly this kind of agility in its core  
 13 business strategy by regularly updating its climate risk assessments and planning for a range of  
 14 future scenarios. Cushman and its affiliates deploy a centralized governance strategy to oversee  
 15 the Company’s vast network of subsidiaries, which makes Cushman’s failure to apply those  
 16 same principles to protect the retirement savings of its workers all the more glaring and  
 17 indefensible.

18 **C. Cushman has Long Recognized that Managing Climate-Related Financial Risk**  
 19 **is Necessary to Protect Pecuniary Interests.**

20 54. For decades, Cushman has positioned itself as an industry leader in sustainability

21 <sup>39</sup> See, e.g., Md. St. Ret. and Pension Sys., *Annual Climate Risk Assessment* (2026),  
 22 [https://sra.maryland.gov/sites/main/files/file-attachments/climate\\_risk\\_report\\_final\\_version\\_v9\\_rev\\_br\\_final\\_for\\_website.pdf?1770049492](https://sra.maryland.gov/sites/main/files/file-attachments/climate_risk_report_final_version_v9_rev_br_final_for_website.pdf?1770049492).

23 <sup>40</sup> See, e.g., Eric Roston, *Climate Risk Consultants Need More Oversight, Law Professor Says*, Bloomberg  
 24 (Apr. 17, 2023), <https://www.bloomberg.com/news/articles/2023-04-17/climate-risk-consulting-sector-needs-scrutiny-law-professor-says?leadSource=verify%20wall> [<https://perma.cc/BX44-7MVV>].

25 <sup>41</sup> See Cushman & Wakefield, *How to Manage Climate Risk: A Practical Sustainability Guide* *supra* note 7, at  
 26 16 (“Put simply, evaluating and managing climate risk is not a process that ends. In fact, the clearer the picture at any given moment, the more effective financial planning, asset resilience and strengthening strategies will be.”).

1 practices, embedding climate-related considerations into the core of its business. In 1999,  
 2 Cushman joined the inaugural class of ENERGY STAR-labeled commercial building owners  
 3 after pledging to assess its office building energy performance using software tools provided by  
 4 the U.S. Environmental Protection Agency.<sup>42</sup> Over the next decade, Cushman transitioned from  
 5 an early adopter of climate change mitigation strategies and data-based technologies to a full-  
 6 blown evangelist. In 2009, the Company entered into a formal partnership with the EPA,  
 7 agreeing to train others to use the agency’s benchmarking tools and encouraging clients to  
 8 participate in its data gathering initiative.<sup>43</sup> In 2015, after a series of strategic acquisitions turned  
 9 the Company into a truly global enterprise, Cushman launched its Global Corporate  
 10 Responsibility Program. “[I]ntended to embed sustainability within [its] corporate operations,”  
 11 the program was sponsored by executives including the Global Chief Operating Officer. In  
 12 announcing the program, Cushman touted a “commitment to sustainability as a pillar of [its]  
 13 culture”<sup>44</sup> and stated that it “strive[s] to actively participate in public policy engagement on  
 14 climate change.”<sup>45</sup>

15 55. By 2017, Cushman had connected the dots between climate change and asset  
 16 valuation, noting that “[w]ith assets increasingly exposed to rising sea levels and flooding, and  
 17 challenges like extreme and unseasonal weather patterns, real estate professionals cannot afford  
 18 to ignore climate change.”<sup>46</sup> It followed that recognition with increasingly precise accounting of  
 19 greenhouse gas emissions at the entity- and portfolio-levels, in support of its efforts to lower the  
 20

21 <sup>42</sup> Kathryn Janda and Stuart Brodsky, *Implications of Ownership: An Exploration of the Class of 1999*  
*ENERGY STAR® Buildings* 8, Consumer Behav. and Non-Energy Effects 161 (2000),  
 22 [https://www.aceee.org/files/proceedings/2000/data/papers/SS00\\_Panel8\\_Paper13.pdf](https://www.aceee.org/files/proceedings/2000/data/papers/SS00_Panel8_Paper13.pdf).

23 <sup>43</sup> EPA, *Cushman and Wakefield to Green Real Estate Through Landmark Agreement with EPA* (Jan. 6, 2009),  
 24 [https://www.epa.gov/archive/epapages/newsroom\\_archive/newsreleases/5fef98879da2869f8525753600640e14.html](https://www.epa.gov/archive/epapages/newsroom_archive/newsreleases/5fef98879da2869f8525753600640e14.html)

25 <sup>44</sup> Cushman & Wakefield, *Corporate Social Responsibility Report 2015* 16 (September 2016),  
 26 <https://assets.cushmanwakefield.com/-/media/cw/global/about-us/documents/corpresponsibilityreport-2015.pdf?rev=6a5d38a8669c452194d5d37b88e7313e> .

<sup>45</sup> *Id.* at 26.

<sup>46</sup> Cushman & Wakefield, *Corporate Social Responsibility Report (2017)* 18,  
<https://cushwake.cld.bz/Corporate-Social-Responsibility-Report-2017>.

1 Company's exposure to transition risk.<sup>47</sup>

2 56. In 2019, Cushman showcased its developing advisory practice<sup>48</sup> and by 2020, the  
3 Company had formalized its investor-facing services, and promoted its expertise in helping  
4 "clients evaluate and select buildings and real estate portfolios that are adaptable and will retain  
5 value in a rapidly changing environment and climate."<sup>49</sup> The "[management of] climate change  
6 opportunities" was identified as a core service offering to investor clients.<sup>50</sup>

7 57. The Company's rapid development of risk management practices and its  
8 understanding of climate change as a risk to its business and an opportunity to build out its  
9 advisory practice was grounded in materiality assessments beginning in 2019, and which by  
10 2020 had identified climate change resilience as a "material topic" related to "[Cushman] and  
11 client properties retain[ing] value in light of physical climate risks."<sup>51</sup>

12 58. In short, even prior to the Class Period, Cushman publicly recognized climate  
13 change as a material financial consideration, took active steps to incorporate climate risks and  
14 opportunities into its own business, and even held itself out as an expert on climate risk  
15 management. The Company well knew that prudent financial stewardship and climate risk  
16 considerations went hand in hand.

17 59. Cushman's recognition and management of climate risk continued to grow deeper  
18 and more sophisticated over the Class Period. In 2021, Cushman announced ambitious emissions  
19 reductions goals, again identified "climate change resilience" as a material risk topic (related to

20  
21 <sup>47</sup> Cushman & Wakefield, *Corporate Social Responsibility Report (2018)* 55-56,  
[https://assets.cushmanwakefield.com/-/media/cw/global/about-us/documents/cw\\_csr\\_2018.pdf?rev=afc195597804402b94a6b7d82913b2f](https://assets.cushmanwakefield.com/-/media/cw/global/about-us/documents/cw_csr_2018.pdf?rev=afc195597804402b94a6b7d82913b2f) (last visited Mar. 2, 2026).

22 <sup>48</sup> See Cushman & Wakefield, *Corporate Social Responsibility Report (2019)* 44,  
23 [https://assets.cushmanwakefield.com/-/media/cw/global/about-us/documents/cw\\_csr-report-2019.pdf?rev=8e9c9bbb6f854cfcad8ec24c7ce00f82](https://assets.cushmanwakefield.com/-/media/cw/global/about-us/documents/cw_csr-report-2019.pdf?rev=8e9c9bbb6f854cfcad8ec24c7ce00f82) (last visited Mar. 2, 2026).

24 <sup>49</sup> Cushman & Wakefield, *Corporate Social Responsibility Report (2020)* 52,  
<https://assets.cushmanwakefield.com/-/media/cw/global/about-us/2021/cw---csr-report-2020.pdf?rev=6a5e0bdbf92b441c9c430788da4cccc4> (last visited Mar. 2, 2026).

25 <sup>50</sup> Cushman & Wakefield, *Environmental, Social & Governance Report (2021)* 55,  
<https://www.cushmanwakefield.com/-/media/cw/global/about-us/esg-sustainability/cw-2021-esg-report.pdf>.

26 <sup>51</sup> Cushman & Wakefield, *2022 Environmental, Social, and Governance Report*, *supra* note 26, at 14.

1 “helping [its] ... properties retain value in light of physical climate risks”),<sup>52</sup> and identified “the  
2 potential effects of climate change” as a material risk factor in its annual filing to the SEC.<sup>53</sup>

3 60. To address this material concern, in 2022, the Company conducted a formal climate  
4 risk assessment. This included “qualitative and quantitative risk assessments and scenario  
5 analyses, carried out by [its] internal teams and expert external partners” to evaluate climate-  
6 related risks and opportunities to the Company’s “business operations and asset values”.<sup>54</sup> The  
7 assessment evaluated climate-related risks and opportunities over short (0-3 years), medium (4-  
8 10 years), and long (10+ years) time horizons, and applied additional industry-standard  
9 qualitative risk management tools like exposure mapping and climate risk ratings.

10 61. Cushman’s scenario analysis applied the same internationally recognized  
11 frameworks used by central banks, financial regulators, and institutional investors globally. To  
12 assess physical risks, Cushman modeled multiple temperature-based scenarios, including a  
13 “slow progress” scenario and a “hot world” scenario.<sup>55</sup> For transition risks, Cushman evaluated  
14 various carbon-pricing scenarios to assess how different regulatory environments and market  
15 factors could impact its financial performance.<sup>56</sup>

16 62. The Company’s physical risk assessment revealed that chronic physical risks  
17 (including extreme heat and droughts) were the highest-risk hazards across all scenarios, while  
18 acute physical risks (including floods, extreme winds, and wildfires) were projected to reach  
19 moderate levels in the long term. Cushman noted that “[a]s a company that manages real estate,

20  
21 <sup>52</sup> Cushman & Wakefield, *Environmental, Social & Governance Report (2021)*, *supra* note 50, at 16.

22 <sup>53</sup> Cushman & Wakefield plc, Form 10-K (2021), at 21,  
23 <https://www.sec.gov/ix?doc=/Archives/edgar/data/0001628369/000162836922000011/cwk-20211231.htm> (further  
24 stating that “[t]here can be no assurance that climate change will not have a material adverse effect on our  
25 properties, operations or business”).

26 <sup>54</sup> Cushman & Wakefield plc, *2024 UK Annual Report* 14.

<sup>55</sup> *Id.* at 14. Cushman applied two IPCC [Intergovernmental Panel on Climate Change] Sixth Assessment Report  
warming pathways: a Slow Progress scenario (SSP3-4.5, 1.95°C warming by 2050) and a Hot World scenario  
(SSP5-8.5, 2.35°C warming) representing worst-case upper bounds.

<sup>56</sup> *Id.* Cushman applied three NGFC [Network for Greening the Financial System] carbon pricing scenarios: Net  
Zero 2050 (\$129/ton by 2030, rising to \$1,153/ton by 2050); Delayed Transition (\$0/ton through 2030, rising to  
\$576/ton) to Current Policies (\$0 throughout).

1 climate and extreme weather events could result in damage or destruction to our managed or  
2 corporate properties that are in geographies vulnerable to more frequent and intense events.”<sup>57</sup>

3 63. For transition risks, Cushman identified four categories of exposure: policy & legal  
4 risk; technology risk; market risk; and reputational risk. Cushman found that reputational risk  
5 had the highest potential impact to its business, stating that “a slow response to climate-related  
6 needs or inability to provide services for climate-related requests could damage our reputation  
7 and thus reduce the demand for our services. Further, not hitting our publicly declared SBTs  
8 [Science-Based Targets] would pose a reputational risk to the [Company] and could result in  
9 loss of revenue from clients, including those with value chain SBT requirements.”<sup>58</sup> In other  
10 words, Cushman understood that climate risk management was mainstream such that it would  
11 be bad for business to not to adopt it.

12 64. Notably, for every transition risk Cushman identified in its own assessment, it  
13 mapped a corresponding revenue opportunity for its client-facing services: carbon pricing risk  
14 meant increased demand for decarbonization project management; regulatory mandates meant  
15 increased demand for climate risk scenario analysis and reporting services; shifting market  
16 demand meant an opportunity to become the leading provider of low-carbon solutions.  
17 Cushman’s own climate risk assessment was not merely cosmetic—it was fundamental to their  
18 operation and growth plan, serving as both a risk management practice and a business  
19 development roadmap.

20 65. To facilitate its business development plan, Cushman spent 2022 heavily investing  
21 in climate risk management tools, including entering into an agreement with climate risk  
22 analytics giant, Jupiter Intelligence, to provide a climate risk data solution to the market and  
23 enhance the offerings of its advisory services.<sup>59</sup>

24 \_\_\_\_\_  
<sup>57</sup> *Id.*

25 <sup>58</sup> Cushman & Wakefield, *2024 UK Annual Report*, *supra* note 54, at 15.

26 <sup>59</sup> Cushman & Wakefield, *2022 Environmental, Social, and Governance Report*, *supra* note 26, at 102-03. The same year, Cushman also invested in two decarbonization data and analytics tools, Switch Automation and C&W Green Buildings, the former being a proprietary tool marketed to clients. *Id.*

1 66. The Company has since positioned itself as an expert on climate risk management,  
 2 offering client sustainability services, including climate risk assessment<sup>60</sup> and related services  
 3 like advising on physical climate risk management.<sup>61</sup> Along with promoting these services,  
 4 Cushman has sought to establish itself as a thought leader in the climate risk mitigation space,  
 5 publishing hundreds of reports on climate-related financial risk, including 2023's "How to  
 6 Manage Climate Risk".<sup>62</sup> These publications are often industry-specific, including the real estate  
 7 sector,<sup>63</sup> logistics and industrials,<sup>64</sup> and agriculture,<sup>65</sup> or targeting certain geographies deemed to  
 8 be more exposed to climate risk.<sup>66</sup> Cushman's advisory practice has become quite profitable,  
 9 such that climate risk and related sustainability advisory services now comprise a meaningful  
 10 part of its overall business and investor-facing advisory services.<sup>67</sup>

11 67. Unsurprisingly, Cushman has identified climate risk as a material financial risk to  
 12 the company throughout the entire Class Period.<sup>68</sup> It has done so with increasing specificity and

13  
 14 <sup>60</sup> Cushman & Wakefield, *Building a Better Future: 2024 Sustainability Report* 20-21 (2024),  
<https://digital.cushmanwakefield.com/2024-sustainability-report/>.

15 <sup>61</sup> Cushman & Wakefield, *How to Manage Climate Risk: A Practical Sustainability Guide*, *supra* note 7, at 9.

16 <sup>62</sup> *See id.*

17 <sup>63</sup> Cushman & Wakefield, *Insight – Climate Risk Resilience of the City* 13 (Sept. 2021),  
<https://assets.cushmanwakefield.com/-/media/cw/emea/netherlands/insights/whats-next-insight-climate-risk.pdf>  
 (“No longer are we speculating about potential physical hazards, we are talking about the scale and the frequency of  
 18 damage. The systemic impacts of climate change mean that the industry will not only face highly disruptive acute,  
 19 one-off events but will need to plan and prepare for the permanent, chronic changes happening now too.”).

20 <sup>64</sup> Cushman & Wakefield, *Climate Risk – Logistics & Industrial Global Outlook* (2025),  
<https://cushwake.cld.bz/industrialclimateriskoutlook-05-2025-global-central-en-content-esg-logistics>.

21 <sup>65</sup> Gehan Palipana, *The Growing Opportunity for Urban Farms*, Cushman & Wakefield (Dec. 8, 2022),  
<https://www.cushmanwakefield.com/en/insights/the-growing-opportunity-for-urban-farms>.

22 <sup>66</sup> Cushman & Wakefield, *Climate Risk: Real Estate of Emergency – The Impact and Opportunities for the Asia  
 Pacific Property Sector* (2022),  
[https://cwengage.my.salesforce.com/sfc/p/#0Y000002Ihkg/a/7R000002w7z6/PcTkJuyLTV9CSbQzkc39wwVj\\_c4  
 Nu6zl0lsVOF7YHg](https://cwengage.my.salesforce.com/sfc/p/#0Y000002Ihkg/a/7R000002w7z6/PcTkJuyLTV9CSbQzkc39wwVj_c4Nu6zl0lsVOF7YHg); Katarzyna Lipka, *Why Climate Risks Should Take Centre Stage in Real Estate Strategies in  
 Poland* (Aug. 27, 2025), Cushman & Wakefield, [https://www.cushmanwakefield.com/en/poland/news/2025/08/why-  
 climate-risks-should-take-centre-stage](https://www.cushmanwakefield.com/en/poland/news/2025/08/why-climate-risks-should-take-centre-stage); Cushman & Wakefield, *Exploring Climate Risks Across the UK & Ireland –  
 Sustainability Week 2024* (Nov. 14, 2024), [https://www.cushmanwakefield.com/en/united-  
 23 kingdom/insights/exploring-climate-risks-across-the-uk-and-ireland](https://www.cushmanwakefield.com/en/united-kingdom/insights/exploring-climate-risks-across-the-uk-and-ireland).

24 <sup>67</sup> Cushman & Wakefield, *Better Begins Now: 2023 Sustainability Report* 13 (2023),  
<https://cushwake.cld.bz/2023-Sustainability-Report>.

25 <sup>68</sup> *See Cushman & Wakefield plc*, Form 10-K (2021), *supra* note 53, at 20. *See also Cushman & Wakefield plc*,  
 Form 10-K (2022), at 18,

1 precision over time, including disclosing the negative effect of acute physical risks like wildfires  
 2 in its annual reporting.<sup>69</sup> Recognizing that “the risks and opportunities identified are dynamic  
 3 and expected to evolve over time,” Cushman plans to update its scenario analyses with emerging  
 4 tools.<sup>70</sup>

5 68. Given the materiality of climate change to Cushman, it is no surprise that its internal  
 6 governance of climate-related financial risk is structured, deliberate, and subject to Board-level  
 7 oversight. Since 2021, The Board has overseen the implementation of climate risk management  
 8 tools in the Company’s own operations and client-facing services.<sup>71</sup> As of 2023, the Board and  
 9 its standing committees share responsibility for overseeing climate-related risks and  
 10 opportunities, including receiving reports from a number of in-house experts to ensure  
 11 continuous monitoring and evolution of the Company’s climate risk management approach on  
 12 an enterprise-wide scale.<sup>72</sup>

13 69. In sum, Cushman has recognized, measured, and managed climate-related financial  
 14 risks and opportunities within its business operations with increasing precision since 2015. It  
 15 has invested in risk management tools including scenario analysis and embedded these  
 16 assessments into risk governance frameworks and client service offerings. All of this  
 17 information has been developed within the same corporate ecosystem that oversees the  
 18 Company’s retirement plan. That Cushman failed to apply even a fraction of this financial  
 19 climate risk expertise to the Plan’s investment options supports the inference that the fiduciaries  
 20 of the Plan fell short of managing it with the standard of care required by law.

21  
 22 <https://www.sec.gov/ix?doc=/Archives/edgar/data/0001628369/000162836923000005/cwk-20221231.htm>;

Cushman & Wakefield plc, Form 10-K (2023),

23 <https://www.sec.gov/ix?doc=/Archives/edgar/data/0001628369/000162836924000005/cwk-20231231.htm>;

Cushman & Wakefield plc, 2024 10-K (2024), at 17,

24 <https://www.sec.gov/ix?doc=/Archives/edgar/data/0001628369/000162836925000005/cwk-20241231.htm>.

<sup>69</sup> See *supra* note 68.

<sup>70</sup> Cushman & Wakefield plc, 2024 UK Annual Report, *supra* note 54, at 13, 14.

<sup>71</sup> Cushman & Wakefield, *Environmental, Social & Governance Report (2021)*, *supra* note 50, at 13, 15.

26 <sup>72</sup> Cushman & Wakefield, *2023 Sustainability Report* 68 (2024), <https://cushwake.cld.bz/2023-Sustainability-Report/68/>; Cushman & Wakefield, *Building a Better Future: 2024 Sustainability Report*, *supra* note 60, at 29.

**D. Prudent Management of Climate Related Risks is Consistent with Fiduciary Duties Long Established in the Common Law of Trusts**

70. Congress enacted ERISA in 1974 to address a looming national crisis: the growing risk that American workers would lack sufficient savings and face poverty in retirement. The legislative record is replete with concern that employers were mismanaging retirement plans, leaving employees exposed to arbitrary losses and broken promises.<sup>73</sup> ERISA was the solution – a comprehensive federal law designed to create stability, accountability, and long-term security in employer-sponsored retirement plans.

71. In exchange for significant tax benefits and regulatory advantages, retirement plans governed by ERISA are intended to serve the long-term interests of plan participants and their beneficiaries. ERISA accomplishes this by imposing fiduciary duties on those entrusted with managing retirement assets. These duties prescribe that fiduciaries act with care, skill, and undivided loyalty to plan participants.

72. Among the duties ERISA imposes on fiduciaries is the duty of prudence. Specifically, ERISA requires its fiduciaries to act “with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.”<sup>74</sup>

73. Under ERISA, the prudence analysis focuses on the fiduciary’s conduct in making investment decisions. Prudence requires careful selection and oversight of the Plan’s investment options. Fiduciaries are required to evaluate investment choices based on principles of risk, return, and diversification, and to do so in light of the plan’s purpose and circumstances, ensuring that the Plan’s fund options align with participants’ long-term financial interests.<sup>75</sup> Moreover, even after initially evaluating and selecting an option for a retirement plan menu,

<sup>73</sup> See, e.g., S. Rep. No. 93-383, at 4891-93 (1973); S. Rep. No. 93-127, at 4840-41, 4845-48 (1973).

<sup>74</sup> ERISA § 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B).

<sup>75</sup> 29 C.F.R. § 2550.404a-1 (2025)

1 ERISA fiduciaries must continuously monitor investments and remove those that either alone,  
2 or in the context of the entire Plan portfolio, are imprudent.<sup>76</sup>

3 74. Courts interpreting ERISA have long relied on the *Restatement (Third) of Trusts*,<sup>77</sup>  
4 which provides that fiduciaries must invest and manage assets “as a prudent investor would,”  
5 taking into account “the purposes, terms, distribution requirements, and other circumstances of  
6 the trust.”<sup>78</sup> For ERISA plans, the trust purpose is clear: to preserve and grow retirement assets  
7 so that participants may retire with financial stability. The Restatement emphasizes that the duty  
8 of prudence requires fiduciaries to evaluate investment risk in light of this core purpose.<sup>79</sup>

9 75. Because 401(k)s are often participants’ primary source of stability in retirement, it  
10 is especially important to ensure against severe principal loss (and not simply chase high  
11 returns). Because participants rely on their 401(k)s to be able to enjoy a dignified retirement,  
12 such funds are particularly vulnerable to risks that affect broad segments of the market, which  
13 can dangerously aggregate in a portfolio and cause sudden, severe losses. These considerations  
14 form part of the evaluation of a retirement plan’s risk tolerance.

15 76. Accordingly, it is paramount that fiduciaries entrusted with securing their  
16 employees’ retirement savings remain apprised of known financial risks, including those  
17 stemming from the climate, and manage their trust to mitigate those risks.

18  
19  
20 <sup>76</sup> *Tibble v. Edison Int’l*, 575 U.S. 523, 528-30 (2015).

21 <sup>77</sup> *See, e.g., id.* at 528 (stating that “ERISA fiduciary’s duty is ‘derived from the common law of trusts.’”  
(quoting *Cent. States, Se. & Sw. Areas Pension Fund v. Cent. Transp., Inc.*, 472 U.S. 559, 570 (1985))).

22 <sup>78</sup> Restatement (Third) of Trusts § 90(a) (2007).

23 <sup>79</sup> *Id.* at cmt. e(1).

1 **V. DEFENDANTS FAILED TO CONSIDER AND MANAGE CLIMATE RISK WHEN**  
2 **ADMINISTERING THE PLAN**

3 **A. The Plan**

4 77. The Plan is a tax-qualified defined contribution pension plan subject to the  
5 provisions of ERISA and is intended to qualify under Internal Revenue Code § 401(k). At all  
6 relevant times, the Plan was an “employee pension benefit plan” within the meaning of 29 U.S.C.  
7 § 1002(2)(A).

8 78. Cushman, as the Plan sponsor, encouraged its employees to defer their income and  
9 invest in the Plan.

10 79. The Plan covers eligible employees of Cushman, including certain affiliates of  
11 Cushman with U.S.-based employees.

12 80. As of December 31, 2024, the Plan had approximately \$1.7 billion in assets and  
13 23,448 participants. Plans of this size are often referred to as “jumbo plans.” In 2024 alone,  
14 thousands of Cushman employees and former employees contributed nearly \$115 million of  
15 their wages to the Plan.

16 81. Like other large plans, the Plan has substantial internal resources and access to  
17 some of the most sophisticated investment tools and advisers in the marketplace. Because of its  
18 size and sophistication, the Plan (and its fiduciaries) has enormous bargaining power to receive  
19 superior investment products and services at extraordinarily low cost.

20 82. The Plan obtained several services from Fidelity, which acted as recordkeeper,  
21 trustee, and investment advisor—concentrating administrative and transactional functions  
22 within a single institution.

23 83. The Investment Committee adopted an Investment Policy Statement (“IPS”) that  
24 provides guidelines for the selection and monitoring of investment options included on the  
25 Plan’s menu.

26 84. The IPS specifies that the Investment Committee should consider many factors

1 when selecting and monitoring investment options for the Plan, including but not limited to the  
2 following:

- 3 • **Business** – Ownership structure, profitability, stability of organization, client, asset base;
- 4 • **Investment Staff** – Quality of personnel, depth of resources, turnover, succession  
planning;
- 5 • **Investment Process** – Skilled investment decisions, clear and repeatable processes,  
understanding of competitive advantages;
- 6 • **Risk Management** – Embedded in broader investment process, independently verified;
- 7 • **Performance** – Risk-adjusted investment results, compared to appropriate benchmarks  
and peer groups, measured over multiple shorter- and longer-term periods, including  
8 trailing, rolling, and annual results;
- 9 • **Operational Due Diligence** – Operational controls, valuation of assets, independent  
directors;
- 10 • **Fees** – Investment expenses should be reasonable for the value provided and  
11 benchmarked for reasonability based on the specific type of investment strategy being  
evaluated.

#### 12 **B. The Westwood Quality Small Cap Fund**

13 85. In 2021, the Investment Committee selected the Westwood Fund from Fidelity's  
14 FundsNetwork for inclusion in the Plan's investment line up. The Fund replaced the Plan's small  
15 cap offering, the DFA Small Cap Value Fund (the "DFA Fund").

16 86. Westwood Management Corp. is the Westwood Fund's investment advisor, and is  
17 an affiliate of Westwood Holdings Group, Inc. ("Westwood").

18 87. Westwood is a Dallas-based investment management boutique and wealth  
19 management firm.

20 88. Prior to March 1, 2021, the Westwood Fund was named the Westwood SmallCap  
21 Fund. And prior to March 1, 2017, it was named the Westwood SmallCap Value Fund.

22 89. Each change of name was accompanied by a change to the Westwood Fund's  
23 principal investment strategy.

24 90. Because the Westwood Fund changed its fundamental principal investment strategy  
25 multiple times in the years leading up to and through its inclusion as an option in the Plan, it  
26 lacked a clear and repeatable investment process as required by the IPS.

1 91. The benchmark Defendants selected for the Westwood Fund is the Russell 3000  
2 Index. In the fee disclosures that Defendants provided to participants pursuant to 29 CFR §  
3 2550.404a-5, they identified the Russell 3000 Index as the appropriate benchmark for the  
4 Westwood Fund. The Russell 3000 Index is also the benchmark included in the prospectus for  
5 the Westwood Fund.

6 a. Defendants Failed to Adequately Consider the Westwood Fund's  
7 Extraordinary Levels of Climate-Related Financial Risk When Selecting  
8 and Retaining it as a Plan Investment.

9 92. The Westwood Fund is dangerously, willfully blind to climate-related financial  
10 risks. This can be seen in both Westwood's public disclosures and in the fact that the Westwood  
11 Fund maintains a portfolio exposed to extreme levels of climate risk. Indeed, the levels of  
12 climate risk regularly seen in the portfolio cannot be reasonably explained except by either a  
13 negligent blindness to, or a willful courting of, that risk.

14 93. Westwood disclosed in its 2020 PRI Transparency Report that (i) its investment  
15 policy did not cover climate change, and (ii) it did not undertake scenario analysis or modeling  
16 to assess climate-related risks.<sup>80</sup> The PRI Transparency Report was available to Defendants at  
17 the time the Investment Committee added the Westwood Fund to the Plan.

18 94. Additionally, at the time of its inclusion into the Plan, the Westwood Fund  
19 unreasonably aggregated highly-correlated climate-related financial risks in its portfolio. It did  
20 so in two distinct ways: First, the Fund maintained significant overweight positions in sectors  
21 disproportionately vulnerable to physical and transition climate risks. Second, across virtually  
22 all sectors, the Westwood Fund invested in companies whose operations and business models  
23 carried elevated climate-related risks. By adding the Westwood Fund to the Plan, the Investment  
24 Committee exposed Plan participants to excessive climate-related financial risk.

25 95. Compared to the Russell 3000 Index—Defendants' own benchmark for the  
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<sup>80</sup> Westwood Holdings Group, *PRI Transparency Report* 23, 32 (2020).

1 Westwood Fund—the Westwood Fund demonstrated overweight positions in sectors  
2 particularly susceptible to climate-related financial risks. Industry standards, led by widespread  
3 adoption of the TCFD Recommendations,<sup>81</sup> identify six Global Industry Classification Standard  
4 (GICS) sectors that are particularly exposed to financial risk from climate-related events.<sup>82</sup> At  
5 the time of its selection, the Westwood Fund was overweight in five of the six sectors relative  
6 to its own benchmark, the Russell 3000 Index. As a result of these allocations, the Westwood  
7 Fund had twice as much exposure to climate-related financial risk as its benchmark index when  
8 it was added to the Plan.

9 96. The financial risk stemming from the Westwood Fund’s allocation to climate-  
10 vulnerable sectors was amplified by the stock selection choices the Fund made within those  
11 sectors. Many of the companies that the Fund included in its portfolio demonstrated no or poor  
12 climate risk management and were asymmetrically exposed to climate-related financial risk as  
13 opposed to other investment opportunities within the Westwood Fund’s benchmark.

14 97. For example, several of the Westwood Fund’s holdings during the relevant periods  
15 operated in sectors with clear and well-documented physical climate vulnerabilities. These  
16 included, for example, REITs holding exclusively timberlands, many in areas particularly  
17 exposed to wildfires; regional banks with geographically-concentrated loan portfolios in areas  
18 with heightened exposure to hurricanes, and fossil fuel producers facing high degrees of both  
19 physical climate risk due to the geographic location of their assets and transition risks related to  
20 global changes in policy and shifting consumer attitudes regarding fossil energy.

21 98. The Fund’s appetite for climate risk was not limited to its over-investment in sectors  
22 understood to carry elevated exposure to climate-related financial risk. Even in those sectors that  
23 normally serve as a hedge against climate-related financial risk, the individual stocks the  
24 Westwood Fund selected from were uniquely exposed to financial risks stemming from climate

25 \_\_\_\_\_  
<sup>81</sup> See TCFD, *supra* note 17.

26 <sup>82</sup> These sectors are Energy, Utilities, Materials, Industrials, Financials, and Real Estate.

1 change. For example, over half of its Consumer Discretionary holdings in 2021 consisted of  
2 companies with unusually high exposure to climate-related risks, leading to the sector being  
3 exposed to geographic concentration in areas expected to face increased impact of physical  
4 climate risk. This degree of risk aggregation is indicative of the Westwood Fund's self-professed  
5 failure to reasonably consider climate-related financial risk in its risk modeling.

6 99. Furthermore, the Fund's trend of over-exposure to climate risk worsened over the  
7 period during which it appeared on Cushman's 401(k) menu. Even as climate risk modeling  
8 grew more sophisticated, the Fund's climate-blindness grew more severe. A year-to-year  
9 comparison (2021 & 2025) of sector allocations reveals that the Westwood Fund increased its  
10 exposure to industries and geographies most vulnerable to transition and physical climate risks,  
11 while decreasing its exposure to sectors that hedge climate risk and are more resilient to financial  
12 shock.

13 100. By Q4 2025, the Westwood Fund had increased its holdings in companies in the  
14 TCFD-identified climate vulnerable sectors to 74.35%, as compared to its benchmark Russell  
15 3000 Index's 32.73%. In other words, Westwood was now 127% more exposed to climate-risky  
16 sectors than its benchmark.

17 101. Likewise, the Fund's selection of individual stocks that were disproportionately  
18 exposed to climate-related financial risk also increased since the Fund was added to the Plan.  
19 For example, regional banks that the Fund selected for its Financial Sector allocation were  
20 overwhelmingly concentrated in climate-vulnerable regions, meaning that their geographically-  
21 focused loan portfolios were broadly exposed to severe weather events, insurance market  
22 instability, and property value impairment, thereby amplifying portfolio-level credit risk.  
23 Similarly, energy companies the Fund selected for its Utilities Sector allocation faced (and still  
24 face) significant transition risks due to generating an outsized portion of their electricity from  
25  
26

1 coal-powered sources.<sup>83</sup>

2 102. Information about the Fund’s approach to climate-related financial risk and the  
3 excessive levels of these risks in its portfolio were available to Defendants. Each year,  
4 notwithstanding the evolving standards for climate risk management, Westwood disclosed its  
5 disregard of climate-related financial risk through PRI Reporting. In each such disclosure,  
6 Westwood indicated that it did not have a process to identify, assess, or manage climate-related  
7 risks in the portfolios it managed, including the Westwood Fund.<sup>84</sup>

8 103. Before selecting the Westwood Fund for the Plan, Defendants failed to adequately  
9 consider the Westwood Fund’s risk modeling approach and the degree of climate-related  
10 financial risk it imposed on the Plan’s participants.

11 104. Under the terms of the IPS, Defendants should have, but failed to, adequately  
12 consider that there was a deficit in the Westwood Fund’s risk management processes before  
13 selecting, and when monitoring, the Westwood Fund as an investment option in the Plan. This,  
14 notwithstanding Cushman’s considerable sophistication in assessing and managing climate-  
15 related financial risk, prioritization of that knowledge throughout its enterprise (with Board-  
16 level oversight), and acknowledgement that “underlying climate-related risks exist” and that “it

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17  
18 <sup>83</sup> Indeed, the Fund has not carried any constituents in the Utilities Sector that do not rely on coal-power  
19 generation since 2021 and, in Q4 2025, recently initiated a new position in a company generating almost 1/3 of its  
20 electricity from coal-powered sources, compared to the average of 16.2% in the electricity marketplace. *See* U.S.  
21 Energy Info. Admin., FAQs: What is U.S. electricity generation by energy source? (last updated Feb. 29, 2024),  
22 <https://www.eia.gov/tools/faqs/faq.php?id=427&t=3>.

23 <sup>84</sup> In 2021, Westwood disclosed that it did not conduct scenario analysis, had not identified any climate-related  
24 risks or opportunities, and had no board-level oversight of climate risk. *See* Westwood Holdings Group, *Public RI*  
25 *Report 27-29* (2021) [<https://perma.cc/FZ2N-55KU>]. By 2023, the firm’s disclosures showed not only a lack of  
26 progress, but a deeper entrenchment in its failure to act. Westwood explicitly stated that it had no process to identify,  
assess, or manage climate-related risks, used no climate metrics or variables affecting its investments during the  
reporting year, and had not assessed the resilience of its investment strategy in different climate scenarios, including  
a sub-2°C scenario. *See* Westwood Holdings Group, *Public RI Report 29-30* (2023) [<https://perma.cc/FZ2N-55KU>].  
Meanwhile, Cushman was systematically following industry guidance and implementing climate risk management  
on an enterprise scale. By 2021, Cushman had conducted a materiality assessment in preparation for running  
scenario analyses and other climate risk assessments. By 2023, Cushman had run multiple climate scenarios and  
implemented Board-level oversight of climate risk metrics. All the while, Cushman continued to advise investors on  
climate risk management and generate revenue by telling its clients that they needed to do everything that Westwood  
failed to do as a matter of prudent investment management. *See supra* ¶¶ 59-62.

1 is imperative to fully understand the level and type of hazards your asset or portfolio is exposed  
2 to and the potential impacts. This requires a tactical response.”<sup>85</sup>

3 105. As a result of Westwood’s lack of tactical response to risks arising from climate  
4 change (or any response at all), the Plan was continuously (and increasingly) exposed to  
5 unreasonable levels of climate-related financial risk that made it unsuitable for inclusion as an  
6 investment option in the Plan.

7 b. The Westwood Fund’s Performance Substantially Underperformed its  
8 Benchmark While Also Carrying Excess Risk.

9 106. Prior to being added to the Plan, the Westwood Fund experienced consistent and  
10 material underperformance compared to its own benchmark, the Russell 3000 Index.

11 107. During the 1-, 3-, 5-, and 10-year trailing periods preceding its inclusion in the Plan,  
12 the Westwood Fund underperformed the Russell 3000 Index by wide margins. As of year-end  
13 2020, the Fund had returned just 2.16%, compared to 20.89% for the Russell 3000 Index. Over  
14 the prior 3-, 5-, and 10-year periods, it delivered 10.90%, 4.99%, and 6.68%, respectively –  
15 falling short of its benchmark by 3.59%, 10.44%, and 7.12%.

Trailing Period (as of 12/31/2020)	Westwood Returns (%)	Russell 3000 Index Returns (%)	Underperformance (%)
1-Year	2.16	20.89	-18.73
3-Year	10.9	14.49	-3.59
5-Year	4.99	15.43	-10.44
10-Year	6.68	13.8	-7.12

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21 108. As required by the IPS, Defendants should have, but failed to, adequately consider  
22 the Westwood Fund’s significant underperformance prior to its inclusion in the Plan relative to  
23 its benchmark.

24 109. As demonstrated in the following table, this underperformance continued after the

25 <sup>85</sup> Cushman & Wakefield, *Climate Risk: Global Cities Outlook*, *supra* note 1, at 6.  
26

1 Westwood Fund was included in the Plan.

2 <b>Trailing Period (as</b>	<b>Westwood Returns</b>	<b>Russell 3000</b>	<b>Underperformance</b>
3 <b>of 12/31/2025)</b>	<b>(%)</b>	<b>Index Returns</b>	<b>(%)</b>
		<b>(%)</b>	
4 1-Year	-0.06%	17.15%	-17.21%
5 3-Year	7.06%	22.25%	-15.19%
6 5-Year	6.57%	13.15%	-6.58%
7 10-Year	8.25%	14.29%	-6.04%

8 110. As required by the IPS, Defendants should have, but failed to, adequately  
9 consider that the Westwood Fund's underperformance continued after its inclusion in the Plan  
10 over multiple short- and longer-term periods, including trailing, rolling, and annual returns.

11 111. The underperformance cannot be explained by market risks affecting all securities  
12 belonging to the market capitalization segment in which Westwood concentrated its focus. By  
13 way of example, the DFA Fund, outperformed the Westwood Fund every year since 2021 (the  
14 year the Westwood Fund replaced the DFA Fund as one of the Plan's investment options).

15 112. The Westwood Fund's sustained underperformance has caused losses to the  
16 accounts of Plaintiff and the other Plan participants.

17 113. This underperformance is even more stark when viewed on a risk-adjusted basis.  
18 The Westwood Fund evaluates its risk-adjusted returns using a Sharpe Ratio, which measures  
19 how much excess return (risk premium) an investment earns relative to the level of risk taken to  
20 achieve it, reflecting whether investors were adequately rewarded for the risks they bore. The  
21 lower the Sharpe Ratio, the less the investor was compensated for the level of risk being taken.

22 114. The following table compares the Sharpe Ratios of the Westwood Fund to Russell  
23 3000 Index over trailing 3-, 5-, and 10-year periods. The Westwood Fund consistently provided  
24 investors with worse risk-adjusted returns than its own benchmark index.

Sharpe Ratio (Trailing)			
Comparator	3-yr	5-yr	10-yr
Westwood Fund	0.17	0.29	0.46
Russell 3000 Index	1.20	0.70	0.85

115. Per the IPS, Defendants were required to consider risk-adjusted performance when evaluating the Plan's investment options. The Fund's substantial and persistent risk-adjusted underperformance should have been a major red flag. It is evidence of both Defendants' failure to prudently monitor the Plan's investment options and failure to follow plan documents.

116. As a result of the Westwood Fund's underperformance and excessive risk, the Defendants should have removed the Westwood Fund from the Plan's lineup. They did not.

c. The Westwood Fund's Fees are Unreasonably High for an Investor with the Plan's Scale.

117. Defendants added the Ultra share class of the Westwood Fund to the Plan in 2021, at which point the fund had a gross expense ratio of 108 bps (1.08%) and net expense ratio of 79 bps (0.79%).

118. The DFA Fund that Defendants replaced with the Westwood Fund on the Plan's line up had a lower net expense ratio of 51 bps (0.51%) in the same year.<sup>86</sup>

119. An expense ratio of 0.79% for a domestic equity mutual fund is unreasonably high for one of the largest retirement plans in the United States to pay.

120. According to expense ratio benchmarking performed by Brightscope and the Investment Company Institute in 2019, the average expense ratio for a domestic equity fund mutual fund held by 401(k) plans with more than \$1 billion (jumbo plans) in plan assets was 0.35%, less than half of the Westwood Fund's expense ratio.

121. Due to its large size, the Plan was a "jumbo plan" for years before it invested in the Westwood Fund.

<sup>86</sup> Since 2021, the DFA Fund has decreased its fees, now sitting at 31 bps as of December 31, 2025.

1 122. In 2019, a reputable retirement investment advisor, Callan, prepared a detailed  
2 analysis of fee levels and trends across multiple asset classes and investment strategies. The  
3 2019 Callan analysis revealed that the average expense ratio within the most expensive domestic  
4 equity segment—U.S. Smid, Small, and Micro Cap Equity—was 0.60%.

5 123. On information and belief, the average expense ratio for funds has declined since  
6 Brightscope and Callan conducted their respective studies in 2019.

7 124. Cushman could have negotiated for a fee more in line with the norm for jumbo  
8 plans or found an alternative option offering a similar or better performance track record with  
9 lower fees. It failed to do so.

10 125. The Westwood Fund’s high expenses are not caused by exceptionally large  
11 investment in the fund’s investment processes. Rather, the excessive expenses associated with  
12 the Westwood Fund are caused, in large part, by a 10 bps (0.10%) Sub-transfer Agency (“Sub-  
13 TA”) fee embedded in the expense ratio. This Sub-TA fee is transferred to the Plan’s  
14 recordkeeper, Fidelity, for keeping administrative records of a plan’s investment in a fund.

15 126. Based on information and belief, the DFA Fund that the Westwood Fund replaced  
16 did not pay a Sub-TA fee to Fidelity.

17 127. Based on information and belief, the Westwood Fund is currently the only  
18 investment option on the Plan’s menu that pays Fidelity a Sub-TA fee.

19 128. Based on information and belief, Defendants have permitted Fidelity to retain this  
20 Sub-TA fee as compensation. This Sub-TA fee is assessed in addition to an annual record-  
21 keeping fee that is deducted from Plaintiff’s and all other participants’ accounts. Fidelity does  
22 not provide the Plan with greater recordkeeping services in exchange for the Sub-TA fee.

23 129. Defendants should have, but failed to, adequately consider that the Westwood  
24 Fund’s fees were above average and were not reasonable given the Westwood Fund’s  
25 underperformance and sub-par risk management processes.  
26

1                   d. The Westwood Fund Has Been Rejected as an Investment Option By  
2                   Investors of Cushman’s Scale and Sophistication.

3                   130. Both Westwood and the Westwood Fund have experienced tepid market adoption  
4                   that the Defendants should have—but failed to—consider when selecting and retaining the  
5                   Westwood Fund on the Plan’s line up.

6                   131. Westwood’s mutual fund complex has experienced a significant decline in market  
7                   acceptance in the past decade. The complex has experienced net outflows every year since at  
8                   least 2015. Since 2015, Westwood’s mutual fund complex has experienced a compound annual  
9                   growth rate in assets under management of negative 4.8% per year. During this same period, the  
10                  value of common security markets such as the Russell 3000 Index more than doubled, further  
11                  highlighting the deterioration of the market’s acceptance of Westwood’s mutual funds.

12                  132. The Westwood Fund has similarly experienced limited market acceptance,  
13                  particularly among large, sophisticated 401(k) investors such as the Plan.

14                  133. At the time Defendants selected Westwood for inclusion on the Plan menu, very  
15                  few 401(k) plans of equal or greater size offered the Fund as an option. Even smaller, less-  
16                  sophisticated plans almost uniformly steered clear of the Fund. Indeed, even among investors  
17                  who might have different goals than retirement savers, the fund was a fairly unpopular, niche  
18                  option.

19                  134. None of Cushman’s peers in the real estate industry offered the Westwood Fund in  
20                  their retirement plans at the time it was added to the Plan, nor have any offered it subsequently.  
21                  A similar lack of adoption is observed across all 401(k) plans, with the Westwood Fund being  
22                  found in a mere 0.006% of such plans.

23                  135. Notably, Fidelity clients comprise the overwhelming majority (79%) of plans that  
24                  utilize the Westwood Fund. Based on information and belief, Defendants’ selection and  
25                  retention of the Westwood Fund was influenced by Fidelity, which receives Sub-TA fees from  
26                  Westwood.

1 136. The Westwood Fund has lost investors since being added to the Plan. Since 2021,  
2 the Westwood Fund has lost approximately 20% of its investor asset base.

3 137. In contravention of the IPS, Defendants failed to adequately consider the lack of  
4 market acceptance and the declining asset base of the Westwood Fund before selecting and  
5 retaining it as an investment option in the Plan.

6 **C. The Inclusion and Retention of the Westwood Fund in the Plan Caused Losses to**  
7 **Plaintiff and the Plan.**

8 138. The Investment Committee Defendants selected and retained the Westwood Fund  
9 as an investment option for the Plan, thereby breaching their ERISA duties owed to Plan  
10 participants. This breach continues to the present day.

11 139. ERISA requires the Investment Committee Defendants to give “appropriate  
12 consideration to those facts and circumstances that, given the scope of such fiduciary’s  
13 investment duties, the fiduciary knows or should know are relevant to the particular investment  
14 . . . of the [P]lan[],” and then to “act[] accordingly.”<sup>87</sup> This standard requires fiduciaries to  
15 engage in a thorough, unbiased deliberative process when selecting and monitoring investment  
16 options in the Plan. That process must reflect the care, skill, prudence, and diligence of a  
17 reasonable fiduciary under similar circumstances, and includes accounting for all material  
18 financial risks, such as those stemming from climate change.

19 140. As described in the preceding sections, Defendants’ process was flawed and failed  
20 to adequately consider and act upon information revealing the Westwood Fund exposed the Plan  
21 to substantial climate-related financial risk; exhibited chronic underperformance and poor risk-  
22 adjusted returns; had unreasonably high fees; gave rise to prohibited transactions with a party-  
23 in-interest; and had limited market acceptance.

24 141. Defendants had access to all information needed to identify the aforementioned  
25

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26 <sup>87</sup> 29 C.F.R. § 2550.404a-1(b).

1 | issues affecting Westwood Fund’s management since before it was added to the Plan.

2 | 142. Both the initial selection and continued retention of the Westwood Fund are glaring  
3 | indications that the fiduciaries responsible for investment selection and monitoring either  
4 | ignored obvious warning signs, or failed altogether to conduct the required initial and ongoing  
5 | evaluation, in dereliction of their obligation to safeguard the retirement security Cushman’s  
6 | employees.

7 | 143. Cushman avers that “[f]inancial well-being is another key component of our overall  
8 | employee benefits strategy” and that it “routinely assess[es] and update[s] [its] benefits offerings  
9 | to ensure they stay aligned with industry standards”.<sup>88</sup> The facts suggest otherwise. If Cushman  
10 | wants to live up to its stated values, it must improve the safety of its 401(k) offerings and Plan  
11 | administration and make whole those employees who were harmed after trustingly investing in  
12 | unreasonable options like the Westwood Fund. Plaintiff seeks this remedy via this complaint.

13 | 144. As a result of Defendants’ failure to adequately evaluate the risks, performance,  
14 | and fees of the Westwood Funds, Plaintiff and the Plan have incurred millions of dollars in  
15 | losses.

## 16 | **VI. CLASS ACTION ALLEGATIONS**

17 | 145. Plaintiff brings this action on behalf of the following Class:

18 | 146. All participants and beneficiaries in the Cushman & Wakefield 401(k) Plan whose  
19 | individual accounts are or were invested in the Plans’ Westwood Quality SmallCap Fund from  
20 | January 1, 2021 through the date of judgment (the “Class Period”). The Defendants, their  
21 | beneficiaries, and immediate families are excluded from the Class. Class certification is  
22 | appropriate under Fed. R. Civ. P. 23(a) and (b)(1), (b)(2) and/or (b)(3).

23 | 147. **Numerosity.** The number of Class members is so large that joinder of all its  
24 | members is impracticable. While the exact number of Class members is not presently known,  
25 |

26 | <sup>88</sup> See Cushman & Wakefield, *Building a Better Future: 2024 Sustainability Report*, *supra* note 60, at 48.

1 publicly available information indicates that the Class likely includes hundreds, if not thousands,  
2 of participants. The Plan currently has 23,448 participants with nearly \$1.7 billion in assets, of  
3 which \$38,637,796 was invested in Westwood as of December 31, 2024. The precise number  
4 and identities of Class members can be ascertained through discovery from records maintained  
5 by the Defendants and/or the Plan's recordkeeper, Fidelity. Accordingly, the numerosity  
6 requirement is satisfied.

7 148. **Commonality.** As to the members of the Class, this case presents numerous  
8 common questions of law and fact, among them:

- 9 a. Whether the Investment Committee Defendants were and are ERISA fiduciaries  
10 responsible for selecting, retaining, removing and monitoring the Plan  
11 investments;
- 12 b. Whether the Investment Committee Defendants breached their ERISA fiduciary  
13 duties in selecting the Westwood Fund as an investment option for the Plan  
14 during the Class Period;
- 15 c. Whether the Investment Committee Defendants breached their ERISA fiduciary  
16 duties in monitoring or failing to monitor the investment options in the Plan  
17 during the Class Period;
- 18 d. Whether the Investment Committee Defendants breached their ERISA fiduciary  
19 duties in failing to remove the Westwood Fund from the Plan during the Class  
20 Period;
- 21 e. Whether the Investment Committee Defendants breached their ERISA fiduciary  
22 duties by failing to consider financial risks related to climate change in carrying  
23 out their responsibilities during the Class Period;
- 24 f. Whether the Investment Committee Defendants and Cushman breached their  
25 ERISA fiduciary duties by failing to monitor the actions of Plan fiduciaries they  
26 appointed to ensure that they comply with ERISA;

- 1 g. Whether Fidelity is a party in interest within the meaning of 29 U.S.C. §
- 2 1106(a)(1);
- 3 h. Whether the Investment Committee Defendants caused the Plan to directly or
- 4 indirectly transfer to Fidelity any assets of the plan; and
- 5 i. Whether the Plan and its participants suffered losses as a result of Defendants’
- 6 breach of their fiduciary duties.

7 149. **Typicality.** Plaintiff’s claims are typical of the claims of the Class because (a) to  
8 the extent that Plaintiff seeks relief on behalf of the Plan pursuant to § 502(a)(2) of ERISA their  
9 claims are not only typical of, but the same as, a claim under § 502(a)(2) brought by any other  
10 Class Member; (b) to the extent that Plaintiff seeks equitable relief, that relief would affect all  
11 Class Members equally; all of the Class members were injured and continue to be injured in the  
12 same manner by the alleged breaches of fiduciary duty.

13 150. **Adequacy.** Plaintiff will fairly and adequately assert and protect the interests of the  
14 Class and is committed to the vigorous representation of the Class. Plaintiff retained counsel,  
15 ClientEarth USA, Inc. (“ClientEarth”) and Cohen Milstein Sellers and Toll PLLC (“Cohen  
16 Milstein”), who are experienced in complex commercial, class action, and ERISA litigation, and  
17 Plaintiff has no interests antagonistic to or in conflict with the interests of the Class.

18 151. Plaintiff’s counsel has agreed to advance the costs of the litigation contingent upon  
19 the outcome. Counsel are aware that no fee can be awarded without the Court’s approval.

20 152. The Class may be certified under Rule 23(b)(1), (2), and/or (3).

21 153. **Rule 23(b)(1).** As an ERISA breach of fiduciary duty action, this action is a classic  
22 23(b)(1) class action. Prosecution of separate actions by individual members would create the  
23 risk of (A) inconsistent or varying adjudications with respect to individual class members that  
24 would establish incompatible standards of conduct for Defendants, or (B) adjudications with  
25 respect to individual class members that would, as a practical matter, be dispositive of the  
26 interests of the other members not parties to the adjudication or substantially impair or impede

1 their ability to protect their interests.

2 154. **Rule 23(b)(2).** Through their practices alleged, Defendants have acted on grounds  
 3 that apply generally to the class, so that final injunctive relief or corresponding declaratory relief  
 4 is appropriate respecting the Class as a whole. Here, the challenged conduct at issue not only  
 5 can be, but must be enjoined or declared unlawful only as to all of the Class members or as to  
 6 none of them. Because the focus of Plaintiff's claims is on Defendants' actions, and because the  
 7 relief sought is equitable plan-wide relief, there are simply no individual issues. The  
 8 requirements for Rule 23(b)(2) certification are plainly met.

9 155. **Rule 23(b)(3).** Questions of law and fact common to the members of the Class  
 10 predominate over individual questions, and a class action is superior to other available methods  
 11 for the fair and efficient adjudication of this controversy. The losses suffered by some of the  
 12 individual members of the Class may be small, and many of the Class members may not have  
 13 the resources to bear the expense and burden of individual litigation to enforce their rights.  
 14 Moreover, the fiduciary defendants to the Plan named herein were and are obligated to treat all  
 15 Class members similarly because ERISA imposes uniform standards of conduct on fiduciaries.  
 16 Individual proceedings, therefore, would pose the risk of inconsistent adjudications. A class  
 17 action will permit many similarly situated persons to prosecute their common claims in a single  
 18 forum simultaneously, efficiently, and without the duplication of effort and expense that  
 19 numerous individual actions would entail. There will be no difficulty in the management of this  
 20 action as a class action. Given the nature of the allegations and the time and expense necessary  
 21 to conduct this litigation, there is little likelihood that an individual Class member would have  
 22 an interest in individually controlling the prosecution of this matter.

## 23 **VII. CAUSES OF ACTION**

### 24 **Count I**

#### 25 **Fiduciary Breaches for Failure to Select and Monitor Plan Investments Prudently, Loyally, and in Accordance with Plan Documents in Violation of ERISA § 404, 29 U.S.C. § 1104**

26 (Against Investment Committee Defendants)

1 156. Plaintiff restates and incorporates the allegations of the preceding paragraphs as if  
2 set forth fully herein.

3 157. At all relevant times, the Investment Committee Defendants were fiduciaries within  
4 the meaning of 29 U.S.C. § 1002(21)(A)(i). As fiduciaries, they were required to discharge their  
5 duties “with the care, skill, prudence, and diligence under the circumstances then prevailing that  
6 a prudent man acting in a like capacity and familiar with such matters would use in the conduct  
7 of an enterprise of a like character and with like aims,” in accordance with ERISA §  
8 404(a)(1)(B), 29 U.S.C. § 1104(a)(1)(B). These fiduciary duties include the ongoing duty to  
9 monitor all plan investments and remove imprudent investments from the Plan’s menu.

10 158. ERISA’s duty of prudence required the Investment Committee Defendants to  
11 follow reasonable standards of investment due diligence by giving appropriate consideration to  
12 those facts and circumstances that, given the scope of their fiduciary investment duties, they  
13 knew or should have known were relevant to the particular investments of the Plan, and then to  
14 act accordingly.<sup>89</sup>

15 159. ERISA’s duty of loyalty required the Investment Committee Defendants to act  
16 solely in the interest of plan participants and beneficiaries, and for the exclusive purpose of  
17 providing benefits and defraying reasonable administrative expenses.<sup>90</sup>

18 160. ERISA additionally required the Investment Committee to act “in accordance with  
19 the documents and instruments governing the plan insofar as such documents and instruments  
20 are consistent with the provisions of this subchapter and subchapter III.”<sup>91</sup> The IPS is one of the  
21 “documents and instruments governing the plan.”<sup>92</sup>

22 161. As set forth in detail above, the Investment Committee Defendants breached these  
23 fiduciary duties by, *inter alia*:

24  
25 <sup>89</sup> 29 C.F.R. § 2550.404a-1.

<sup>90</sup> ERISA § 404 (a)(1)(A); 29 U.S.C. § 1104(a)(1)(A).

<sup>91</sup> ERISA § 404 (a)(1)(D); 29 U.S.C. § 1104(a)(1)(D).

<sup>92</sup> See *California. Ironworkers Field Pension Tr. v. Loomis Sayles & Co.*, 259 F.3d 1036, 1042 (9th Cir. 2001).

- 1 a. Selecting the Westwood Fund without considering the fund’s historical  
2 underperformance and excessively high fees; the availability of reasonably-  
3 priced, better performing alternatives; or the fund’s unreasonable aggregation  
4 of climate-related financial risks in its portfolio;
- 5 b. Failing to monitor the Plan investment options and remove the Westwood  
6 Fund by, among other things: (i) failing to avoid or mitigate conflicts of  
7 interest related to Fidelity’s fee interest in the Westwood Fund; (ii) failing to  
8 adequately consider the Westwood Fund’s continued underperformance,  
9 unreasonable expense ratio, and continued concentration of climate-related  
10 risks in its portfolio; (iii) failing to remove the Westwood Fund from the Plan  
11 despite the fact that it was selected based on an imprudent and disloyal  
12 process which was not in line with industry standard risk management  
13 practices or the Company’s peers; (iv) failing to adequately consider whether  
14 continuing to invest Plan assets in the Westwood Fund constituted party-in-  
15 interest transactions with Fidelity;
- 16 c. Failing to monitor the Westwood Fund in conformance with the IPS’s  
17 specifications by failing to adequately consider pertinent factors about the  
18 Westwood Fund’s business, investment process, risk management,  
19 performance and/or, fees.

20 162. As a direct and proximate result of the above breaches of fiduciary duties, the Plan  
21 and its participants have suffered losses in retirement assets in an amount to be proven at trial,  
22 for which all Defendants named in this Count are jointly and severally liable.

23 163. ERISA § 502(a)(2), 29 U.S.C. § 1132(a)(2) authorizes a participant or beneficiary  
24 to bring a civil action “for appropriate relief under section 1109 of this title.”

25 164. ERISA § 409(a), 29 U.S.C. § 1109(a), mandates that “[a]ny person who is a  
26 fiduciary with respect to a plan who breaches any of the responsibilities, obligations, or duties

1 imposed upon fiduciaries by this subchapter shall be personally liable to make good to such plan  
2 any losses to the plan resulting from each such breach, and to restore to such plan any profits of  
3 such fiduciary which have been made through use of assets of the plan by the fiduciary, and  
4 shall be subject to such other equitable or remedial relief as the court may deem appropriate,  
5 including removal of such fiduciary.”

6 165. Pursuant to ERISA §§ 502(a)(2) and 409(a), 29 U.S.C. §§ 1132(a)(2) and 1109(a),  
7 Plaintiff seeks all available and appropriate remedies against the Investment Committee  
8 Defendants to redress violations of 29 U.S.C. § 1104 described herein, including, but not limited  
9 to the relief set forth below in the Prayer For Relief.

10 166. ERISA 502(a)(3), 29 U.S.C. § 1132(a)(3), authorizes a participant or beneficiary to  
11 bring a civil action to “(A) enjoin any act or practice which violates any provision of this  
12 subchapter or the terms of the plan, or (B) to obtain other appropriate equitable relief (i) to  
13 redress such violations or (ii) to enforce any provisions of this subchapter or the terms of the  
14 plan.”

15 167. Pursuant to ERISA § 502(a)(3), 29 U.S.C. § 1132(a)(3), Plaintiff seeks all available  
16 and appropriate equitable relief against the Investment Committee Defendants to redress the  
17 violations of 29 U.S.C. § 1104 described herein, including, but not limited to the relief set forth  
18 below in the Prayer For Relief.

19 **Count II**

20 **Violations of ERISA § 406(a), 29 U.S.C. § 1106(a) for Engaging in Prohibited Transactions**  
21 **(Against Investment Committee Defendants)**

22 168. Plaintiff restates and incorporates the allegations of the preceding paragraphs as if  
23 set forth fully herein.

24 169. ERISA § 406(a)(1)(C), 29 U.S.C. § 1106(a)(1)(C), prohibits transactions that  
25 constitute direct or indirect furnishing of furnishing of goods, services, or facilities between the  
26 plan and a party in interest.

170. ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D), prohibits transactions that

1 constitute direct or indirect transfers of a plan assets to, or use of a plan's assets by or for the  
2 benefit of, parties in interest, and prohibits fiduciaries from causing a plan to engage in such  
3 transactions.

4 171. Fidelity Management Trust Company was the Plan's trustee before and after the  
5 Westwood Fund was added to the Plan.

6 172. Fidelity Management Trust Company is a party in interest to the plan because, *inter*  
7 *alia*, it is a trustee of the Plan and provides services to the Plan.<sup>93</sup>

8 173. Fidelity Investments was the Plan's recordkeeper before and after the Westwood  
9 Fund was added to the Plan.

10 174. Fidelity Investments is a party in interest to the plan because, *inter alia*, it provides  
11 services to the Plan.<sup>94</sup>

12 175. Because the Westwood Fund was added to the Plan, Fidelity Investments received  
13 additional indirect compensation from the Plan at a rate of 0.10% per dollar invested in the  
14 Westwood Fund without providing any additional recordkeeping or services to the Plan.

15 176. The Investment Committee Defendants caused the Plan to engage in multiple  
16 violations of ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D), by causing the repeated transfer  
17 of Plan assets directly and/or indirectly to Fidelity Investments and/or Fidelity Management  
18 Trust Company in the form of various direct or indirect fees, which constituted multiple,  
19 knowing violations of ERISA § 406(a)(1)(D), 29 U.S.C. § 1106(a)(1)(D).

20 177. Because the Westwood Fund was added to the Plan, Fidelity Investments provided  
21 Sub-Transfer Agency services to the Plan in connection with the Westwood Fund.

22 178. The Investment Committee Defendants caused the Plan to engage in multiple  
23 violations of ERISA § 406(a)(1)(C), 29 U.S.C. § 1106(a)(1)(C), by knowingly causing Fidelity  
24 Investments to furnish transfer-agency services to the Plan, which constituted multiple, knowing  
25

26 <sup>93</sup> ERISA § 3(14)(A), (B); 29 U.S.C. § 1002(14)(A), (B).

<sup>94</sup> ERISA § 3(14)(B); 29 U.S.C. § 1002(14)(B).

1 | violations of ERISA § 406(a)(1)(C), 29 U.S.C. § 1106(a)(1)(C).

2 | 179. ERISA § 502(a)(2), 29 U.S.C. § 1132(a)(2) authorizes a participant or beneficiary  
3 | to bring a civil action “for appropriate relief under section 1109 of this title.”

4 | 180. ERISA § 409(a), 29 U.S.C. § 1109(a), mandates that “[a]ny person who is a  
5 | fiduciary with respect to a plan who breaches any of the responsibilities, obligations, or duties  
6 | imposed upon fiduciaries by this subchapter shall be personally liable to make good to such plan  
7 | any losses to the plan resulting from each such breach, and to restore to such plan any profits of  
8 | such fiduciary which have been made through use of assets of the plan by the fiduciary, and  
9 | shall be subject to such other equitable or remedial relief as the court may deem appropriate,  
10 | including removal of such fiduciary.”

11 | 181. Pursuant to ERISA §§ 502(a)(2) and 409(a), 29 U.S.C. § 1132(a)(2) and §1109(a),  
12 | Plaintiff seeks all available and appropriate remedies against the Investment Committee  
13 | Defendants to redress violations of 29 U.S.C. § 1104 described herein, including, but not limited  
14 | to the relief set forth below in the Prayer For Relief.

15 | 182. ERISA 502(a)(3), 29 U.S.C. § 1132(a)(3), authorizes a participant or beneficiary to  
16 | bring a civil action to “(A) enjoin any act or practice which violates any provision of this  
17 | subchapter or the terms of the plan, or (B) to obtain other appropriate equitable relief (i) to  
18 | redress such violations or (ii) to enforce any provisions of this subchapter or the terms of the  
19 | plan.”

20 | **Count III**

21 | **Failure to Monitor Other Fiduciaries in Violation of ERISA §404, 29 U.S.C. § 1104**  
22 | (Against Cushman)

23 | 183. Plaintiff restates and incorporates the allegations of the preceding paragraphs as if  
24 | set forth fully herein.

25 | 184. As alleged above, Cushman was and continues to be a Named Fiduciary to the Plan  
26 | and a *de facto* fiduciary under 29 U.S.C. § 1002(21).

185. As a fiduciary, Cushman was required by ERISA § 404(a)(1)(A) to manage and

1 administer the Plan and the Plan’s investments “solely in the interest of the participants and  
2 beneficiaries” of the Plan and for the “exclusive purpose” of providing benefits to the  
3 participants and beneficiaries of the Plan.<sup>95</sup>

4 186. As a fiduciary, Cushman was required by ERISA § 404(a)(1)(B) to discharge its  
5 duties “with the care, skill, prudence, and diligence under the circumstances then prevailing that  
6 a prudent man acting in a like capacity and familiar with such matters would use in the conduct  
7 of an enterprise of a like character and with like aims.”<sup>96</sup>

8 187. Under ERISA, a fiduciary charged in a plan document with the authority to select  
9 other fiduciaries has an ongoing duty to monitor the performance of those persons to ensure that  
10 their performance has complied with statutory standards, and they have a duty to remove any  
11 appointed fiduciary who is not complying with ERISA’s fiduciary requirements, including  
12 ERISA §§ 404(a)(1) and 406, 29 U.S.C. §§ 1104(a)(1) and 1106.

13 188. Based on information and belief, Cushman delegated to the Investment Committee  
14 discretionary authority and control over the Plan and its assets, and appointed members to the  
15 Investment Committee.

16 189. As a result of this delegation and appointment, Cushman was obligated to monitor  
17 the performance of the Investment Committee at reasonable intervals to ensure that their  
18 performance complied with the terms of the Plan and ERISA.<sup>97</sup>

19 190. Cushman failed to monitor, detect, or remedy the Investment Committee’s breaches  
20 described in the preceding paragraphs.

21 191. As a direct and proximate result of the above breaches of fiduciary duties, the Plan  
22 and its participants have suffered millions of dollars of losses in retirement assets, for which all  
23 Defendants named in this Count are jointly and severally liable.

24 192. As a direct and proximate result of the above breaches of fiduciary duties, Plan

25 \_\_\_\_\_  
26 <sup>95</sup> 29 U.S.C. § 1104(a)(1)(A).

<sup>96</sup> 29 U.S.C. § 1104(a)(1)(B).

<sup>97</sup> 29 C.F.R. § 2509.75-8, FR-17 (2024).

1 participants are exposed to significant, unreasonable risk of financial loss in addition to that  
2 which they have already suffered.

3 193. ERISA § 502(a)(2), 29 U.S.C. § 1132(a)(2) authorizes a participant or beneficiary  
4 to bring a civil action “for appropriate relief under section 1109 of this title.”

5 194. ERISA § 409(a), 29 U.S.C. § 1109(a), mandates that “[a]ny person who is a  
6 fiduciary with respect to a plan who breaches any of the responsibilities, obligations, or duties  
7 imposed upon fiduciaries by this subchapter shall be personally liable to make good to such plan  
8 any losses to the plan resulting from each such breach, and to restore to such plan any profits of  
9 such fiduciary which have been made through use of assets of the plan by the fiduciary, and  
10 shall be subject to such other equitable or remedial relief as the court may deem appropriate,  
11 including removal of such fiduciary.”

12 195. Pursuant to ERISA §§ 502(a)(2) and 409(a), 29 U.S.C. §§ 1132(a)(2) and 1109(a),  
13 Plaintiff seeks all available and appropriate remedies against Cushman and the Investment  
14 Committee Defendants to redress violations of 29 U.S.C. § 1104 described herein, including,  
15 but not limited to the relief set forth below in the Prayer For Relief.

16 196. ERISA § 502(a)(3), 29 U.S.C. § 1132(a)(3), authorizes a participant or beneficiary  
17 to bring a civil action to “(A) enjoin any act or practice which violates any provision of this title  
18 or the terms of the plan, or (B) to obtain other appropriate equitable relief (i) to redress such  
19 violations or (ii) to enforce any provisions of this title or the terms of the plan.”

20 197. Pursuant to ERISA § 502(a)(3), 29 U.S.C. § 1132(a)(3), Plaintiff seeks all available  
21 and appropriate equitable relief against Cushman and the Investment Committee Defendants to  
22 redress the violations of 29 U.S.C. § 1104 described herein, including, but not limited to the  
23 relief set forth below in the Prayer For Relief.

1 **VIII. PRAYER FOR RELIEF**

2 198. Plaintiff, on behalf of the Plan and the Class, respectfully requests that the Court  
3 award the following relief for all Counts:

- 4 a. A declaration that Cushman and the Investment Committee Defendants breached  
5 their fiduciary duties to the Class in the manner described herein;
- 6 b. A declaration that the Investment Committee Defendants caused prohibited  
7 transactions with the Plan’s assets in the manner described herein;
- 8 c. An order requiring each fiduciary found to have breached his/her/its fiduciary duty  
9 to the Plan to jointly and severally pay such amount or surcharge to the Plan as is  
10 necessary to make the Plan whole for any losses which resulted from said breaches,  
11 plus pre-judgement and post-judgment interest;
- 12 d. An Order appointing a special master to oversee the development and  
13 implementation of a revised investment policy statement (“IPS”) for the Plan  
14 providing procedures regarding (i) the Plan’s risk tolerance for all categories of  
15 financially material risks, (ii) the integration of prudent processes respecting the  
16 selection and monitoring of investment options, (ii) scrutiny of investment  
17 managers and advisors for adherence to industry standard risk management  
18 procedures, (iii) standards for climate-competency and emergent risk management  
19 assessment within the Cushman & Wakefield Investment Committee, (iv)  
20 communications with Plan Participants regarding the risk profile of each  
21 investment option, (v) specific climate-risk mitigation and monitoring requirements  
22 for plan menu options in light of the failures identified herein, and (vi) triggers for  
23 reassessment of investment options with high expense ratios and underperformance  
24 as compared to broad indices;
- 25 e. An order requiring the Defendants to assess all investment options according to the  
26 new IPS and, where an investment option is imprudent under such guidance, to

1 remove the investment option from the Plan;

2 f. An injunction removing the fiduciaries who have breached their fiduciary duties  
3 from their roles as fiduciaries from the Plan, and an order appointing an  
4 independent fiduciary to manage the assets of the Plan;

5 g. An injunction requiring all fiduciaries to avoid all future ERISA violations,  
6 including, but not limited to, removing the Westwood Quality SmallCap Fund from  
7 the Plan and administering the Plan's investment line-up consistently with their  
8 duties of prudence and loyalty;

9 h. An award of pre-judgment interest on any amounts awarded to Plaintiff and the  
10 Class pursuant to law;

11 i. Certification of the Class, appointment of Plaintiff as Class representative, and  
12 appointment of Cohen Milstein and ClientEarth as Class Counsel;

13 j. An award of Plaintiff's attorneys' fees, expenses and/or taxable costs, as provided  
14 by the common fund doctrine, ERISA § 502(g), 29 U.S.C. § 1132(g), and/or other  
15 applicable doctrine;

16 k. An order awarding, declaring or otherwise providing Plaintiff and the Class any  
17 other appropriate equitable relief under ERISA § 502(a), 29 U.S.C. § 1132(a), or  
18 any other applicable law, that the Court deems just and proper.

19 **DEMAND FOR JURY TRIAL**

20 Plaintiffs hereby demand trial by jury on all issues so triable, pursuant to Rule 38 of the  
21 Federal Rules of Civil Procedure.

1 DATED this 3rd day of March, 2026

2 /s/ John S. Rossiter, Jr.

3 John S. Rossiter, Jr., WSBA #23876

4 CLIENT EARTH USA, INC.

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