

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
BUSINESS COURT**

LESLIE J. MURPHY and VINCENT J.
MARTIN, III, Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

SAMUEL M. INMAN, III, JOHN F. SMITH,
BERNARD M. GOLDSMITH, WILLIAM O.
GRABE, LAWRENCE DAVID HANSEN,
ANDREAS MAI, JONATHAN YARON, and
ENRICO DIGIROLAMO,

Defendants.

Case No: 2017-159571-CB
Hon. Victoria A. Valentine

Business Court Case

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**PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT, APPROVAL OF PLAN OF ALLOCATION AND AWARD OF
ATTORNEYS' FEES AND EXPENSES AND BRIEF IN SUPPORT**

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**PLAINTIFFS’ MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT, APPROVAL OF PLAN OF ALLOCATION AND
AWARD OF ATTORNEYS’ FEES AND EXPENSES AND BRIEF IN SUPPORT**

Plaintiffs and Class Representatives Leslie J. Murphy (“Murphy”) and Vincent J. Martin, III (“Martin”) (collectively “Plaintiffs”), hereby move for: (1) entry of the Order and Final Judgment approving the proposed settlement, finally certifying the Class pursuant to the Court’s Class Certification Order, awarding Plaintiffs’ Counsel attorneys’ fees of one-third of the \$9,000,000 Settlement Fund, plus expenses of \$132,076.26, and providing an incentive award of \$5,000 to each of the Plaintiffs; and (2) entry of the Order Approving Proposed Plan of Allocation and Directing Distribution.

BRIEF IN SUPPORT OF MOTION

I. INTRODUCTION

The Settlement¹ will provide members of the Class with a \$9 million cash payment after seven years of hard-fought litigation through an appeal to the Michigan Supreme Court, substantial discovery, motion practice, trial preparation and settlement discussions with experienced mediators. It represents approximately 22.5% - 30% of the alleged trial damages and resolves claims against all Defendants.

As explained herein, the Settlement achieves a highly favorable resolution of this Litigation and is in the best interests of the Class. In reaching this Settlement, Plaintiffs’ Counsel considered the expense and length of litigation that would be necessary to shepherd this case through trial and likely appeals, the chance of a better result, and the overhanging risk of obtaining an inferior (or no) recovery at trial. Based on these considerations, the Settlement is clearly fair, reasonable and adequate. The Plan of Allocation is likewise fair and reasonable, as it distributes the Net Settlement Fund on a *pro rata* basis to those Class

¹ All capitalized terms not defined herein have the same meanings set forth in the Stipulation and Agreement of Compromise, Settlement and Release dated June 25, 2024 (“Stipulation”), which was filed with Plaintiffs’ motion for preliminary approval. **The proposed Order and Final Judgment is attached hereto as Exhibit A.**

Members who held shares of Covisint common stock at the closing of the Merger on July 26, 2017 (the “Closing Date”) and therefore received or were entitled to receive the Merger Consideration for their Eligible Shares.² (the “Eligible Class Members”).

The requested attorneys’ fees and expenses are also reasonable. The requested fee of one-third of the Settlement Fund is directly in line with fees awarded in other common fund class actions nationwide, and is also warranted in light of the substantial recovery obtained, counsel’s extensive efforts in obtaining this result and the significant risks associated with prosecuting this Litigation, including the real risk of nonpayment. Likewise, Counsel’s expenses of \$132,076.26, which were necessarily incurred in the prosecution of the Litigation and are reasonable, should be paid.

II. HISTORY OF THE LITIGATION

Plaintiffs’ motion for preliminary approval fully recites the history of this action and is incorporated by reference herein. As the Court is aware, this action was vigorously litigated over seven years, including an appeal to the Michigan Supreme Court, the completion of robust fact and expert discovery, and a fully briefed motion for summary disposition under MCR 2.116(C)(10).

On June 25, 2024, the Settling Parties executed the Stipulation. On July 6, 2024, the Court entered an Order of Preliminary Approval and for Notice and Scheduling (the “Preliminary Approval Order”). Further, Notice was mailed to potential Class Members, the Summary Notice was published and a Settlement Website was created by the Claims Administrator pursuant to the Court’s Preliminary Approval Order. *See* forthcoming Declaration of Claims Administrator (to be filed 9/26/2024).

On August 19, 2024, Judge Valentine, who presides over this Action, advised the attorneys that she received notice of the Settlement as a potential Class Member. Judge Valentine was not

² “Eligible Shares” are the number of shares of Covisint common stock held by Eligible Class Members at the Closing Date and for which Eligible Class Members received or were entitled to receive the Merger Consideration.

aware of her investment in Covisint until she received Notice of the Settlement on or about August 16, 2024. Plaintiffs' Counsel thereafter investigated and determined Judge Valentine owned a *de minimis* amount of stock (records indicate she owned 14 shares of Covisint valued at \$34.30 at the time of the Merger). Judge Valentine has agreed to opt out of the Class and has waived any interest in the Settlement. Moreover, the Settling Parties have waived any potential conflict and disqualification of Judge Valentine.³

The Preliminary Approval Order provided, and the Notice explained, that any exclusion request needed to be received by September 16, 2024 and any objection needed to be received by September 25, 2024. To date, Plaintiffs' Counsel have received no objections or requests for exclusion (other than Judge Valentine's exclusion from the Class).

III. THE PROPOSED SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE

A. APPLICABLE STANDARDS

“There is an overriding public interest in favor of settlements in class-action lawsuits.” *Brenner v Marathon Oil Co*, 222 Mich App 128, 133 (1997). Michigan law requires final judicial approval of class action settlements. MCR 3.501(E). Given, however, limited Michigan case law on the settlement approval process, Michigan appellate courts have looked to federal cases in the absence of on-point Michigan law. *See Brenner*, 222 Mich App at 133; *Adelman v Compuware Corp*, No. 333209, 2017 Mich. App. LEXIS 2036, at *2 (Mich Ct App, Dec. 4, 2017) (“Given the paucity of Michigan caselaw regarding class actions, we follow the lead of the litigants ... and rely on caselaw from Delaware and federal courts.”).

Federal courts review a proposed class action settlement to determine if it is “fair, reasonable,

³ On August 27, 2024, the Class was informed on the Class website of the Judge's disclosure and waiver.

and adequate.” Fed. R. Civ. P. 23(e)(2). “To determine whether a settlement agreement satisfies Rule 23’s standard, courts in [the Sixth Circuit] are required to consider: ‘(1) the risk of fraud or collusion; (2) the complexity, expense and likely duration of the litigation; (3) the amount of discovery engaged in by the parties; (4) the likelihood of success on the merits; (5) the opinions of class counsel and class representatives; (6) the reaction of absent class members; and (7) the public interest.’” *Poplar Creek Dev Co v Chesapeake Appalachia, LLC*, 636 F3d 235, 244 (CA6, 2011); *Adelman*, 2017 Mich. App. LEXIS 2036, at *3-4 (reciting and assessing these seven factors). Moreover, “there is a presumption in favor of the settlement when there has been arm’s length bargaining among the parties, sufficient discovery has taken place to enable class counsel to evaluate accurately the strengths and weaknesses of plaintiff’s case, only a few members of the class object and their relative interest is small.” *Id.* at *37. All factors support final approval here.

B. THE SETTLEMENT IS FAIR AND REASONABLE AND WARRANTS APPROVAL

The proposed Settlement warrants approval because it is an excellent result given the value of the Class’s claims and the numerous and substantial risks of further litigation. The Settlement Amount of \$9 million represents 22.5% - 30% of the potential damages achievable at trial *if* Plaintiffs prevailed. This far exceeds the average recovery in securities class action settlements. *See In re Fibrogen, Inc*, No. 3:21-cv-02623-EMC, 2024 U.S. Dist. LEXIS 25384, at *9 (ND Cal, Feb. 13, 2024) (“the range of recovery exceeds the median percentage of similar damages ranges for class action settlements in 2022, which is 1.7% to 4.3%, pursuant to a review and analysis of securities class action settlements in that year conducted by Cornerstone Research.”). The \$9 million Settlement also represents 8.74% of the challenged merger’s \$103 million equity value, which is well above the median (2.95%) and mean (4.47%) settlement values of other merger-related breach of fiduciary duty actions recently calculated by the Delaware Court of Chancery. *See In re Dell Techs. Class V Stockholders Litig*, 300 A3d 679, 725

(Del Ch, 2023). Simply put, by all objective measures, this Settlement is a phenomenal result.

The proposed Settlement also permits Class Members to “opt-out,” or seek exclusion from, the Class and Settlement. MCR 3.501(A)(3); *Adelman*, 2017 Mich. App. LEXIS 2036, at *7 (noting that “the interests of the opposing class members were protected by their right to opt out”). The proposed Settlement also does not grant improper or preferential treatment to Plaintiffs or other Class Members. Under the Plan of Allocation, Class Members (other than those Class Members who seek exclusion as well as Defendants in the Action and those persons or entities affiliated with them as defined in the Stipulation at ¶ 8 and Exhibit C) will receive a distribution from the Net Settlement Fund on a *pro rata* basis. This means that every shareholder in the Settlement Class will receive equal treatment under the Plan of Allocation, an average distribution of \$0.23 per share owned (before the payment of Court-approved fees and expenses, estimated to be approximately \$0.08 per share, and the cost of notice and claims administration). Therefore, the Settlement is fair and reasonable, supporting approval.

1. The Settlement is not a Product of Fraud, Overreaching or Collusion

The parties reached this Settlement through arm’s-length negotiation. When analyzing class action settlements, “[c]ourts presume the absence of fraud or collusion in class action settlements unless there is evidence to the contrary.” *Moeller v Week Publications, Inc*, 649 F Supp 3d 530, 541 (ED Mich, 2023).

Here, Class Counsel have many years of experience litigating shareholder class actions and have obtained substantial shareholder recoveries which have been approved by courts throughout the country. *See* Monteverde Affidavit (Ex. B) at Ex. 2 (Monteverde Firm Resume). Defendants are likewise represented by highly experienced counsel who zealously defended their clients. The Settlement was fairly, honestly and aggressively negotiated by all parties with the assistance of a well-respected mediator after years of hard-fought litigation and a vigorously contested discovery process. *Cf. Moeller*, 649 F Supp 3d at 541 (factor satisfied where “the parties negotiated the Agreement at arm’s length. After

conducting formal discovery, the parties settled through a neutral mediator.”). Thus, this factor favors approval.

2. Analysis of the Complexity, Expense, and Likely Duration of the Litigation Weighs in Favor of Settlement Approval

Securities litigation is exceptionally complex. This case, which involved difficult issues concerning director duties during the sale of control of a corporation, is no different. *Manual for Complex Litigation* §31.4 (4th ed. 2004) (“Securities cases can present complex factual disputes over matters of accounting, corporate finance, market analyses, or the negotiation or implementation of complex settlements.”). Plaintiffs, through Class Counsel, have carefully evaluated the relevant legal authorities, the evidence adduced during the lengthy and thorough discovery process, the likelihood of prevailing on their claims, the risk, expense and duration of continued litigation and the likely appeals and subsequent proceedings necessary if Plaintiffs did prevail at trial. Absent this Settlement, litigation in this Action would have continued for significant additional time through trial and further appeals. Like any complex litigation, the Action would have been costly to continue to prosecute, increasing the expense borne by the parties. Given these considerations, Plaintiffs and Plaintiffs’ Counsel have concluded that the Settlement is fair, reasonable and adequate and in the best interests of the Class.

3. The Amount of Discovery Engaged in by the Parties

The amount of discovery engaged in by the parties is also a factor considered by courts in determining the fairness, reasonableness and adequacy of a settlement. *Adelman*, 2017 Mich. App. LEXIS 2036, at *3-4. Here, this factor amply supports approval of the Settlement. At the time of Settlement, many years of vigorously contested litigation had taken place, including an appeal to the Michigan Supreme Court. The Court granted class certification, discovery had closed, Defendants’ motion for summary disposition under MCR 2.116(C)(10) was set for argument on April 17, 2024, and a jury trial was scheduled to begin on June 3, 2024. In total, Plaintiffs issued twelve subpoenas, various

requests for production and interrogatories, reviewed 70,000 pages of documents, conducted eight depositions of the Defendants (and sat for depositions themselves), exchanged expert reports and conducted expert depositions. Given the advanced stage of this litigation which had already proceeded through a full discovery process, there is no question that Plaintiffs and their counsel were well-positioned to make an informed evaluation of the strengths and weaknesses of the Class's claims and the propriety of settlement. *Adelman*, 2017 Mich. App. LEXIS 2036, at *4 and *37 (noting that where "sufficient discovery has taken place to enable class counsel to evaluate accurately the strengths and weaknesses of the plaintiff's case" it favors settlement).

4. Likelihood of Success on the Merits

Another factor courts consider is the likelihood of success on the merits which "provides a gauge from which the benefits of the settlement must be measured." *Poplar Creek*, 636 F3d at 245. Although Plaintiffs and their counsel believe this case is meritorious, given the stage of the proceedings, they recognize the significant risks to be undertaken should they continue to prosecute Plaintiffs' claims through Defendants' summary disposition motion under MCR 2.116(C)(10), trial and subsequent appeals. Notably, Plaintiffs are pursuing novel fiduciary duty claims and Michigan law on various issues pertaining to such claims is still highly undeveloped. Obstacles to succeeding on their breach of fiduciary duty claims include the exculpatory provision in Covisint's Articles of Incorporation which, Defendants have argued, precludes liability against certain Defendants unless Plaintiffs can prove each director acted in bad faith, self-interest or committed a knowing violation of the law. Among other things, Defendants have also pointed to the Covisint Board's unanimous recommendation of the Merger and its approval by a majority of Covisint's stockholders which they claim bars Plaintiffs' challenge under MCL §450.1545a as well as the business judgment rule. Challenges related to Plaintiffs' expert and damages calculation also present significant risk and uncertainty. Class Counsel weighed the likelihood of success on the

merits coupled with the risks of continued litigation against the benefits of the proposed resolution, and believe the proposed Settlement is an excellent outcome for the Class.

5. The Opinions of Class Counsel and Class Representatives

Courts also recognize that the opinions of experienced counsel supporting a settlement after vigorous arm's-length negotiations are entitled to considerable weight. *See Williams v Vukovich*, 720 F2d 909, 922-23 (CA6, 1983) (“The court should defer to the judgment of experienced counsel who has competently evaluated the strength of his proofs.”); *Moeller*, 649 F Supp 3d at 543 (“The endorsement of the parties’ counsel is entitled to significant weight”).

Here, Plaintiffs and Plaintiffs’ Counsel have strongly advocated for the Class through years of proceedings and vigorous arm's-length settlement negotiations with the assistance of an experienced mediator. As a result of their efforts, counsel is well-positioned to evaluate the Action and propriety of settlement and have concluded the Settlement is a very favorable result and clearly in the best interest of the Settlement Class. Accordingly, significant weight should be attributed to views of Plaintiffs and Class Counsel favoring approval of the Settlement.

6. The Reaction of Absent Class Members to the Settlement Supports Approval of the Settlement

The class’s reaction has been described as an important factor to be considered by the Court in weighing approval of a settlement, and the lack of objectors has been considered nearly dispositive. *See Kogan v AIMOCO Fox Chase, LP*, 193 FRD 496, 502 (ED Mich, 2000) (“the fact that not one class member objected after receiving the best notice possible under the circumstances to weigh heavily in favor of approving the settlement agreement.”); *Adelman*, 2017 Mich. App. LEXIS 2036, at *37 (“presumption in favor of the settlement when...only a few members of the class object and their relative interest is small”); *In re Cardizem CD Antitrust Litigation*, 218 FRD 508, 527 (ED Mich, 2003) (“A certain number of opt-outs and objections are to be expected in a class action. If only a small number of

objections are received, that fact can be viewed as indicative of the adequacy of the settlement.”).

To date, not a single Class Member has objected to any aspect of the Settlement, the Plan of Allocation, or Counsel’s request for an award of attorneys’ fees and expenses. Moreover, no Class Members (aside from Judge Valentine) have opted out of the Settlement. Thus, this factor strongly supports approval.

7. The Public Interest

“There is a strong public interest in encouraging settlement of complex litigation and class action suits because they are notoriously difficult and unpredictable and settlement conserves judicial resources.” *Moeller*, 649 F Supp 3d at 543. Thus, this factor also weighs in favor approval.

IV. THE PLAN OF ALLOCATION IS FAIR AND REASONABLE

A plan of allocation must also be fair, reasonable, and adequate. *In re Packaged Ice Antitrust Litigation*, 2011 U.S. Dist. LEXIS 150427, at *65 (ED Mich, Dec. 13, 2011). The purpose of a plan of allocation should be an equitable and fair distribution of the net settlement proceeds. *In re Auto Parts Antitrust Litig.*, 2019 U.S. Dist. LEXIS 219819, *89 (ED Mich. Dec. 20, 2019). “An allocation formula need only have a reasonable, rational basis, particularly if recommended by experienced and competent class counsel.” *Id.* at *92.

The objective of the Plan of Allocation here is to provide an equitable allocation of available settlement proceeds among Eligible Class Members. The Plan of Allocation is straightforward and was set forth in the Notice mailed to Class Members. Notice at pp. 10-11. The Net Settlement Fund (\$9,000,000, plus accrued interest, minus the costs of administration of the Settlement as well as attorneys’ fees and expenses as approved by the Court) will be disbursed by the Claims Administrator to the Eligible Class Members on a *pro rata*, per share basis. The Plan of Allocation avoids the potentially high administrative costs of a claims process by providing for a direct payment by the Claims

Administrator to registered stockholders and Depository Trust Company (“DTC”) participants (for transmittal and distribution to beneficial holders) through information obtained from DTC. Courts have approved substantially similar plans of allocation in other cases. *See, e.g., In re PLX Tech Inc Stockholders Litig*, No. 9880 VCL, 2022 Del. Ch. LEXIS 88, at *3, *15-16 (Del Ch, Apr. 18, 2022) (“the Administrator will distribute to each DTC participant its pro rata share of the Common Fund”).

Plaintiffs respectfully submit that the Plan of Allocation will result in a fair distribution of the available proceeds among the Eligible Class Members and should be approved.

V. THE REQUESTED FEE AND EXPENSE AMOUNT IS FAIR AND REASONABLE AND SHOULD BE APPROVED

A. A REASONABLE PERCENTAGE OF THE FUND RECOVERED IS THE APPROPRIATE METHODOLOGY FOR DETERMINING THE ATTORNEYS’ FEE

Plaintiffs’ Counsel seek a reasonable percentage of the common fund created by their efforts. Counsel respectfully submits that the percentage method is the appropriate method of fee calculation here because it is the prevailing method for awarding attorneys’ fees in common fund cases throughout the United States and aligns the lawyers’ interest in being paid a fair fee with the interest of the class in achieving the maximum recovery. Additionally, the one-third fee sought here approximates counsel’s lodestar, further supporting the reasonableness of Class Counsel’s request.

Citing federal precedent, the Michigan Supreme Court has adopted the common fund doctrine, whereby an attorney who recovers a common fund for the benefit of a class is entitled to recover attorneys’ fees and expenses payable from that fund. *In re Attorney Fees of Kelman, Loria, Downing, Schneider & Simpson*, 406 Mich 497, 503-04 (1979). And, as the U.S. Supreme Court and numerous other courts have stated, “under the ‘common fund doctrine,’ [] a reasonable fee is based on a percentage of the fund bestowed on the class[.]” *Blum v Stenson*, 465 US 886, 900 n.16 (1984). Thus, courts throughout the country have favored the percentage method in awarding fees in common fund cases

because it “decreases the burden imposed on the Court by eliminating a full-blown, detailed and time consuming lodestar analysis while assuring that the beneficiaries do not experience undue delay in receiving their share of the settlement.” *Stanley v US Steel Co*, No. 04-74654, 2009 U.S. Dist. LEXIS 114065, at *4-*5 (ED Mich, Dec. 8, 2009); *Rawlings v Prudential-Bache Props*, 9 F3d 513, 515 (CA 6, 1993) (noting the “trend towards adoption of a percentage of the fund method in [common] fund cases”, which “has a number of advantages”). Supporting authority for the percentage method of fee calculation is overwhelming. *Id.*; *Swedish Hosp. Corp. v Shalala*, 1 F.3d 1261, 1271 (DC Cir, 1993) (“a percentage-of-the-fund method is the appropriate mechanism for determining the attorney fees award in common fund cases.”); *Camden I Condo. Ass'n v Dunkle*, 946 F2d 768 (CA11, 1991) (“Since the Supreme Court’s acknowledgement in *Blum* that common fund fee awards should be computed as a fair percentage of the fund, courts increasingly have begun...to endorse the percentage of the fund method.”).

“Regarding the percentage method, the Sixth Circuit notes that it has numerous advantages, including that it is easy to calculate; it establishes reasonable expectations on the part of plaintiffs’ attorneys as to their expected recovery; and it encourages” settlement over unnecessarily protracted litigation. *Palm Tran, Inc. Amal. Tr. Union Local 1577 Pension Plan v Credit Acceptance Corp.*, 2022 U.S. Dist. LEXIS 223352, *14 (ED Mich, Dec. 12, 2022) (citations omitted). Importantly, the percentage-of-the-fund method takes into account the value of the benefit achieved for the class and is “appropriate to compensate class counsel adequately for the risk inherent in [] contingent fee representation.” *Nolan v Detroit Edison Co.*, 2022 U.S. Dist. LEXIS 202368, *17-18 (ED Mich, Nov. 7, 2022). These considerations fully justify use of the percentage methodology here.

B. CONSIDERATION OF RELEVANT FACTORS JUSTIFIES THE ONE-THIRD FEE REQUESTED

Class Counsel seek a fee award of one-third of the Settlement Fund that they procured for the Class, and submit that such an award is reasonable and well-supported by, among other things, the

benefits achieved for the Class, the complexity of the litigation and the professional skill and standing of Class Counsel and the significant time and expense incurred in the Action.

The task for the Court is to ensure “that counsel is fairly compensated for the amount of work performed and the results achieved.” *In re Home Point Cap. Inc. Sec. Litig.*, 2024 U.S. Dist. LEXIS 118213, *16 (ED Mich, June 28, 2024) (quoting *Gascho v Global Fitness Holdings, LLC*, 822 F3d 269, 279 (CA6, 2016)). In determining the reasonableness of Counsel’s fee request and given the scarcity of Michigan law on the issue, the Court may consider the following factors that the Sixth Circuit has identified as relevant: “(1) the value of the benefit rendered to the plaintiff class [*i.e.* the results achieved] . . . ; (2) the value of the services on an hourly basis; (3) whether the services were undertaken on a contingent fee basis; (4) society’s stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others; (5) the complexity of the litigation; and (6) the professional skill and standing of counsel involved on both sides.” *Bowling v Pfizer, Inc*, 102 F.3d 777, 780 (CA6, 1996). The Sixth Circuit factors overlap the eight factors set forth in Rule 1.5 of the Michigan Rules of Professional Conduct which have been utilized by Michigan courts in determining the reasonableness of an attorneys’ fee outside the class action common fund paradigm. *Pirgu v United Servs. Auto. Ass’n*, 499 Mich 269, 282 (2016) (noting the MRPC 1.5 factors “are not exclusive, and the trial court may consider any additional relevant factors.”).⁴ These factors, applied to the facts here, demonstrate that the requested fee is reasonable and should be approved.

1. The Value of the Benefit Conferred on the Class

The \$9 million cash settlement is a highly favorable result for the Class that was achieved as a

⁴ The MRPC 1.5 factors are: (1) the experience, reputation, and ability of the lawyer or lawyers performing the services; (2) the difficulty of the case; (3) the amount in question and the results obtained; (4) the expenses incurred; (5) the nature and length of the professional relationship with the client; (6) the likelihood, if apparent to the client, that acceptance of the particular employment will preclude other employment by the lawyer; (7) time limitations imposed by client or circumstances; and (8) whether the fee is fixed or contingent.

direct result of the skill and tenacity of Class Counsel. As detailed herein, there were significant legal and factual roadblocks to obtaining any recovery in this Action. Despite these obstacles, Plaintiffs' Counsel were able to achieve an outstanding result for the Class. As noted above, the Settlement Amount, which represents 22.5% - 30% of the alleged trial damages exceeds the average recovery in similar actions. The significance of the Settlement Amount is also evidenced by its proportional size. The Settlement represents a striking \$0.23 per share increase – a 9.4% premium – to the \$2.45 per share Merger Consideration, and also represents 8.74% of the merger's equity value, well-above the median (2.95%) and mean (4.47%) corresponding values in other merger-related breach of fiduciary duty actions. *See In re Dell Techs. Class V Stockholders Litig*, 300 A3d at 725. Thus, the benefit conferred on the Class clearly supports the requested fee award.

2. The Value of the Services on an Hourly Basis

Considering the value of the services provided by Class Counsel on an hourly basis corroborates the reasonableness of the fee requested. *Bowling*, 102 F3d at 779-81 (affirming fee award utilizing percentage of the fund methodology, cross-checked by reference to lodestar); *Nolan*, 2022 U.S. Dist. LEXIS 202368, *21 (finding one-third fee award reasonable and employing a lodestar cross check); *Kimble v First Am. Home Warranty Corp. & Fivestrata LLC*, 2024 U.S. Dist. LEXIS 118951, *22 (ED Mich, July 8, 2024) (same). In total, Class Counsel and Liaison Counsel expended 3,625.4 hours prosecuting the litigation for a combined lodestar of \$2,862,895. *Monteverde Aff.* (Ex. B) at 2; *MacWilliams Aff.* (Ex. C) at 2. The requested fee represents a lodestar multiplier of just 1.05. These metrics are comparable to those in similar securities class action cases and are thus fair and reasonable, especially given the substantial benefit conferred and the complexity of the issues presented.

“The reasonable hourly rate represents the fee customarily charged in the locality for similar legal services, which is reflected by the market rate for the attorney's work. The market rate is the rate that

lawyers of similar ability and experience in the community normally charge their paying clients for the type of work in question.” *Smith v Khouri*, 481 Mich 519, 530, 531 (2008). “To ascertain that community, [] courts are free to look to a national market, an area of specialization market or any other market they believe appropriate to fairly compensate particular attorneys in individual cases.” *Hargrove v EaglePicher Corp.*, No. 2:10-cv-10946, 2012 U.S. Dist. LEXIS 77726, at *3 (ED Mich, May 10, 2012); *Nolan v Detroit Edison Co.*, No. 18-13359, 2022 U.S. Dist. LEXIS 202368, at *22 (E.D. Mich. Nov. 7, 2022) (same, collecting cases approving hourly rates from \$570 to \$1,060); *Berry v Sch Dist*, 703 F Supp 1277, 1283 (WD Mich, 1986) (“A national market or a market for a particular legal specialization may provide the appropriate market.”).⁵ The hourly rates billed by Class Counsel are reasonable within the relevant community/market of plaintiff’s class action securities firms. *See, e.g., Ziegler v GW Pharms., PLC*, No. 21-cv-1019-BAS-MSB, 2024 U.S. Dist. LEXIS 52979, at *23 (SD Cal, Mar. 25, 2024) (approving of Monteverde’s rates and noting they “are generally in line with rates prevailing in this community for similar services by lawyers of reasonably comparable skill, experience, and reputation.”); *see also City of Westland Police & Fire Ret. Sys. v Metlife, Inc.*, No. 12-cv-0256 (LAK), 2021 U.S. Dist. LEXIS 112107, at *7 (SDNY, June 15, 2021) (citing empirical analysis showing hourly rates of up to \$1,058 per hour for partners was in line with the hourly rates charged by similar professionals in comparable class actions); *Fleming v Impax Laby’s Inc.*, 2022 U.S. Dist. LEXIS 125595, at *28 (N.D. Cal. July 15, 2022) (approving rates of \$760 to \$1,325 for partners, \$895 to \$1,150 for counsel, and \$175 to \$520 for associates in securities case); *Dell*, 300 A3d at 715 (in

⁵ Further, Class Counsel’s hourly rates are in line with or less than the rates charged by Defendants’ counsel, which is a relevant consideration. *See Chrapliwy v Uniroyal, Inc.*, 670 F2d 760, 768 n.18 (CA7, 1982) (“[W]hen the defendant has hired expensive, out of town counsel, the plaintiffs seem justified in saying that the nature of the case required the skills of out of town specialists.”); *see Monteverde Aff. (Ex. B)*, at Ex. 4 (National Law Journal billing survey showing Paul Hastings’ rates from 2015).

conducting lodestar cross check, stating “the implied rate of approximately \$5,000 per hour is lower than rates this court has approved for smaller recoveries.”); *see also* Monteverde Aff, Ex. 3.

Additionally, counsel’s multiple of just 1.05 is far below the accepted range of lodestar multipliers routinely awarded to attorneys in class actions. *See In re Cardinal Health Inc. Sec. Litig.*, 528 F Supp 2d 752, 767-68 (SD Ohio, 2007) (“Most courts agree that the typical lodestar multiplier” in a large class action “ranges from 1.3 to 4.5.”); *Fournier v PFS Invs.*, 997 F Supp 828, 831 (ED Mich, 1998) (stating that “in securities cases a multiplier is appropriate” and recommending the use of a multiplier of 2 in that action); *Manners v Am. Gen. Life Ins. Co.*, No. 3-98-0266, 1999 U.S. Dist. LEXIS 22880, at *93 (M.D. Tenn. Aug. 11, 1999) (“Under these circumstances, plaintiffs’ counsel’s request for a multiplier of 3.8 is fully warranted. This multiplier is well within the range of multipliers for similar litigations, which have ranged from 1-4 and have reached as high as 10.”); *N.Y. State Teachers’ Ret. Sys. v GM Co.*, 315 F.R.D. 226, 244 (ED Mich, 2016) (1.9 multiplier “well within an acceptable range”).

More importantly, a fee request of one-third of the Settlement Fund is in line with fees routinely granted in complex class actions such as this one. *See, e.g., Bessey v Packerland Plainwell, Inc.*, No. 4:06-cv-95, 2007 U.S. Dist. LEXIS 79606, at *13 (WD Mich, Oct. 26, 2007) (“Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.”); *In re Southeastern Milk Antitrust Litig.*, No. 2:08-MD-1000, 2013 U.S. Dist. LEXIS 70167, at *16 (ED Tenn, May 17, 2013) (approving 33% attorneys’ fee award in common fund settlement and noting that “the percentage requested is certainly within the range of fees often awarded in common fund cases, both nationwide and in the Sixth Circuit.”); *Whiteamire Clinic, Inc. v Cartridge World N. Am., LLC*, 2021 U.S. Dist. LEXIS 259873, *3 (ND Ohio, Sept. 14, 2021) (“fee awards of one-third of the judgment awarded have been determined by courts in this Circuit to be within the range of reasonableness”); *Simpson v Citizens Bank*, 2014 U.S. Dist. LEXIS 205466,

*17 (ED Mich, Jan. 31, 2014) (approving class counsel’s request for 33% of the common fund and noting that district courts in the Sixth Circuit begin with a “benchmark percentage” ranging up to 50%).

3. Whether the Services Were Undertaken on a Contingent Fee Basis

Numerous courts have made clear that “the contingent fee risk is an important factor in determining the fee award” and “[a] contingency fee arrangement often justifies an increase in the award of attorneys’ fees.” *Stanley*, 2009 U.S. Dist. LEXIS 114065, at *8 (also noting that class counsel “worked for over four years without payment, risking recovery of nothing in the event they were to generate no benefit for the class”); *Cohn v Nelson*, 375 F Supp 2d 844, 862 (ED Mo, 2005) (“In shareholder litigation, courts typically apply a multiplier of 3 to 5 to compensate counsel for the risk of contingent representation.”); *McKittrick v Gardner*, 378 F2d 872, 875 (CA4, 1967) (“The effective lawyer will not win all of his cases, and any determination of the reasonableness of his fees in those cases in which his client prevails must take into account of the lawyer’s risk of receiving nothing[.]”).

Plaintiffs’ Counsel’s representation in this Action was purely contingent. When they undertook representation, it was with the expectation that they would devote significant hours of hard work to the prosecution of an extremely difficult case, without any assurance of receiving attorneys’ fees or payment of expenses incurred in the prosecution of the Action. Indeed, Class Counsel advanced – without reimbursement, on a fully contingent basis, and without any guarantee of reimbursement – some \$132,076.26 in expenses, and they were prepared to undertake the considerable expenses of trial. Class Counsel advanced these funds and devoted significant time to the Action knowing they might not be repaid. Notably, the resources devoted here could have been devoted elsewhere through the acceptance of other engagements. Accordingly, the contingent nature of this case and the preclusion of other work support the requested fee award.

4. Society's Stake in Rewarding Attorneys Who Produce Such Benefits in Order to Maintain an Incentive to Others

“Class action securities litigation benefits society because it enables all the participants to share in the benefits, not merely those who hired the lawyer. Consequently, a reasonable fee must include attention to unjust enrichment for those class members who receive benefits without sharing in the expenses.” *Fournier*, 997 F. Supp. at 833. Rewarding counsel who benefit class action members incentivizes other counsel to take similar risks. *See In re First Interstate Bancorp Consol. S'holder Litig.*, 756 A2d 353, 365 (Del Ch, 1999) (“It is consistent with the public policy of this State to reward this sort of risk taking in determining the amount of a fee award.”), *aff'd sub nom. First Interstate Bancorp v Williamson*, 755 A2d 388 (Del, 2000). Individuals wronged by violations of fiduciary duties and other corporate laws should have reasonable access to counsel with the ability and experience necessary to litigate complex cases. The costs and fees involved in such litigation often substantially outweigh the economic interest the individual stockholder has at stake. And the prosecutions of this type of fiduciary duty case are not without substantial risk. In complex class action cases, for all practical purposes, experienced counsel for a shareholder plaintiff can only be feasibly retained on a contingent basis. Much of the public would be denied any avenue of redress for violations of fiduciary duties by those entrusted with stewardship of public companies if contingency fees are restricted to the extent that they fail to adequately and fairly compensate counsel for the services provided, the serious risks undertaken, and the delays normally occurring before compensation is received. *See, e.g., In re Union Carbide Corp. Consumer Prods. Bus. Sec. Litig.*, 724 F Supp 160, 169 (SDNY, 1989).

The complexity and societal importance of shareholder litigation calls for representation by the most able counsel obtainable. To encourage experienced and skilled attorneys to represent plaintiffs on a contingent basis in such important litigation, attorneys' fees awarded and expenses paid should reflect this goal. *See In re NASDAQ Mkt. Makers Antitrust Litig.*, 187 FRD 465, 487 (SDNY, 1998). Here,

Class Counsel committed significant time and money to the successful prosecution of this Action for the benefit of the Class. The importance of this risk-taking in the interests of the Class strongly favors approval of the requested fee and ensures proper incentives remain to encourage counsel to continue taking on such matters on behalf of plaintiffs that might otherwise go unrepresented.

5. The Complexity of the Litigation

This case required counsel to first obtain a landmark opinion from the Supreme Court and then litigate inherently risky issues present in class actions of this nature. The outcome was far from certain, success at trial was far from guaranteed, and the risk of total loss – and, thus, no recovery of any kind – was very real. *Air Prods. and Chems., Inc. v Airgas, Inc.*, 16 A.3d 48 (Del Ch, 2011) (plaintiffs’ counsel received no recovery after judgment for defendants following two trials); *PLX Tech.*, 2018 Del. Ch. LEXIS 336, at *121 (finding liability after trial, but entering judgment in favor of defendant because plaintiffs failed to show damages). This was particularly true in this Action which involved novel and difficult issues of Michigan corporate law. *See e.g. United Vanguard Fund, Inc. v Takecare, Inc.*, 727 A.2d 844, 855 (Del. Ch. 1998) (“[T]his action involved the types of complex legal and factual issues often encountered in litigation contesting proposed corporate transactions.”). Because of that complexity, this Action also involved significant commitments of time and resources. *See gen. Monteverde Aff.* It was only through Class Counsel’s skill and perseverance that this highly favorable result was achieved for the benefit of the Class. Accordingly, the complexity of the Action supports the fee requested.

6. The Professional Skill and Standing of Counsel on Both Sides

The attorneys who prosecuted the Litigation include highly experienced Michigan counsel and well-regarded practitioners in the field of securities litigation who have achieved significant recoveries for stockholders and successfully changed the law across the country to favor stockholders. *See Monteverde Aff. (Ex. B) at Ex. 2 (firm resume)*. The skill and standing of Plaintiffs’ Counsel has been

demonstrated in this Litigation.

Likewise, Defendants were represented by experienced and well-respected law firms, including one of the nation's most prominent defense firms and respected Michigan counsel whose abilities are known to this Court. The considerable experience and ability of opposing counsel emphasizes the significance of the result that Class Counsel was able to achieve for the Class.

VI. LEAD COUNSEL'S EXPENSES ARE REASONABLE IN LIGHT OF THE LITIGATION

Plaintiffs' Counsel also requests payment of expenses incurred by them in connection with the prosecution of this Litigation totaling \$ 132,076.26. *See Monteverde Aff.* at 3.

The appropriate analysis if expenses are compensable in a common fund case is whether the costs are of the type typically billed by attorneys to paying clients in the marketplace. *See Harris v Marhoefer*, 24 F3d 16, 19 (CA9, 1994); *see also New Eng. Health Care Emps. Pension Fund v Fruit of the Loom, Inc.*, 234 FRD 627, 635 (WD Ky, 2006). The expenses for which counsel seek payment are of the type routinely charged to hourly clients, were necessary to successfully prosecute this litigation (including mediation, experts and discovery) and, thus, should be paid from the Settlement Fund.

VII. THE INCENTIVE AWARDS SHOULD BE APPROVED

Class representatives like Plaintiffs deserve to be compensated for advocating on behalf of similarly situated stockholders and bearing the burdens associated with litigating, not just for themselves, but on behalf of other aggrieved stockholders. *Bowles v Sabree*, 2022 U.S. Dist. LEXIS 223345, *8 (ED Mich, Dec. 12, 2022) (granting \$5,000 payments to plaintiffs as incentive awards); *Lonardo v Travelers Indem. Co.*, 706 F Supp 2d 766, 787 (ND Ohio, 2010) (awarding \$5,000 to each of the class representatives); *In re Intek Global Corp. S'holder Litig.*, Del. Ch., Consol. C.A. No. 17207-VCS (Apr. 24, 2000) (payments ranging from \$5,000 to \$10,000 to four named plaintiffs).

Courts have considered certain factors when determining whether to approve incentive fee awards: (1) The action taken by the Class Representatives to protect the interests of Class Members and others and whether these actions resulted in a substantial benefit to Class Members; (2) whether the Class Representatives assumed substantial direct and indirect financial risk; and (3) the amount of time and effort spent by the Class Representatives in pursuing the litigation. *M.R. v Lyon*, 2018 U.S. Dist. LEXIS 148911, at *14-15 (ED Mich, Aug. 31, 2018).

Here, Plaintiffs spent considerable time over the last seven years as Class Representatives. They oversaw and participated in the litigation by discussing the case with counsel, reviewing pleadings, producing documents, responding to various requests for discovery, testifying at their depositions, and conferring with counsel regarding the settlement negotiations and Settlement. *See* Decl. of Plaintiff Leslie J. Murphy (Ex. D) at ¶¶ 4-5; Decl. of Plaintiff Vincent J. Martin, III (Ex. E) at ¶¶ 4-5. Plaintiffs thus played a key role in procuring the Settlement for the Class. Stockholder litigation is notoriously difficult and fraught with risk – challenges also borne by Plaintiffs who likewise faced the possibility of receiving no recovery for their time and perseverance. Indeed, this case spanned nearly seven years through an appeal which reached the Michigan Supreme Court. This Action settled just five weeks before trial, with Class Counsel and Plaintiffs poised to continue their efforts had the proposed Settlement not been achieved. Plaintiffs’ efforts towards the effective presentation of the claims warrant the requested \$5,000 incentive award, which will be paid from the Settlement Fund.

VIII. CONCLUSION

For the foregoing reasons, the Motion and relief requested herein should be granted.

Dated: September 18, 2024

Respectfully submitted,

**DOERR MACWILLIAMS HOWARD
PLLC**

/s/ Sara K. MacWilliams

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**INDEX OF EXHIBITS TO PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT, APPROVAL OF PLAN OF ALLOCATION AND AWARD OF
ATTORNEYS' FEES AND EXPENSES AND BRIEF IN SUPPORT**

- Exhibit A:** Proposed Order and Final Judgment
- Exhibit B:** Affidavit of Juan E. Monteverde in Support of Plaintiffs' Motion for Final Approval of Settlement and Award of Attorneys' Fees and Expenses
- Exhibit 1** – Monteverde Task Report
- Exhibit 2** – Monteverde Firm Resume
- Exhibit 3** – Expert Declaration of Professor William B. Rubenstein conducting empirical analysis of hourly rates in securities class actions
- Exhibit 4** – National Law Journal Law Firm Billing Survey
- Exhibit C:** Affidavit of Sara K. MacWilliams in Support of Plaintiffs' Motion for Final Approval of Settlement and Award of Attorneys' Fees and Expenses
- Exhibit 1** – Task Report
- Exhibit D:** Declaration of Plaintiff Leslie J. Murphy
- Exhibit E:** Declaration of Plaintiff Vincent J. Martin, III

EXHIBIT A

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
BUSINESS COURT**

LESLIE J. MURPHY and VINCENT J.
MARTIN, III, Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

SAMUEL M. INMAN, III, JOHN F. SMITH,
BERNARD M. GOLDSMITH, WILLIAM O.
GRABE, LAWRENCE DAVID HANSEN,
ANDREAS MAI, JONATHAN YARON, and
ENRICO DIGIROLAMO,

Defendants.

Case No: 2017-159571-CB
Hon. Victoria A. Valentine

Business Court Case

ORDER AND FINAL JUDGMENT

A hearing having been held before this Court on [_____], 2024, pursuant to the Court's Order of Preliminary Approval and for Notice and Scheduling, dated [_____], 2024 (the "Preliminary Approval and Scheduling Order"), upon the Stipulation and Agreement of Compromise, Settlement, and Release, dated June 25, 2024 (the "Stipulation"), which Preliminary Approval and Scheduling Order and Stipulation are incorporated herein by reference, of the above-captioned Action, and the Settlement contemplated thereby, which Stipulation was entered into between Plaintiffs Leslie J. Murphy ("Murphy") and Vincent J. Martin, III ("Martin") (collectively, "Plaintiffs"), on the one hand, and Defendants Samuel M. Inman, III, John F. Smith, Bernard M. Goldsmith, William O. Grabe, Lawrence David Hansen, Andreas Mai, Jonathan Yaron, and Enrico Digirolamo (collectively, the "Defendants" and with Plaintiffs, the "Settling Parties"), on the other hand, all by and through their undersigned attorneys; and the Circuit Court for Oakland County, Michigan (the "Court") having determined

that notice of said hearing was given to the Class in accordance with the Preliminary Approval and Scheduling Order and that said notice was adequate and sufficient; and the Settling Parties having appeared by their attorneys of record; and the attorneys for the respective Settling Parties having been heard in support of the Settlement, and an opportunity to be heard having been given to all other persons desiring to be heard as provided in the notice; and the entire matter of the Settlement having been considered by the Court;

IT IS HEREBY ORDERED this _____ day of _____, 2024, as follows:

1. Unless otherwise defined herein, all defined terms shall have the meanings as set forth in the Stipulation.

2. The Notice of Pendency and Proposed Settlement of Class Action (“Notice”) has been given to the Class (as defined herein) pursuant to and in the manner directed by the Preliminary Approval and Scheduling Order, proof of the dissemination of the notice has been filed with the Court, and a full opportunity to be heard has been offered to all Settling Parties, the Class, and Persons in interest. The Notice provided the Class Members with their right to object to any aspect of the proposed Settlement, exclude themselves from the Class, and/or appear at the Settlement Hearing. The form and manner of the Notice is hereby determined to have been the best notice practicable under the circumstances and to have been given in full compliance with applicable law and due process and it is further determined that all Class Members, except those that properly excluded themselves from the Class, are bound by the Order and Final Judgment herein.

3. Pursuant to Michigan Court Rule 3.501, the Court hereby affirms its findings from the Class Certification Order.

4. The Action is hereby finally certified as an opt-out class action pursuant to Michigan Court Rule 3.501, and the Class is defined as: All record holders and beneficial owners of share(s) of Covisint common stock who held such share(s) at any time between June 5, 2017 (the date of the merger agreement between Covisint and OpenText) and July 26, 2017 (the date OpenText completed its acquisition of Covisint), excluding the Defendants in this Action and any person or entity related to or affiliated with any Defendant (the Class). Class Certification Order at 5.

5. Administration of the Fund shall be accomplished pursuant to the Plan of Allocation.

6. The Settlement is found to be fair, reasonable, adequate, and in the best interests of the Class. The Settling Parties are hereby authorized and directed to comply with and to consummate the Settlement in accordance with its terms and provisions, and the Clerk is directed to enter and docket this Order and Final Judgment in the Action.

7. This Order and Final Judgment shall not constitute any evidence or admission by any of the Settling Parties that any acts of wrongdoing have been committed by any of the Settling Parties and should not be deemed to create any inference that there is any liability therefore.

8. The Action is hereby dismissed (i) with prejudice in its entirety as to the Defendants and against Plaintiffs and all Class Members on the merits, and (ii) without costs (except as specifically provided below).

9. Any and all manner of claims, rights and causes of action, duties, obligations, demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages and liabilities, whether known or unknown, contingent or non-contingent, derivative or direct, or

suspected or unsuspected, including any claims arising under federal or state statutory or common law or any other law, rule or regulation, whether foreign or domestic, that have been asserted, could have been asserted, or could be asserted in the future by the Releasing Persons against Released Defendants' Persons, that arise out of or relate in any way to the Released Plaintiffs' Claims (including Unknown Claims), are hereby dismissed with prejudice, barred, settled, and released; provided, however, that the Released Plaintiffs' Claims do not include any claims to enforce the Settlement or any claims by Class Members that have properly opted out of the Settlement.

10. The Releasing Persons are hereby permanently barred and enjoined from asserting, commencing, prosecuting, assisting, instigating, continuing, or in any way participating in the commencement or prosecution of any action, whether directly, representatively, derivatively, or in any other capacity, asserting any claims that are, or relate in any way to, the Released Plaintiffs' Claims (including Unknown Claims) that are released pursuant to this Order and Final Judgment or under the Stipulation against any of the Defendants' Released Persons, except for claims relating to the enforcement of this Settlement.

11. Defendants' Released Persons shall be deemed to have, and by operation of this Order and Final Judgment shall have, fully, finally, and forever released, relinquished, settled, extinguished, dismissed with prejudice, and discharged Plaintiffs and Plaintiffs' Counsel from any and all Released Defendants' Claims or the administration or distribution of the Fund in accordance with the terms of the Stipulation, except that this release shall not apply to the rights and obligations created by the Stipulation.

12. Moreover, the Class shall be deemed to have, and by operation of the Order and Final Judgment shall have, fully, finally, and forever released, relinquished, and discharged

Plaintiffs, Plaintiffs' Counsel, and Liaison Counsel from all claims based upon or arising out of the institution, prosecution, assertion, settlement or resolution of the Released Plaintiffs' Claims, or the administration/distribution of the Fund, except that this release shall not affect any claims to enforce the terms of the Stipulation or the Settlement.

13. Plaintiffs' Counsel are awarded attorneys' fees and reimbursement of expenses in the aggregate amount of \$_____, plus any interest on such attorneys' fees and expenses at the same rate and for the same periods as earned by the Fund (until paid), which amount the Court finds to be fair and reasonable, and which shall be paid out of the Fund in accordance with the terms of the Stipulation and per the instructions of the Claims Administrator. Plaintiffs are hereby awarded incentive awards, each in the aggregate amount of \$_____, which amount the Court finds to be fair and reasonable, and which shall be paid out of the Fund in accordance with the terms of the Stipulation and per the instructions of the Claims Administrator. Defendants shall bear no personal responsibility for payment of the foregoing attorneys' fees and reimbursement of expenses and incentive awards.

14. Without affecting the finality of this Order and Final Judgment in any way, this Court reserves jurisdiction over all matters necessary to effectuate the Settlement and its administration, including distribution of the Settlement Fund.

Dated: _____

HON. VICTORIA A. VALENTINE
BUSINESS COURT JUDGE

EXHIBIT B

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
BUSINESS COURT**

LESLIE J. MURPHY and VINCENT J.
MARTIN, III, Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

SAMUEL M. INMAN, III, JOHN F. SMITH,
BERNARD M. GOLDSMITH, WILLIAM O.
GRABE, LAWRENCE DAVID HANSEN,
ANDREAS MAI, JONATHAN YARON, and
ENRICO DIGIROLAMO,

Defendants.

Case No: 2017-159571-CB
Hon. Victoria A. Valentine

Business Court Case

**AFFIDAVIT OF JUAN E. MONTEVERDE IN SUPPORT OF PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF SETTLEMENT AND AWARD OF
ATTORNEYS' FEES AND EXPENSES**

I, Juan E. Monteverde, being duly affirmed, deposes and say:

1. I am the Founder and Managing Partner of the law firm Monteverde & Associates PC ("Monteverde"). I am Counsel for Plaintiffs Leslie J. Murphy ("Murphy") and Vincent J. Martin III ("Martin") (collectively, "Plaintiffs") and the Settlement Class¹ in the above-captioned action ("Action"). I have personal knowledge of the facts stated herein. I am making this affidavit in support of the proposed settlement and for an award of fees and expenses in connection with services rendered during this Action.

¹ All capitalized terms not defined herein have the same meanings as set forth in the Stipulation and Agreement of Compromise, Settlement, and Release, dated June 25, 2024 ("Stipulation"), and/or Plaintiffs' Motion for Preliminary Approval of Settlement.

2. I am a member of the Bar of the State of New York, and I am admitted *pro hac vice* in this Action. I submit this affidavit in support of Plaintiffs' Motion for Final Approval of Settlement and Award of Attorneys' Fees, and Expenses.

Attorneys' Fees and Expenses

3. Plaintiffs' Counsel's compensation for services rendered in this Action was wholly contingent on the success of the Action. These attorneys' fees have not been paid from any source to Plaintiffs' Counsel and have not been the subject of any prior request, or prior award, in any litigation or other proceeding.

4. My firm has accrued 3,148.80 attorney hours representing a total lodestar of \$2,647,247.50 from June 30, 2017, through September 17, 2024. (Monteverde Task Billing Report is attached hereto as Exhibit 1). The chart below summarizes my firm's work performed in connection with prosecution of the Action:

PROFESSIONAL	HOURS	RATE	LODESTAR
Juan E. Monteverde (Managing Partner)	688.90	\$975	\$671,677.50
Miles Schreiner (Senior Associate)	2,041.70	\$850	\$1,735,445.00
Beth Keller (Of Counsel)	74.80	\$800	\$59,840.00
Jonathan Lerner (Associate)	343.40	\$525	\$180,285.00
TOTAL	3,148.80		\$2,647,247.50

5. The lodestar was calculated based on my firm's hourly billing rates that are usual and customary in securities class action litigation and was prepared from regularly kept and maintained contemporaneous time records. The time reflected was reasonably and necessarily expended.

6. Furthermore, the hourly rates utilized are customarily charged by plaintiffs' securities law firms. *See, e.g., Ziegler v. GW Pharms., PLC*, No. 21-cv-1019-BAS-MSB, 2024 U.S.

Dist. LEXIS 52979, at *23 (S.D. Cal. Mar. 25, 2024) (approving of my firm’s rates and noting they “are generally in line with rates prevailing in this community for similar services by lawyers of reasonably comparable skill, experience, and reputation.”); *see also City of Westland Police & Fire Ret. Sys. v. Metlife, Inc.*, No. 12-cv-0256 (LAK), 2021 U.S. Dist. LEXIS 112107, at *7 (SDNY, June 15, 2021) (citing empirical analysis showing hourly rates of up to \$1,058 per hour for partners was in line with the hourly rates charged by similar professionals in comparable class actions); *Fleming v. Impax Laby’s Inc.*, 2022 U.S. Dist. LEXIS 125595, at *28 (N.D. Cal. July 15, 2022) (approving rates of \$760 to \$1,325 for partners, \$895 to \$1,150 for counsel, and \$175 to \$520 for associates in securities case); Expert Declaration of Professor Wiliam B. Rubenstein conducting empirical analysis of hourly rates in securities class actions) (Exhibit 3).

7. Similarly, the hourly rates utilized are consistent with the hourly rates charged by corporate law firms, including counsel for defendants in this action, Paul Hastings. *See* Exhibit 4, National Law Journal Law Firm Billing Survey.

8. My firm seeks reimbursement of \$132,076.26 in litigation expenses incurred in connection with the Action, a summary of which is provided below:

CATEGORY	AMOUNT
Court Filing Fees	\$2,328.80
Process Server, Courier and Notary Public Fees	\$118.80
Class Survey Costs and Postage	\$1,615.20
Expert	\$68,700.00
Mediations	\$20,225.00
Deposition Transcripts and E-Discovery Platform	\$37,305.63
Travel, Lodging and Meals	\$1,782.83
TOTAL	\$132,076.26

9. The expenses summarized above are supported by the books and records of my firm, which are prepared from expense vouchers, check records, or other documents, and represent an accurate record of the expenses incurred in connection with this Action.

Exhibits

10. Attached hereto are true and correct copies of the following exhibits:

Exhibit 1: Monteverde Task Report


Exhibit 2: Monteverde Firm Resume

Exhibit 3: Expert Declaration of Professor Wiliam B. Rubenstein conducting empirical analysis of hourly rates in securities class actions

Exhibit 4: National Law Journal Law Firm Billing Survey


I declare under penalty of perjury under the laws of Michigan that the foregoing is true and correct.

Executed on September 18, 2024



Juan E. Monteverde

AFFIRMED and SUBSCRIBED before me on:



Notary Public

My Commission Expires: 12/18/2026

Jose Javier Mite Ocejo
Notary Public - State of New York
NO 01M16445403
Qualified in New York County
My Commission Expires Dec. 19, 2026

EXHIBIT 1

Task Summary

Monteverde & Associates PC

Include Matter Details = False
 Include Matter and Professional Details = False
 Professional = Multiple (Active Only)
 Group By Professional Group
 Task = All
 View = Original
 From 01-01-2017 To 09-18-2024

Professional Summary

Task	Time (Hours)	Amount	Average Rate	% Total Time
Keller, Beth				
09 - Settlement/Mediation	43.800	35,040.00	800.00	58.56%
11 - Correspondence/Communications	7.300	5,840.00	800.00	9.76%
12 - Analyze and review	2.600	2,080.00	800.00	3.48%
15 - Research	21.100	16,880.00	800.00	28.21%
Professional Total	74.800	59,840.00		
Lerner, Jonathan				
03 - Discovery	204.000	107,100.00	525.00	59.41%
04 - Deposition	38.000	19,950.00	525.00	11.07%
05 - Motion	26.300	13,807.50	525.00	7.66%
07 - Court Hearing	1.500	787.50	525.00	0.44%
09 - Settlement/Mediation	3.000	1,575.00	525.00	0.87%
11 - Correspondence/Communications	8.100	4,252.50	525.00	2.36%
12 - Analyze and review	6.000	3,150.00	525.00	1.75%
13 - Experts	2.000	1,050.00	525.00	0.58%
15 - Research	5.000	2,625.00	525.00	1.46%
16 - Appeal	49.500	25,987.50	525.00	14.41%
Professional Total	343.400	180,285.00		
Monteverde, Juan				
01 - Case Development, Investigation and review corporate filings	15.000	14,625.00	975.00	2.18%
02 - Pleading	16.400	15,990.00	975.00	2.38%
03 - Discovery	137.500	134,062.50	975.00	19.96%
04 - Deposition	109.700	106,957.50	975.00	15.92%
05 - Motion	116.600	113,685.00	975.00	16.93%
06 - Preparation Hearing/Trial	43.000	41,925.00	975.00	6.24%
07 - Court Hearing	7.300	7,117.50	975.00	1.06%
09 - Settlement/Mediation	40.000	39,000.00	975.00	5.81%
11 - Correspondence/Communications	97.400	94,965.00	975.00	14.14%
13 - Experts	69.000	67,275.00	975.00	10.02%
14 - Meeting/Strategy	3.000	2,925.00	975.00	0.44%
16 - Appeal	34.000	33,150.00	975.00	4.94%
Professional Total	688.900	671,677.50		

Task Summary

Monteverde & Associates PC

Include Matter Details = False
 Include Matter and Professional Details = False
 Professional = Multiple (Active Only)
 Group By Professional Group
 Task = All
 View = Original
 From 01-01-2017 To 09-18-2024

Task	Time (Hours)	Amount	Average Rate	% Total Time
Schreiner, Miles				
02 - Pleading	53.700	45,645.00	850.00	2.63%
03 - Discovery	270.700	230,095.00	850.00	13.26%
04 - Deposition	270.400	229,840.00	850.00	13.24%
05 - Motion	576.200	489,770.00	850.00	28.22%
06 - Preparation Hearing/Trial	69.700	59,245.00	850.00	3.41%
07 - Court Hearing	17.100	14,535.00	850.00	0.84%
09 - Settlement/Mediation	87.400	74,290.00	850.00	4.28%
11 - Correspondence/Communications	28.300	24,055.00	850.00	1.39%
12 - Analyze and review	25.800	21,930.00	850.00	1.26%
13 - Experts	83.200	70,720.00	850.00	4.08%
14 - Meeting/Strategy	18.400	15,640.00	850.00	0.90%
15 - Research	30.900	26,265.00	850.00	1.51%
16 - Appeal	509.900	433,415.00	850.00	24.97%
Professional Total	2,041.700	1,735,445.00		

Task Summary

Monteverde & Associates PC

Include Matter Details = False
 Include Matter and Professional Details = False
 Professional = Multiple (Active Only)
 Group By Professional Group
 Task = All
 View = Original
 From 01-01-2017 To 09-18-2024

Summary Totals

Task	Time (Hours)	Amount
01 - Case Development, Investigation and review corporate filings	15.000	14,625.00
02 - Pleading	70.100	61,635.00
03 - Discovery	612.200	471,257.50
04 - Deposition	418.100	356,747.50
05 - Motion	719.100	617,262.50
06 - Preparation Hearing/Trial	112.700	101,170.00
07 - Court Hearing	25.900	22,440.00
09 - Settlement/Mediation	174.200	149,905.00
11 - Correspondence/Communications	141.100	129,112.50
12 - Analyze and review	34.400	27,160.00
13 - Experts	154.200	139,045.00
14 - Meeting/Strategy	21.400	18,565.00
15 - Research	57.000	45,770.00
16 - Appeal	593.400	492,552.50
Grand Total	3,148.800	2,647,247.50

EXHIBIT 2

MONTEVERDE & ASSOCIATES PC
ATTORNEYS AT LAW

Firm Résumé

NEW YORK OFFICE
The Empire State Building
350 Fifth Avenue, Suite 4740
New York, NY 10118
Tel: (212) 971-1341
Fax: (212) 202-7880

CALIFORNIA OFFICE
600 Corporate Pointe
600 W. Corporate Pointe, Suite 1170
Culver City, CA 90230
Tel: (213) 446-6652
Fax: (212) 202-7880

MONTEVERDE & ASSOCIATES PC

ATTORNEYS AT LAW

Monteverde & Associates PC was founded in 2016 and is a national class action law firm committed to protecting shareholders from corporate wrongdoing. The firm has significant experience litigating Mergers & Acquisitions and Securities Class Actions, protecting investors and recovering damages in the process. The legal team at the firm is passionate about all its cases and works tirelessly to obtain the best possible outcome for its clients and all shareholders. The firm is recognized as a preeminent securities firm listed in the Top 50 in the 2018-2022 ISS Securities Class Action Services Report.

The attorneys at Monteverde & Associates have been involved in a number of cases recovering substantial amounts of money for shareholders or investors through their litigation efforts, including in the selected list of cases below:

TARGET COMPANY ACQUIRED	INCREASED CONSIDERATION OR SETTLEMENT FUND
Anworth (2023)	\$3 million
American Capital (2018)	\$17.5 million
Apollo Education (2017)	\$54 million
ClubCorp (2019)	\$5 million
Comverge (2017)	\$5.9 million
Covisint (Pending Approval)	\$9 million
Education Realty Trust (2022)	\$10 million
Envision Healthcare (2021)	\$17.4 million
Force Protection (2012)	\$11 million
GW Pharmaceuticals (2024)	\$7.75 million
Hansen Medical (2019)	\$7.5 million
Harvest Capital (2024)	\$3.85 million
Jaguar Animal (2021)	\$2.6 million
Mavenir Systems (2016)	\$3 million
MRV Communications (2021)	\$1.9 million
Oclaro (2024)	\$15.25 million
Orchard Enterprises (2014)	\$10.725 million
Papa Murphy's Holdings (2022)	\$2.4 million
Syntroleum (2016)	\$2.8 million
Transgenomic (2020)	\$1.95 million
US Geothermal (2020)	\$6.5 million
West Marine (2020)	\$2.5 million

Monteverde & Associates has also changed the law in the 9th Circuit, by lowering the standard of liability under Section 14(e) of the Exchange Act from scienter to negligence to better protect shareholders. *Varjabedian v. Emulex Corp.*, 888 F.3d 399 (9th Cir. 2018). Thereafter, the firm preserved this victory (after oral argument) by obtaining dismissal of a writ of certiorari as improvidently granted at the United States Supreme Court. *Emulex Corp. v. Varjabedian*, 139 S. Ct. 1407 (2019).

MONTEVERDE & ASSOCIATES PC

ATTORNEYS AT LAW

Juan E. Monteverde

Mr. Monteverde is the founder and managing partner for the firm. Mr. Monteverde has over a decade of experience advocating shareholder rights. Mr. Monteverde regularly handles high profile M&A cases seeking damages or to maximize shareholder value and has obtained monetary relief for shareholders.

Mr. Monteverde has also broken new ground when it comes to challenging proxies related to compensation issues post Dodd-Frank Act. *Knee v. Brocade Comm's Sys., Inc.*, No. 1-12-CV-220249, slip op. at 2 (Cal. Super. Ct. Santa Clara Cnty. Apr. 10, 2012) (Kleinberg, J.) (enjoining the 2012 shareholder vote related to executive compensation proxy disclosures). Mr. Monteverde also argued successfully before the 9th Circuit to change the law and lowered the standard of liability under Section 14(e) of the Exchange Act from scienter to negligence to better protect shareholders. *Varjabedian v. Emulex Corp.*, 888 F.3d 399 (9th Cir. 2018).

Mr. Monteverde has been selected by Super Lawyers as a New York Metro Rising Star in 2013, 2017 – 2019 and a Super Lawyer in 2022 – 2024, and by Martindale-Hubbell as a Top-Rated Lawyer 2017 – 2024.

Mr. Monteverde has been a keynote speaker at ABA, PLI, ACI and other conferences regarding merger litigation or executive compensation issues. Below is a list of published articles by Mr. Monteverde:

- Fair To Whom? Examining Delaware's Fair Summary Standard
- A Review of Trados and Its Impact
- Emerging Trends in Say-on-Pay Disclosure
- Battling for Say on Pay Transparency

Mr. Monteverde graduated from California State University of Northridge (B.S. Finance) and St. Thomas University School of Law (J.D., *cum laude*), where he served as a Law Review Staff Editor.

Mr. Monteverde is admitted to practice law in the State of New York, 2007.

MONTEVERDE & ASSOCIATES PC

ATTORNEYS AT LAW

David E. Bower

Mr. Bower is of counsel with the firm since 2016 and has extensive experience in securities and consumer class actions as well as corporate litigation and complex commercial litigation matters.

Mr. Bower has been in the private practice of law since 1981. Prior to forming his own law firm, Law Offices of David E. Bower, in 1996, Mr. Bower practiced for two years with the law firm Hornberger & Criswell where he supervised and coordinated complex business litigation. From 1989 to 1994, he was a partner with the law firm Rivers & Bower where he handled business, construction, real estate, insurance, and personal injury litigation and business and real estate transactions. From 1984 to 1989, he practiced in the insurance bad faith defense and complex litigation department of the Los Angeles, California based law firm of Gilbert, Kelley, Crowley & Jennett. From 1981 to 1984, he practiced law in New York as a partner with the law firm Boysen, Scheffer & Bower. Mr. Bower has extensive trial experience and has tried over 100 cases.

Mr. Bower is a graduate of the Mediation Training Program at UCLA and has a certification in Advanced Mediation Techniques. He has presided in over 200 mediations since becoming certified and is currently on the Los Angeles Superior Court Pay Panel of mediators and arbitrators. He was previously the President of the Board of A New Way of Life Reentry Project, a non-profit serving ex-convicts seeking reentry into society as productive citizens.

Mr. Bower is admitted to practice law in the State of New York, 1982, and California, 1985.

MONTEVERDE & ASSOCIATES PC

ATTORNEYS AT LAW

Beth Keller

Ms. Keller is of counsel with the firm since 2018 and has extensive experience in securities class actions as well as corporate governance reform.

For more than two decades, she has focused her legal practice on shareholder rights litigation. Prior to working with Monteverde & Associates, Ms. Keller was a Partner at Faruqi & Faruqi, LLP, a nationally recognized securities firm based in New York City, where she litigated shareholder class and derivative actions, and served as head of the firm's Shareholder Derivative Litigation Department. She later became a founding Member of the boutique securities firm, Hynes Keller & Hernandez, LLC, where she was involved in all aspects of the firm's shareholder advocacy practice.

Ms. Keller has extensive litigation experience and has served as lead or co-lead counsel in numerous complex cases in which she has achieved substantial corporate governance measures and/or financial recoveries for the corporation and its stockholders.

Ms. Keller is admitted to practice law in the State of New York, 2003 and New Jersey, 2002.

MONTEVERDE & ASSOCIATES PC

ATTORNEYS AT LAW

Miles D. Schreiner

Mr. Schreiner is a senior associate with the firm from its inception in 2016. He is experienced in securities and consumer class action litigation, and has been an integral part of litigation teams that have recovered tens of millions of dollars for shareholders and consumers across the country.

Mr. Schreiner also has significant experience in appellate litigation. Mr. Schreiner successfully argued before the U.S. Court of Appeals for the Eighth Circuit in *Campbell v. Transgenomic, Inc.*, 916 F.3d 1121 (8th Cir. 2019), where he obtained reversal of a district court's order dismissing a Section 14(a) action and prompted the Eighth Circuit to clarify the standard governing misleading statements under the Exchange Act. Moreover, in *Murphy v. Inman*, No. 161454, 2022 Mich. LEXIS 733 (Mich. Apr. 5, 2022), Mr. Schreiner obtained a landmark victory for shareholders by persuading the Michigan Supreme Court to hold that shareholders have standing to bring direct claims for breaches of fiduciary duty when challenging unfair cash-out mergers. And in *Varjabedian v. Emulex Corp.*, 888 F.3d 399 (9th Cir. 2018), Mr. Schreiner was a key member of the team that persuaded the Ninth Circuit to split from five other circuits and adopt a lower culpability standard for claims under Section 14(e) of the Exchange Act.

Mr. Schreiner has also had multiple legal articles published, set forth below:

- Fair To Whom? Examining Delaware's Fair Summary Standard
- The Delaware Courts' Increasingly Laissez Faire Approach To Directorial Oversight
- Money-Back Guarantees Unlikely to Satisfy 'Superiority'
- A Deadly Combination: The Legal Response to America's Prescription Drug Epidemic

Mr. Schreiner is a *cum laude* graduate of Brooklyn Law School, where he was a Dean's Merit Scholar and served as a Law Review Editor. He obtained his undergraduate degree in Political Science from Tulane University, where he graduated *cum laude*.

Mr. Schreiner has been selected by Super Lawyers as a New York Metro Rising Star for 2018-2022 and a Super Lawyer 2023-2024. He is admitted to practice law in the State of New York (2013) and New Jersey (2012).

Jonathan T. Lerner

Mr. Lerner is an experienced class action and civil litigation attorney who currently represents shareholders in cases nationwide.

Before joining the firm, Mr. Lerner worked for a real estate litigation firm. He has a successful track record in New York State appellate courts on novel points of law and also has transactional experience in the real estate and commercial context. He is deeply interested in science and technology and uses this knowledge to inform his investigations at the firm.

Mr. Lerner is a graduate of St. John's University School of Law, where he was a St. Thomas More Scholar. He obtained his undergraduate degree in Philosophy from the University of St Andrews in Scotland, where he graduated with First Class Honors, the highest academic honor conferred by universities in the United Kingdom.

Mr. Lerner is admitted to practice law in the State of New York, 2019.

MONTEVERDE & ASSOCIATES PC

ATTORNEYS AT LAW

Benjamin P. Vanderhyden

Benjamin Vanderhyden started at Monteverde & Associates in January 2023 as a law clerk and is now an associate at the firm.

Mr. Vanderhyden graduated from the University of California, Santa Barbara (B.A. Public Policy Analysis) in 2020 and from Brooklyn Law School (J.D.) in 2023. During law school, he worked as a research assistant, providing analysis regarding state laws on limited liability entities. Additionally, he received the Dean's Merit Scholarship and the Professor Philip K. Yonge Memorial Prize for academic achievement in the study of Commercial and Bankruptcy Law.

Mr. Vanderhyden is admitted to practice law in the State of New York, 2024.

MONTEVERDE & ASSOCIATES PC

ATTORNEYS AT LAW

Carter Overbey

Carter Overbey is a recent law school graduate working as a law clerk in the firm. Mr. Overbey joined the firm as a law clerk last year in law school. Mr. Overbey graduated from Furman University (B.A. Economics and Spanish) in 2020 and graduated *Cum Laude* from Brooklyn Law School (J.D.) in 2024. During his time at Brooklyn Law School Mr. Overbey received the Deans Merit Scholarship.

Mr. Overbey sat for the NY State Bar in July 2024 and is awaiting his results.

EXHIBIT 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

<hr/>		:
CITY OF WESTLAND POLICE AND FIRE	:	Civil Action No. 1:12-cv-00256-LAK
RETIREMENT SYSTEM, Individually and on	:	:
Behalf of All Others Similarly Situated,	:	<u>CLASS ACTION</u>
	:	:
Plaintiff,	:	:
vs.	:	EXPERT REPORT OF
	:	PROFESSOR WILLIAM B.
METLIFE INC., et al.,	:	RUBENSTEIN IN SUPPORT OF
	:	APPLICATION FOR AWARD OF
Defendants.	:	ATTORNEYS' FEES AND EXPENSES
	:	:
	:	:
	:	:
<hr/>	:	:

1. I am the Bruce Bromley Professor of Law at Harvard Law School and a leading national expert on class action law and practice. Lead Counsel¹ seek a fee of \$21 million, which constitutes 25% of the \$84 million settlement. The Court issued an Order on March 30, 2021 asking Lead Counsel to provide certain additional information regarding their fee request.² The Court directed, *inter alia*, that the reasonableness of the hourly rates Lead Counsel employ in their lodestar (cross-check) submission be established with respect to “market rates for similar professionals.”³ Lead Counsel have retained me to assist in this task. After setting forth my qualifications to serve as an expert (Part I, *infra*), I present several independent sets of empirical data that support my opinion that Lead Counsel’s proposed hourly rates are fully consistent with

¹ In 2012, the Court approved Lead Plaintiff’s selection of Robbins Geller Rudman & Dowd LLP as Lead Counsel, ECF No. 14, and, in 2017, affirmed the Magistrate’s Report and Recommendations certifying the class and appointing the firm as Class Counsel. ECF No. 176.

² ECF No. 417.

³ *Id.* at ¶ 4.

rates customarily assigned to attorneys with similar levels of experience in comparable complex litigation settings in this District (Part II, *infra*). Specifically:

- **The hourly rates Lead Counsel assigns to lawyers are consistent with four sets of comparable hourly rates:**
 - ✓ My research assistants generated, in the past week, a database of 311 hourly rates utilized by class action law firms in lodestar submissions in 17 securities class action fee petitions approved in the Southern District of New York in recent years (2016-2021). Lead Counsel's hourly rates are 6.9% lower than the rates in those cases and 18.6% lower if the comparable data are adjusted to 2021 dollars (given that Lead Counsel will be paid in 2021 dollars).
 - ✓ My research assistants had compiled (in late 2020) a data set of 164 hourly rates utilized in 19 class action fee petitions approved in the Northern District of California in the prior three years (2017-2020) for a report I filed in the *Facebook Biometrics* class action in October 2020. For purposes of this Report, we adjusted those rates (downward) to the New York market using the federal judiciary's geographic adjustment methodology. Lead Counsel's hourly rates are roughly 12% lower than the geographically adjusted Northern District of California class action rates.
 - ✓ My research assistants generated a database of 269 hourly rates utilized by large private firms in this market, found in fee filings in the *Purdue Pharma L.P.* bankruptcy currently pending in the Southern District of New York. These filings generally represent that the rates charged in the bankruptcy setting are commensurate with the rates these private firms charge paying clients in this market. Lead Counsel's hourly rates are roughly 50% lower than the rates these private firms utilize in their bankruptcy fee petitions.
 - ✓ My research assistants generated a data base of 179 hourly rates (primarily for New York based lawyers) utilized by Debevoise & Plimpton LLP, the primary defense firm in this matter, based on data that firm submitted in bankruptcy filings while this case was pending; in those filings, Debevoise represented that these were the firm's standard billing rates. Lead Counsel's hourly rates are 34% lower than the rates Debevoise utilized in its bankruptcy fee petitions for its New York based lawyers.
- **The hourly rates Lead Counsel assigns to staff attorneys, assessed separately, are below the rates used for this type of professional by class action firms and private/bankruptcy firms in this market.** Lead Counsel include the work of "staff attorneys" in their lodestar. This professional category appears in many other fee petitions in class action and bankruptcy cases and generally refers to attorneys who

are salaried at a firm (therefore not “contract attorneys”) but who are not on a partnership track. We assessed the rates assigned to these attorneys separately because we could not always find the year of law school graduation for each such attorney listed in the comparison cases. Where firm filings had more than one staff attorney, we generated a blended staff attorney hourly rate that was a weighted average for all staff attorney time, weighted according to the number of hours worked by each staff attorney. Lead Counsel’s blended rate for staff attorneys (\$365) falls 9.4% below the median blended rate of the comparison group (\$402.90), is lower than the blended rates in 9 of the 10 comparison cases, and is 17.6% below the mean (\$443) of the comparison group rates.

- **The hourly rates Lead Counsel assigns to paralegals are slightly above the paralegal rates used by class action firms in this market and slightly below the paralegal rates used by large private firms in this market, as reflected in their filings in bankruptcy courts.** Where firm filings had more than one paralegal, as most did, we again generated a blended hourly paralegal rate that was a weighted average for all paralegal time, weighted according to the number of hours worked by each paralegal. Lead Counsel’s blended rate for paralegals (\$302) falls 4.1% above the median blended rate of the comparison group of class action firms (\$290) and 4.5% below the median blended rate charged by the 11 firms in the *Purdue* bankruptcy and Debevoise in its bankruptcy filings (\$316).
- **Lead Counsel’s total blended hourly rate is more than 10% lower than the median blended hourly rate among the 17 securities class action settlements in this District and the 19 class action approvals in the Northern District of California.** Finally, we took a snapshot of the entire rate structure for the case, dividing the total lodestar by the total hours to find a “blended hourly rate.” This rate reflects the hourly rate of the average hour for the whole case across all professionals. Lead Counsel’s blended hourly rate of \$492 was 12.3% lower than the \$561 median blended hourly rate across the 36 comparable cases, with only 8 of those cases having a lower blended hourly rate.

2. Based on these empirical comparisons, it is my conclusion that the rates Lead Counsel propose for their timekeepers are entirely reasonable. The proposed rates are consistent with the rates regularly used by class action attorneys in securities cases in this District and by class action attorneys generally in the Northern District of California; they are also well below the rates charged by private firms for relatively similar services in this market, including the primary defense counsel in this matter.

3. It is fair to note that one of the reasons that Lead Counsel’s proposed rates are below normal is that this Court has directed them to provide a blended rate reflective of the historic rates throughout this 9-year litigation,⁴ rather than using – as most fee petitions do – current rates that account for the delay in a contingent fee payment.⁵ Two related consequences flow from this approach. *First*, the lodestar itself embodies no consideration of the time value of money. Therefore, as this Court held in applying historic rates to a lodestar calculation in another case, the time value of money must be considered “at a later stage in the determination of a reasonable fee”⁶ such as “in determining a multiplier or a percentage of recovery.”⁷ Put differently, Lead Counsel would be deserving of a higher multiplier than a completely comparable case in which current rates were used to set the lodestar, since the time value of money is embedded in the comparable case’s use of current rates but has yet to be accounted for in Lead Counsel’s petition. *Second*, however, there’s an odd twist here: when the Court turns to consider the multiplier, Lead Counsel’s multiplier may already seem high because their use of historic hourly rates has the effect of lowering their lodestar and raising their multiplier (before consideration of the time value of money) as compared to completely comparable cases that use current hourly rates and therefore have higher lodestars and lower multipliers. All of which is to say that, given the use of historic rates in their lodestar, Lead Counsel are entitled to careful

⁴ *Id.* at 1.

⁵ *Missouri v. Jenkins by Agyei*, 491 U.S. 274, 284 (1989) (“[A]n appropriate adjustment for delay in payment—whether by the application of current rather than historic hourly rates or otherwise—is within the contemplation of the statute.”).

⁶ *In re CPI Card Grp. Inc. Sec. Litig.*, No. 16-CIV-4531 (LAK), 2019 WL 845223, at *1 (S.D.N.Y. Feb. 6, 2019).

⁷ *Id.*

consideration of a higher-than-normal multiplier to account for the time value of money and to ensure an apples-to-apples comparison to similar cases in which the multiplier was calculated from a current-rate lodestar.

I.
BACKGROUND AND QUALIFICATIONS⁸

4. I am the Bruce Bromley Professor of Law at Harvard Law School. I graduated from Yale College, *magna cum laude*, in 1982 and from Harvard Law School, *magna cum laude*, in 1986. I clerked for the Hon. Stanley Sporkin in the U.S. District Court for the District of Columbia following my graduation from law school. Before joining the Harvard faculty as a tenured professor in 2007, I was a law professor at the UCLA School of Law for a decade, and an adjunct faculty member at Harvard, Stanford, and Yale Law Schools while a litigator in private practice during the preceding decade. I am admitted to practice law in the Commonwealth of Massachusetts, the State of California, the Commonwealth of Pennsylvania (inactive), the District of Columbia (inactive), the U.S. Supreme Court, six U.S. Courts of Appeals, and four U.S. District Courts.

5. My principal area of scholarship is complex civil litigation, with a special emphasis on class action law. I am the author, co-author, or editor of five books and more than a dozen scholarly articles, as well as many shorter publications (a fuller bibliography appears in my appended c.v.). Much of this work concerns various aspects of class action law. Since 2008, I have been the sole author of the leading national treatise on class action law, *Newberg on Class Actions*, and I have re-written the entire 10-volume treatise from scratch. In 2015, I wrote and published a 600-page volume (volume 5) of the Treatise on attorney's fees, costs, and incentive

⁸ My full c.v. is attached as Exhibit A.

awards; this is the most sustained scholarly treatment of class action attorney's fees and has been cited in numerous federal court fee decisions. For five years (2007–2011), I published a regular column entitled "Expert's Corner" in the publication *Class Action Attorney Fee Digest*. My work has been excerpted in casebooks on complex litigation, as noted on my c.v.

6. My expertise in complex litigation has been recognized by judges, scholars, and lawyers in private practice throughout the country for whom I regularly provide consulting advice and educational training programs. For each of the ten years between 2010-2019, the Judicial Panel on Multidistrict Litigation (JPML) invited me to give a presentation on the current state of class action law at the annual MDL Transferee Judges Conference, and I have often spoken on the topic of attorney's fees to the MDL judges. The Federal Judicial Center invited me to participate as a panelist (on the topic of class action settlement approval) at its March 2018 judicial workshop celebrating the 50th anniversary of the JPML, *Managing Multidistrict and Other Complex Litigation Workshop*. The Ninth Circuit invited me to moderate a panel on class action law at the 2015 Ninth Circuit/Federal Judicial Center Mid-Winter Workshop. The American Law Institute selected me to serve as an Adviser on a Restatement-like project developing the *Principles of the Law of Aggregate Litigation*. In 2007, I was the co-chair of the Class Action Subcommittee of the Mass Torts Committee of the ABA's Litigation Section. I am on the Advisory Board of the publication *Class Action Law Monitor*. I have often presented continuing legal education programs on class action law at law firms and conferences.

7. My teaching focuses on procedure and complex litigation. I regularly teach the basic civil procedure course to first-year law students, and I have taught a variety of advanced courses on complex litigation, remedies, and federal litigation. I have received honors for my

teaching activities, including: the Albert M. Sacks-Paul A. Freund Award for Teaching Excellence, as the best teacher at Harvard Law School during the 2011–2012 school year; the Rutter Award for Excellence in Teaching, as the best teacher at UCLA School of Law during the 2001–2002 school year; and the John Bingham Hurlbut Award for Excellence in Teaching, as the best teacher at Stanford Law School during the 1996–1997 school year.

8. My academic work on class action law follows a significant career as a litigator. For nearly eight years, I worked as a staff attorney and project director at the national office of the American Civil Liberties Union (ACLU). In those capacities, I litigated dozens of cases on behalf of plaintiffs pursuing civil rights matters in state and federal courts throughout the United States. I also oversaw and coordinated hundreds of additional cases being litigated by ACLU affiliates and cooperating attorneys in courts around the country. I therefore have personally initiated and pursued complex litigation, including class actions.

9. I have been retained as an expert witness in more than 90 cases and as an expert consultant in about another 30 cases. These cases have been in state and federal courts throughout the United States, most have been complex class action cases, and many have been MDL proceedings. I have been retained to testify as an expert witness on issues ranging from the propriety of class certification to the reasonableness of settlements and fees, to the preclusive effect of class action judgments. I have been retained by counsel for plaintiffs, for defendants, for objectors, and by courts:

- In 2018, the United States District Court for the Northern District of Ohio (Polster, J.) appointed me to serve as an expert consultant to the Court on complex class action and (later) fees issues in the *National Prescription Opiate Litigation* (MDL 2804).
- In 2017, the United States District Court for the Eastern District of Pennsylvania (Brody, J.) appointed me to serve as an expert witness on certain attorney's fees

issues in the *National Football League Players' Concussion Injury Litigation* (MDL 2323). In my final report to the Court, I recommended, *inter alia*, that the Court should cap individual retainer agreements at 22%, a recommendation that the Court adopted.⁹

- In 2015, at the request of this Court, the United States Court of Appeals for the Second Circuit appointed me to argue for affirmance of an order of this Court that significantly reduced class counsel's fee request in a large, complex securities class action, a task I completed successfully when the Circuit summarily affirmed the decision on appeal.¹⁰

10. One of the functions I can provide as an expert witness is to present empirical evidence of class action practices from other cases. As part of my scholarly work on class action law, I created and maintain a database containing data on more than 1,000 class action lawsuits settled between 2007-2011. I am also in the early stages of developing a database of all federal class action settlements since 2000. My law student research assistants regularly assist in me in collecting data relevant to specific matters from the existing public records.

11. Courts have often relied on expert witness testimony in fee matters.¹¹

⁹ *In re Nat'l Football League Players' Concussion Injury Litig.*, No. 2:12-md-02323-AB, 2018 WL 1658808, at *1 (E.D. Pa. Apr. 5, 2018) ("I adopt the conclusions of Professor Rubenstein and order that IRPAs' fees be capped at 22% plus reasonable costs.").

¹⁰ See *In re IndyMac Mortg.-Backed Sec. Litig.*, 94 F. Supp. 3d 517 (S.D.N.Y. 2015), *aff'd sub nom. DeValerio v. Olinski*, 673 F. App'x 87 (2d Cir. 2016).

¹¹ See, e.g., *In re Genetically Modified Rice Litig.*, 764 F.3d 864, 872 (8th Cir. 2014); *In re Facebook Biometric Info. Priv. Litig.*, No. 15-CV-03747-JD, 2021 WL 757025, at *10-*12 (N.D. Cal. Feb. 26, 2021); *Kater v. Churchill Downs Inc.*, No. 15-CV-00612-RSL, 2021 WL 511203, at *1-*2 (W.D. Wash. Feb. 11, 2021); *Wilson v. Playtika Ltd.*, No. 18-CV-5277-RSL, 2021 WL 512230, at *1-*2 (W.D. Wash. Feb. 11, 2021); *Wilson v. Hunuige, Inc.*, No. 18-CV-5276-RSL, 2021 WL 512229, at *1-*2 (W.D. Wash. Feb. 11, 2021); *Amador v. Baca*, No. 210CV01649SVWJEM, 2020 WL 5628938, at *13 (C.D. Cal. Aug. 11, 2020); *Hale v. State Farm Mut. Auto. Ins. Co.*, No. 12-0660-DRH, 2018 WL 6606079, at *10 (S.D. Ill. Dec. 16, 2018); *Krakauer v. Dish Network, L.L.C.*, No. 1:14-CV-333, 2018 WL 6305785, at *5 (M.D.N.C. Dec. 3, 2018); *In re Nat'l Football League Players' Concussion Injury Litig.*, No. 2:12-md-02323-AB, 2018 WL 1658808, at *4 (E.D. Pa. Apr. 5, 2018); *In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prod. Liab. Litig.*, No. MDL 2672 CRB (JSC), 2017 WL

12. I have been retained in this case to provide an opinion concerning the issues set forth in the first paragraph, above. I am being compensated for providing this expert opinion. I was paid a flat fee in advance of rendering my opinion, so my compensation is in no way contingent upon the content of my opinion.

13. In analyzing these issues, I have discussed the case with the counsel who retained me. I have also reviewed documents from this litigation, a list of which is attached as Exhibit B. I have also reviewed the applicable case law and scholarship on the topics of this Declaration.

II.
THE HOURLY RATES IN LEAD COUNSEL'S
LODESTAR SUBMISSION ARE REASONABLE

14. By Order dated March 30, 2021, this Court stated:

It is the burden of plaintiff's counsel to establish the reasonableness of the hourly rates on which the lodestar is based. That involves, among other considerations, the timekeepers' titles and roles (including whether persons performing similar roles typically are billed to paying clients on an hourly basis), years and quality of experience, and market rates for similar professionals, among other factors. Counsel would be well advised to address these and related issues.¹²

3175924, at *3 (N.D. Cal. July 21, 2017); *Aranda v. Caribbean Cruise Line, Inc.*, No. 1:12-cv-04069, 2017 WL 1369741, at *5 (N.D. Ill. Apr. 10, 2017), *aff'd sub nom. Birchmeier v. Caribbean Cruise Line, Inc.*, 896 F.3d 792 (7th Cir. 2018); *In re High-Tech Employee Antitrust Litig.*, No. 11-CV-02509-LHK, 2015 WL 5158730, at *9 (N.D. Cal. Sept. 2, 2015); *Asghari v. Volkswagen Grp. of Am., Inc.*, No. 13-CV-02529 MMM, 2015 WL 12732462, at *44 (C.D. Cal. May 29, 2015); *In re Syngenta AG MIR 162 Corn Litig.*, No. 14-md-2591-JWL, 2015 WL 2165341, at *5 (D. Kan. May 8, 2015); *Parkinson v. Hyundai Motor Am.*, 796 F. Supp. 2d 1160, 1172 (C.D. Cal. 2010); *Commonwealth Care All v. Astrazeneca Pharm. L.P.*, No. CIV.A. 05-0269 BLS 2, 2013 WL 6268236, at *2 (Mass. Super. Aug. 5, 2013).

¹² ECF No. 417 at ¶ 4.

15. The *Manual for Complex Litigation* states:

What constitutes a reasonable hourly rate varies according to geographic area and the attorney's experience, reputation, practice, qualifications, and customary charge. The rate should reflect what the attorney would normally command in the relevant marketplace.¹³

Similarly, the Second Circuit directs that counsel's fees be measured "against the prevailing market rates for comparable attorneys of comparable skill and standing in the pertinent legal community,"¹⁴ and this Court's Order in this matter accordingly seeks information about "market rates for similar professionals."¹⁵

16. Heeding these directives, the remainder of the Report compares Lead Counsel's rates to the rates of other legal professionals pursuing class actions cases and to the rates charged by private firms for complex litigation in this District. Specifically, the Report utilizes (a) a data set of 17 securities class action fee petitions approved in this District in recent years; (b) a data set of 19 class action fee petitions approved in the Northern District of California in recent years – and geographically-adjusted to this market; (c) a data set of 12 different private law firms' rates utilized in the *Purdue Pharma* bankruptcy case currently pending in this District; and (d) a data set of rates charged (in the bankruptcy setting) by one of the defense counsel in this matter. The following paragraphs describe these data sets and show how the data in them provide broad empirical support for the hourly rates Lead Counsel employ.

¹³ *Manual for Complex Litigation (Fourth)*, § 14.122 (2004) (citing *Blum v. Stenson*, 465 U.S. 886, 895 (1984) ("[R]easonable fees' . . . are to be calculated according to the prevailing market rates in the relevant community . . ."); *Lindy Bros. Builders, Inc. of Phila. v. Am. Radiator & Standard Sanitary Corp.*, 487 F.2d 161, 167 (3d Cir. 1973)).

¹⁴ *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43, 56 (2d Cir. 2000) (cleaned up).

¹⁵ ECF No. 417 at ¶ 4.

Hourly Rates in Recently Approved Securities Class Actions in the Southern District

17. To have an empirical basis by which to assess the reasonableness of Lead Counsel’s proposed rates, I directed my research assistants to create a database of hourly rates found in securities class action fee petitions in the Southern District of New York in the past five years.¹⁶ Using neutral search terms,¹⁷ my team created a database of 17 securities class action

¹⁶ In the *IndyMac* case, this Court noted that in comparing percentage awards across cases, the proper comparison is of awards in comparably sized settlements. *See In re IndyMac Mortg.-Backed Sec. Litig.*, 94 F. Supp. 3d 517, 523 (S.D.N.Y. 2015), *aff’d sub nom. DeValerio v. Olinski*, 673 F. App’x 87 (2d Cir. 2016). By contrast, in comparing hourly rates, the basis of comparison is comparable work, *see* ¶15, *supra*, so a database of rates used in securities class action fee petitions in this District is directly on point.

¹⁷ The students generated the universe of cases through Westlaw searches and the Federal Judicial Center’s database. (For an explanation of our use of that database, *see* note 24, *infra*.) From these initial sets, they then reviewed the final fee approval orders to ensure that (1) the case involved securities claims and (2) the final order accepted class counsel’s hourly rates. No cases meeting these criteria were omitted and as noted in the text, this process yielded 17 total cases. I then read through each of the approval orders in the 17 cases to ensure that a significant number of the cases reflected a court’s “substantive analysis” of the fee award, beyond just endorsing the proposed order submitted by counsel. *See IndyMac*, 94 F.Supp.3d at 522-23 & n.27 (expressing concern about reliance on signed proposed orders) (citing *Sakiko Fujiwara v. Sushi Yasuda Ltd.*, 58 F.Supp.3d 424, 436 (S.D.N.Y. 2014)).

In this process, we omitted eight cases because either (1) a generic reduction in the fee award made it impossible for us to conclude that the proposed hourly rates had been accepted or (2) the rates were impossible to locate. One omitted case requires comment: in approving a securities class action earlier this year, Judge Pauley expressed some mild concerns about hourly rates, including rates submitted by the firm serving as Lead Counsel in this case, but he made only a “modest reduction” by awarding all counsel in that matter 24% of the common fund rather than the 25% they sought. *Oklahoma Firefighters Pension & Ret. Sys. v. Lexmark Int’l, Inc.*, No. 17CV5543, 2021 WL 76328, at *5 (S.D.N.Y. Jan. 7, 2021). Because that 4% reduction (1/25th) was not based on rates alone, we could not simply adjust the rates from that case downward 4% and include them in our comparable group. If we had, though, it would have only strengthened my conclusions that the rates here are well below normal, as the hourly rates Lead Counsel employ here are about 20% lower (18.8%) than the rates employed by the firms in that case.

Given the quantity of data in the rate study and the neutral method by which it was assembled, this is not a situation akin to “looking out over a crowd and picking out one’s friends,” *IndyMac*, 94 F.Supp.3d at 523; the students have done a remarkable job – in a very

fee petitions approved since January 1, 2016, listed in Exhibit C, and they then pulled from the lodestar submissions in those 17 cases 329 individual hourly rates, 316 of which we employ in our analysis.¹⁸

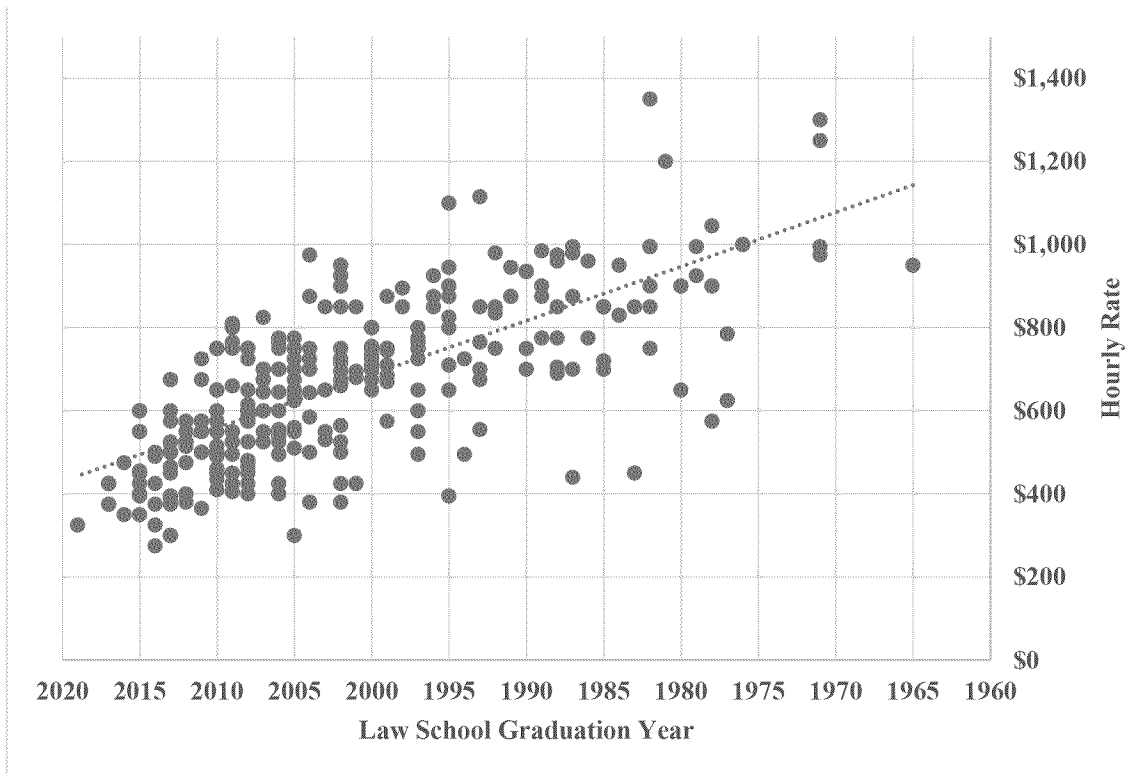
18. Once each timekeeper's experience level had been identified, we plotted the rates on an x-y axis, with the x-axis representing the timekeeper's law school graduation year and the y-axis representing the timekeeper's hourly rate.¹⁹ The resulting scatter plot, set forth below in Graph 1, provides a snapshot of hourly rates in Southern District of New York securities class action fee petitions in the past five years in which the respective courts approved class counsel's requested fee amount.

short time period – of capturing “the *distribution* of all attorney [hourly rates] in cases involving comparable [securities class action] settlement[s].” *Id.*

¹⁸ As explained below, we plot the rates according to an attorney's year of law school graduation; for 13 of the 329 total rates, we were unable to verify the attorney's graduation year and accordingly did not utilize the associated rates.

¹⁹ This data set does not include staff attorneys because information on the law school graduation year of all of the staff attorneys in the comparison group was not readily available. The reasonableness of Lead Counsel's staff attorney rates is assessed separately in ¶¶ 31–33, *infra*.

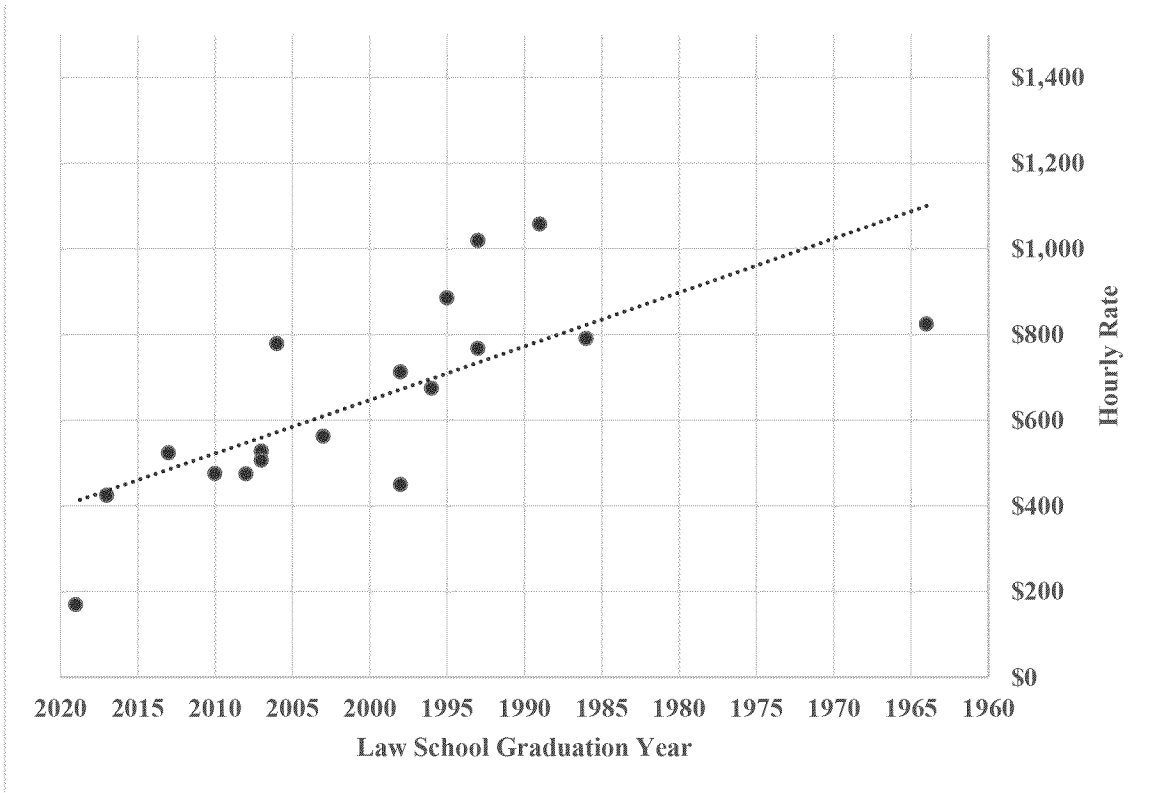
GRAPH 1
HOURLY RATES IN RECENT S.D.N.Y. SECURITIES CLASS ACTIONS



19. I next directed my research assistants to plot the rates utilized by Lead Counsel in this matter. Lead Counsel supplied us with a spreadsheet containing the names of 18 attorneys, their year of law school graduation, and their proposed blended historic hourly rates.²⁰ (A list of each attorney, the attorney's law school graduation year, and the attorney's hourly rate is appended as Exhibit D.) We plotted these rates onto the same type of x-y axis that we had employed for the comparison set. The resulting scatter plot, set forth below in Graph 2, provides a snapshot of Lead Counsel's proposed hourly rates, with the red logarithmic trend line sketching the trend of Lead Counsel's rates across experience levels.

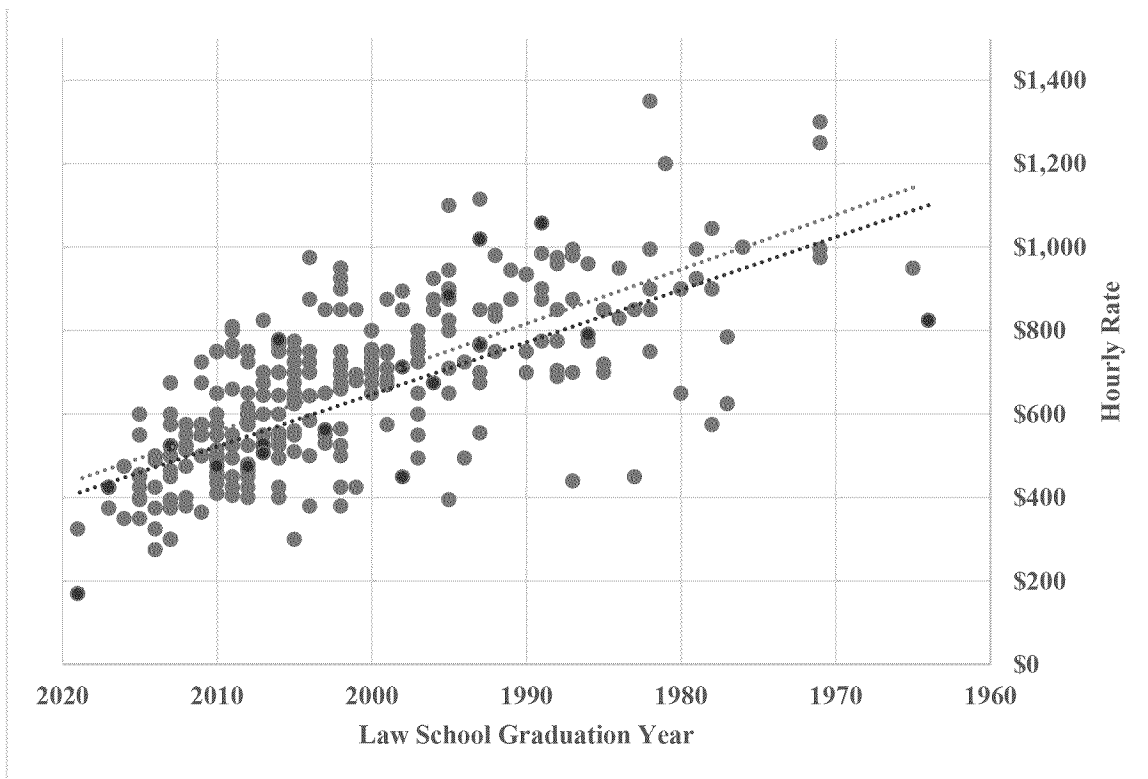
²⁰ Per this Court's direction, ECF No. 417 at 1, Lead Counsel utilize their blended historic rates, calculated based upon the hours worked and rates charged by each attorney in a given year.

**GRAPH 2
HOURLY RATES IN LEAD COUNSEL’S LODESTAR**



20. Finally, we aggregated the data from Graphs 1 and 2 onto a single scatter plot that indicates the rates in the Southern District of New York securities class actions with blue dots and a blue logarithmic line and Lead Counsel’s proposed rates with red dots and a red logarithmic line. These data appear in Graph 3, below.

GRAPH 3
LEAD COUNSEL'S HOURLY RATES COMPARED TO
HOURLY RATES IN S.D.N.Y. SECURITIES CLASS ACTIONS



21. As is visually evident in Graph 3, the logarithmic trend line for Lead Counsel's proposed rates is consistently below that for the comparison group. On average, Lead Counsel's trend line is 6.9% below the trend line for the comparison set.²¹ This finding holds true across levels of experience—at no point does the Lead Counsel's trend line exceed that for the comparison set. For lawyers who graduated law school in or after 2005, Lead Counsel's trend line is, on average, 6.4% below the trend line for the comparison set. For more senior attorneys

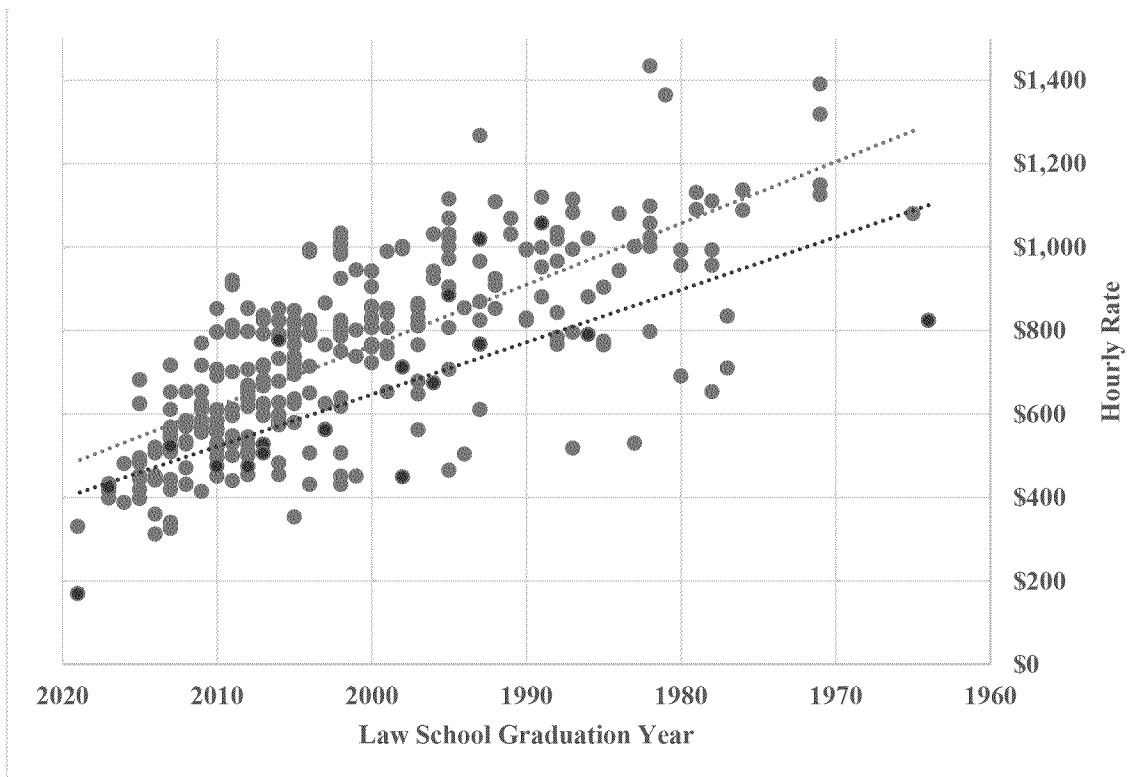
²¹ We compared the distance between the two trend lines at the 18 points for which Lead Counsel has a biller and took the average of those 18 comparisons.

who graduated prior to 2005, Lead Counsel's trend line is, on average, 7.8% below the trend line for the comparison set.

22. The gap between Lead Counsel's proposed rates and those charged in Southern District securities class actions is even more pronounced when accounting for inflation in the market for legal services. All of the rates shown in the prior graph are rates from the year of the case's settlement. But Lead Counsel will be paid in 2021 dollars. It seems not unfair, therefore, in making an apples-to-apples comparison, to adjust the rates contained in the comparison set to current dollars. We did so using the U.S. Bureau of Labor Statistics' Producer Price Index-Office of Lawyers (PPI-OL) index.²² We then mapped those adjusted rates and produced a logarithmic trend line in the same fashion as in Graph 3. The result is set forth in Graph 4, below.

²² This price database can be accessed here: <https://www.bls.gov/ppi/#data>. To specifically access the PPI-OL, first click on "One Screen" in the "Industry Data" row below "PPI Databases." Then select "541110 Offices of lawyers" as the industry and "541110541110 Offices of lawyers" as the product.

GRAPH 4
LEAD COUNSEL'S HOURLY RATES COMPARED TO INFLATION-ADJUSTED
HOURLY RATES IN S.D.N.Y. SECURITIES CLASS ACTIONS



23. As is visually evident in Graph 4, the logarithmic trend line for Lead Counsel's proposed rates is significantly below the trend line for the inflation-adjusted comparison set. On average, Lead Counsel's trend line is 18.6% below the trend line for the comparison set. To be clear about this comparison: Lead Counsel's rates are – as the Court ordered them to be – rates blended throughout the time period of the case (2012-2021). I compare them to inflation-adjusted rates *for the other firms* solely to make the point that the award Lead Counsel will receive in 2021 dollars will be based on hourly rates well below comparable hourly rates set to 2021 dollars.

24. In sum, Lead Counsel’s hourly rates are lower than hourly rates used in securities class actions in this District over the past five years and are significantly lower if the older case dollar figures are adjusted for inflation in the legal market.

Hourly Rates in Recently Approved Class Actions in Northern District of California

25. While the question before the Court concerns hourly rates in this District, I happen to have recently created a data set of 164 hourly rates charged by class action lawyers in 19 cases from the Northern District of California for a similar report I submitted in the *Facebook Biometric* case there.²³ Given the richness of this data set,²⁴ its judicial acceptance,²⁵ the

²³ Although the Court in that case did not award Class Counsel 100% of their requested fee, it nonetheless explicitly affirmed the hourly rates used in the lodestar cross-check calculation. *See In re Facebook Biometric Info. Priv. Litig.*, No. 15-CV-03747-JD, 2021 WL 757025, at *12 (N.D. Cal. Feb. 26, 2021) (“The Court finds that the hourly rates used by the three law firms for attorneys and staff were reasonable for the applicable localities and experience levels of the timekeepers.”)

²⁴ I explained to the Court in the *Facebook* case that the data set was developed as follows: using the Federal Judicial Center’s database listing all civil cases terminated in a given year, *Civil Cases Filed, Terminated, and Pending from SY 1988 to Present*, Federal Judicial Center, <https://www.fjc.gov/research/idb/civil-cases-filed-terminated-and-pending-sy-1988-present>, my research assistants identified (a) all class actions (b) terminated in the Northern District with (c) judicially approved settlements in 2019. They then reviewed the order granting approval of class counsel’s fees to see if the fees included lodestar data and, if so, to see if the judge explicitly approved the proposed hourly rates. This process yielded 19 total cases, listed in Exhibit E; no cases meeting these criteria were discarded. My team then reviewed class counsel’s lodestar submissions in each of the 19 cases and found that they encompassed a total of 166 individual hourly rates, 164 of which we employed in our analysis. (For two of the 166 total rates, we were unable to verify the attorney’s admission year and accordingly did not utilize the associated rates.) We adjusted all these rates to August 2020 dollars using the U.S. Bureau of Labor Statistics’ Producer Price Index-Office of Lawyers (PPI-OL) index. (On the price index, *see* note 22, *supra*.)

²⁵ *See* note 23, *supra*.

prevalence of class actions in that District and the District's careful fee approval rules,²⁶ coupled with the short time I have had to produce this report, I am taking the liberty of presenting this information to the Court with one critical change: I directed my research assistants to adjust all of the data in the Northern District of California study to the New York market. We did so using the federal judiciary's own differential methodology, as explained by Judge Vaughan Walker in a prior securities class action.²⁷ That methodology required us to reduce the San Francisco rates by about 5% to accord with markets rates in the New York area.²⁸ Graph 5 below shows the rates approved in those cases compared to the proposed rates in this case.²⁹

²⁶ See U.S. District Court for the Northern District of California, *Procedural Guidance for Class Actions Settlements*, available at <https://www.cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/> (last updated November 1, 2018 and December 5, 2018) (requiring submission of "detailed lodestar information" for all class action settlements, including "hourly billing rate information," and alerting counsel that they should "be prepared to submit copies of billing records themselves at the court's order").

²⁷ See *In re HPL Techs., Inc. Sec. Litig.*, 366 F. Supp. 2d 912, 921-22 (N.D. Cal. 2005).

²⁸ The federal judiciary's current geographical adjustment rates can be found at this hyperlink: <http://www.uscourts.gov/careers/compensation/judiciary-salary-plan-pay-rates>. The federal judiciary increases the base rate by 33.98% for the New York market and by 41.44% for the San Francisco market. This means that an hourly rate of, say, \$400 is adjusted to \$535.92 in New York ($\$400 \times 1.3398$) and to \$565.76 ($\$400 \times 1.4144$) in San Francisco and that the New York rates are 94.72% of the San Francisco rates ($1.3398/1.4144$). Thus, to adjust the San Francisco area rates in the *Facebook Biometric* study to the New York market, we multiplied each rate by 0.9472.

²⁹ The prior graphs used the attorney's law school graduation date as the x-axis, while this data set uses the attorney's year of admission to the bar. The Northern California data also included staff attorneys, so we included data points for Lead Counsel's two staff attorneys in this scatter plot; we otherwise break out staff attorneys for separate assessment below. See ¶¶ 31-33, *infra*.

GRAPH 5
LEAD COUNSEL'S HOURLY RATES COMPARED TO GEOGRAPHICALLY-ADJUSTED HOURLY RATES IN N.D. CAL. CLASS ACTIONS



26. As is visually evident in Graph 5, Lead Counsel’s proposed rates fall below the geographically adjusted class action rates explicitly approved by judges in the Northern District of California. On average, Lead Counsel’s trend line is 12.4% below the trend line for the comparison set. This comparison further confirms that the rates proposed by Lead Counsel are below the norm charged by counsel pursuing class action lawsuits. This is especially impressive in that the Northern California data encompassed rates from many different types of class actions, including those requiring less specific skill and expertise than securities class actions (such as routine wage and hour cases) and in which the lawyers’ hourly rates are generally lower.

Hourly Rates Charged by Private Firms in this Market

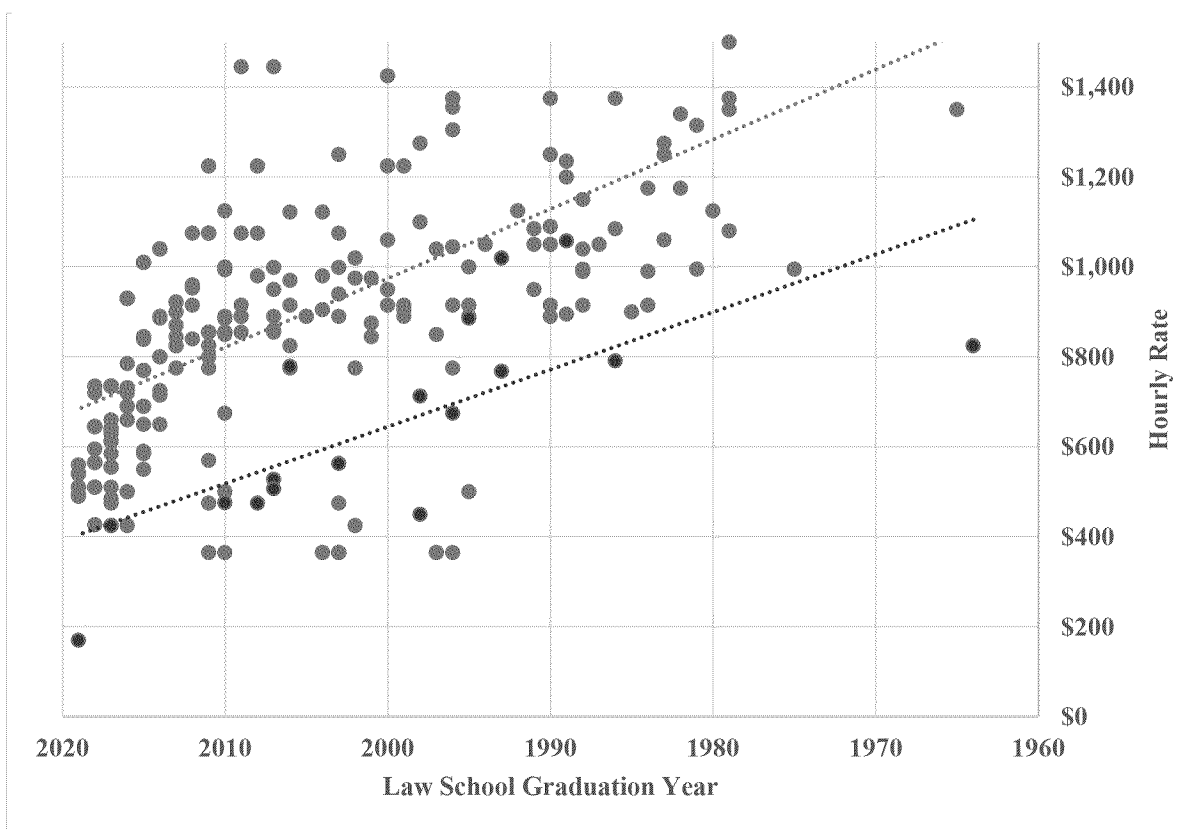
27. So far, I have compared Lead Counsel's proposed rates to those from other class action lawsuits. As the Court is aware, these plaintiff-side class action firm rates generally reflect what judges will approve, which is not exactly the same thing as what private clients might pay for such services. However, because class action firms such as Lead Counsel's generally provide contingent-fee legal services to classes, not non-contingent services to private paying clients, that remains an important and valid comparison set. This is especially true because it is exceedingly difficult to find reliable data on hourly rates for private firms and even where that data is available, those private firms are not billing clients to *bring* class action lawsuits on their behalf, so the private market data is not perfectly comparable. Nonetheless, we were able to develop a database of reliable private firm hourly rates, in this District, concerning relatively similar work. Specifically, in bankruptcy cases, as in class suits, the court must approve payments to certain lawyers and thus firms regularly submit publicly available fee petitions to the bankruptcy forum. These fee petitions include hourly rates and, better still, generally must utilize the hourly rates these lawyers normally bill paying clients.³⁰ For several years I worked as an expert for Judge Polster in the *National Prescription Opiate MDL* and hence was familiar with the fact that the leading defendant in that case – Purdue Pharma – had sought the protection of the bankruptcy court in this District in 2019.³¹ I was also aware of the fact that many leading national law firms housed in New York had made appearances for various parties in the *Purdue Pharma* bankruptcy. I accordingly directed my research assistants to

³⁰ See text accompanying notes 32-34, *infra*.

³¹ See *In re: Purdue Pharma L.P.*, No. 7:19-bk-23649 (Bankr. S.D.N.Y. Sept. 15, 2019).

collect rate information from the fee statements in that matter. They gathered the rates listed in the first monthly fee statement submitted by each law firm working in that action; we used the initial fee filings as these were the oldest statements, likely had the lowest hourly rates, and therefore provided the most conservative comparison set. The students found rates for 12 firms, listed in Exhibit F, that encompassed a total of 257 attorneys. We plotted those rates on a scatter plot presented in Graph 6 below.

**GRAPH 6
LEAD COUNSEL'S HOURLY RATES COMPARED TO
HOURLY RATES IN PURDUE PHARMA BANKRUPTCY**



28. As is visually evident in Graph 6, Lead Counsel's proposed rates are far below those charged by large private firms in this District. On average, Lead Counsel's trend line is 52.2% below the trend line for the firms in the *Purdue Pharma* bankruptcy. While it is possible

that these private firms upcharge the bankruptcy court from what they charge their own paying clients, they should not do so: both federal law³² and the local rules ask counsel to indicate whether their rates comport with regularly-charged rates³³ and most firms affirm that their bankruptcy rates accord with their standard hourly rates.³⁴ It is also possible that the work these firms undertake in the bankruptcy is so different, complex, or specialized, that higher rates are warranted. I personally doubt that this is the case as much of the work in bankruptcies is similar across cases and familiar to the practitioners in that line, significant billable time is attributable to paralegals, and much other time is attributable to meetings, travel, etc. Even if the bankruptcy rates are not perfectly on point, at 52.2% higher than Lead Counsel's proposal – and with the attestations that these are normal rates for these firms – they provide very strong support for the

³² 11 U.S.C. § 330(a)(3)(F) (“In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including— (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.”).

³³ See Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York, General Order M-447, Bankruptcy Cases, available at <http://www.nysb.uscourts.gov/sites/default/files/m447.pdf> (noting that “[a]pplications for compensation and reimbursement of expenses filed in the Bankruptcy Court for the Southern District of New York shall conform substantially to the following” and that the “following [information] will facilitate review of the application . . . (iii) Names and hourly rates of all applicant's professionals and paraprofessionals who billed time, explanation of any changes in hourly rates from those previously charged, and statement of whether the compensation is based on the customary compensation charged by comparably skilled practitioners in cases other than cases under title 11”).

³⁴ See, e.g., First Monthly Fee Statement of Akin Gump Strauss Hauer & Feld LLP For Professional Services Rendered and Disbursements Incurred as Counsel to the Official Committee of Unsecured Creditors for the Period of September 26, 2019 Through October 31, 2019, *In re: Purdue Pharma L.P.*, No. 7:19-bk-23649, ECF 736 at 3 (Bankr. S.D.N.Y. January 10, 2020) (“The rates charged by Akin Gump for services tendered to the Committee are the same rates that Akin Gump charges generally for professional services rendered to its non-bankruptcy clients.”).

conclusion that the rates Lead Counsel proposes are likely well below the rates that private lawyers engaged in complex litigation charge paying clients in this District.

Hourly Rates Charged by MetLife’s Primary Counsel in Bankruptcy Cases

29. Lead Counsel’s proposed rates are similarly below those charged by Debevoise & Plimpton LLP, the primary defense firm in this matter. I directed my research assistants to find bankruptcy cases in recent years in which Debevoise had submitted publicly available hourly rates. They found three such cases, with rates Debevoise charged in bankruptcies in 2013,³⁵ 2015,³⁶ and 2016.³⁷ These statements – from bankruptcies pending in New York, Delaware, and Texas – contained rates and the year of bar admission for 179 attorneys, 133 of whom were based in Debevoise’s New York office. Although this data is subject to the same caveats outlined in ¶ 28, *supra*, Debevoise’s fee statements reflecting these rates avow, “Debevoise’s hourly rates for bankruptcy services are comparable to the rates charged by the Firm, and by comparably skilled practitioners in other firms, for complex corporate and litigation matters.”³⁸

³⁵ *AMR Corporation, et al.*, Docket No. 1:11-bk-15463 (Bankr. S.D.N.Y. Nov 29, 2011), ECF 11690.

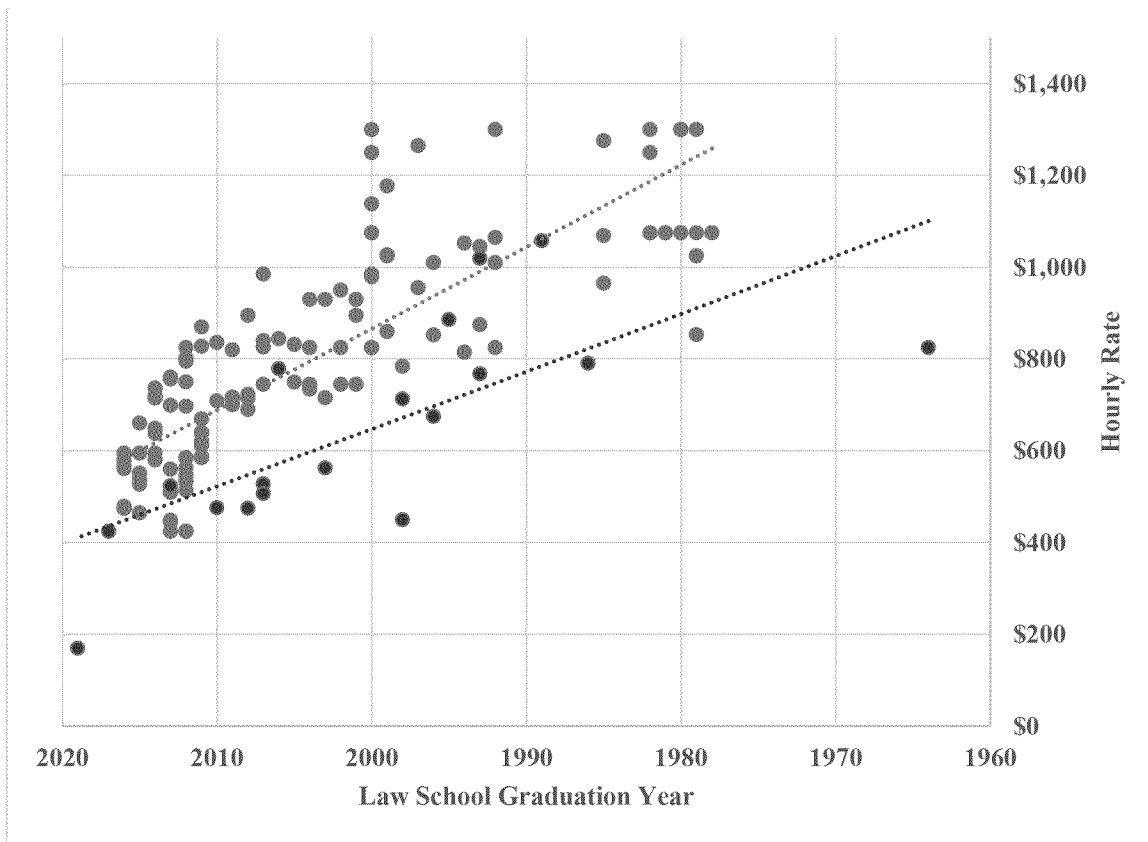
³⁶ *In re: Boomerang Tube, LLC*, No. 15-11246 (Bank. D. Del. June 9, 2015), ECF 930.

³⁷ *CHC Group Ltd. and CHC Helicopters (Barbados) SRL*, Docket No. 3:16-bk-31854 (Bankr. N.D. Tex. May 05, 2016), ECF 1965.

³⁸ *In re: Boomerang Tube, LLC*, ECF 930-2 at 2. *See also CHC Group Ltd. and CHC Helicopters (Barbados) SRL*, ECF 1961 at ¶ 12 (“Debevoise’s fees are reasonable based on the customary compensation charged by comparably skilled practitioners in comparable non-bankruptcy cases in a competitive national legal market.”); *AMR Corporation, et al.*, ECF 11690 at ¶ 41 (“Such fees are reasonable based on the customary compensation charged by comparably skilled practitioners in comparable non-bankruptcy cases in a competitive national legal market.”).

We plotted the data for the Debevoise lawyers based in New York on a scatter plot presented in Graph 7, below.

**GRAPH 7
LEAD COUNSEL'S HOURLY RATES COMPARED TO
DEBEVOISE & PLIMPTON NEW YORK LAWYER RATES IN BANKRUPTCY CASES**



30. As is visually evident in Graph 7, Lead Counsel’s proposed rates are well below those charged by Debevoise in bankruptcy cases during the years this case was pending. On average, Lead Counsel’s trend line is 34% below the trend line for the New York based Debevoise & Plimpton attorneys in our data set. These rates show not only that Lead Counsel’s proposed rates are reasonable in comparison to what private lawyers charge in complex litigation—they show that Lead Counsel provided the class with services at rates significantly

below the rates represented as those “charged by the Firm” representing the lead defendant in this action.

Staff Attorneys Rates

31. Separate from the above analyses, we compared Lead Counsel’s proposed rates for staff attorneys to those charged by other firms.³⁹ Firms all have specific nomenclature for various types of attorneys, but based on my experience, the term “staff attorney” generally applies to lawyers (a) on the firm’s salary payroll (b) typically paid full benefits like any other salaried lawyer and (c) typically [pre-Covid] housed at the firm (with the firm therefore having overhead expenses). What distinguishes them from associates is that staff attorneys generally are not on a partnership track. At the same time, staff attorneys are *not* “contract attorneys,” a type of attorney often hired through intermediaries and paid only an hourly wage without benefits or office overhead.⁴⁰ Most courts have accordingly accepted the fact that staff attorney time is

³⁹ We analyze Lead Counsel’s “staff attorneys,” but not “project attorneys,” solely because the former term is more widely used across firms; that fact made it feasible for my team to conduct cross-case comparisons in the short time frame we were given for this project.

⁴⁰ See, e.g., *In re Citigroup Inc. Bond Litig.*, 988 F. Supp. 2d 371, 377 (S.D.N.Y. 2013) (“Unlike contract attorneys . . . [staff attorneys] are full-time employees of the law firm, work onsite, and are provided benefits and ongoing legal education.”) (citation omitted).

In one case, Judge Pauley expressed concern that attorneys hired to staff discovery were “contract attorneys in all but name.” *Pennsylvania Pub. Sch. Employees’ Ret. Sys. v. Bank of Am. Corp.*, 318 F.R.D. 19, 27 (S.D.N.Y. 2016). We verified that this is not the case with respect to Lead Counsel’s two Staff Attorneys: a LinkedIn profile for one shows that she worked at the firm for more than eight years, while Lead Counsel inform me that the other has been with the firm since 2008.

properly included in the lodestar calculation,⁴¹ notwithstanding the larger debate about including “contract attorney” time in that calculation.⁴²

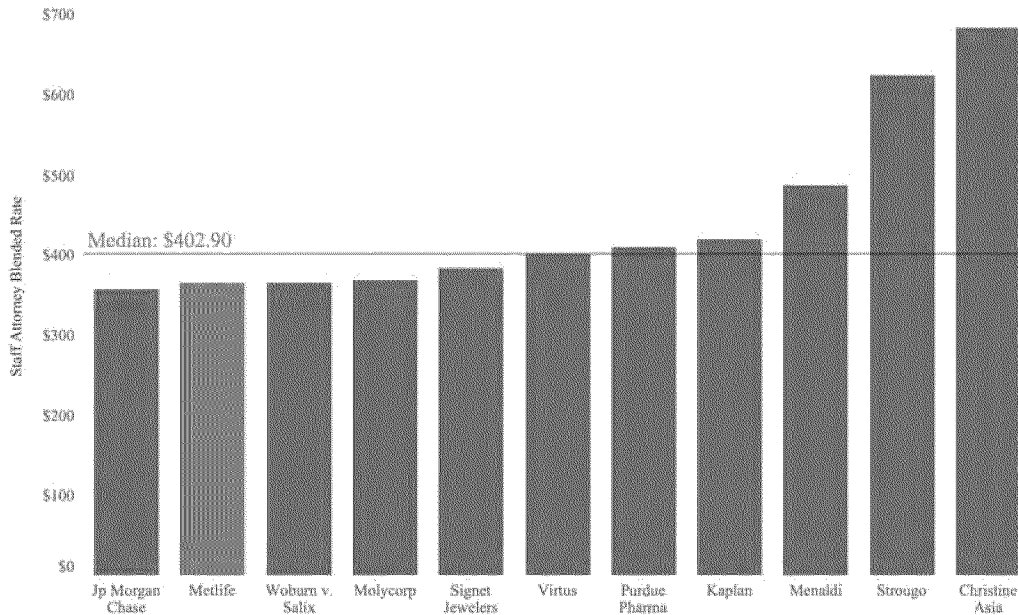
32. As staff attorneys are properly included in the lodestar and operate as attorneys, we would have included their rates in the scatter plots set forth above. However, those scatter plots graph rates as a function of experience. Unfortunately, for some data in our comparison groups, we were unable to find the bar admission or law school graduation date of each staff attorney. Accordingly, we have pulled out the staff attorneys to consider the reasonableness of their rates separately. We do so on a case-by-case basis. If – as is typical – a case had more than one staff attorney in the lodestar submission, we generated an average (or blended) hourly rate for the staff attorneys for that case by dividing the total lodestar attributable to all the staff attorneys in the case by the total hours worked by all the staff attorneys. We had data on staff attorney rates in nine of the securities class actions in this District⁴³ and from the *Purdue Pharma* case. The blended hourly rates for staff attorneys in the ten comparison cases ranged from a low of \$357/hour to a high of \$684/hour, with a median rate of \$402.90. This is reflected in Graph 8, below, with the hourly rate in this case (\$365) highlighted in red.

⁴¹ *Id.*; see also, e.g., *Arkansas Tchr. Ret. Sys. v. State St. Bank & Tr. Co.*, No. CV 11-10230-MLW, 2020 WL 949885, at *49 (D. Mass. Feb. 27, 2020) (accepting Special Master recommendation that staff attorneys are properly included in the class action lodestar). Similarly, while acknowledging concerns about staff attorneys, this Court accepted their inclusion in counsel’s lodestar in its decision *In re Weatherford Int’l Sec. Litig.*, No. 11 CIV. 1646 LAK, 2015 WL 127847 (S.D.N.Y. Jan. 5, 2015).

⁴² On the larger debate – which the Court need not entertain here – see William B. Rubenstein, *Newberg on Class Actions* § 15:41.

⁴³ We did not have the time to go back and include the staff attorney data from Northern California cases in this analysis, but I have no reason to believe it would have changed the general conclusions if we had.

GRAPH 8
LEAD COUNSEL'S STAFF ATTORNEY RATE COMPARED TO
STAFF ATTORNEY RATES IN SOUTHERN DISTRICT SECURITIES CLASS
ACTIONS AND PURDUE PHARMA BANKRUPTCY

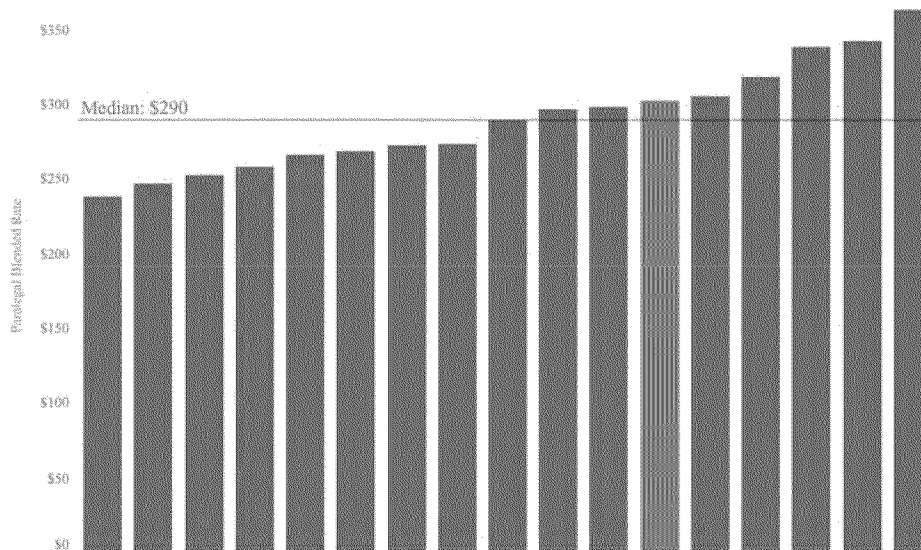


33. As is visually evident in Graph 8, the staff attorney rates proposed by Lead Counsel fall below the norm for the other Southern District securities class actions and for the *Purdue Pharma* bankruptcy. Lead Counsel’s blended rate for staff attorneys (\$365) falls 9.4% below the median blended rate of the comparison group (\$402.90), is lower than the blended rates in 9 of the 10 comparison cases, and is 17.6% below the mean (\$443) of the comparison group rates.

Paralegal Rates

34. My research assistants also collected information on the rates charged for paralegal work in the Southern District securities class actions and *Purdue Pharma* databases.⁴⁴ As with staff attorneys, most cases employed more than one paralegal, often at different pay rates (typically based on experience). We therefore again used the same method as we had for staff attorneys – taking all of the paralegal lodestar and dividing by all of the paralegal hours – to generate a blended rate for paralegal work in each case. The blended hourly rates for paralegals in the comparison cases ranged from a low of \$238/hour to a high of \$364/hour, with a median rate of \$290. This is reflected in Graph 9, below, with the hourly rates in this case (\$302) highlighted in red.

**GRAPH 9
LEAD COUNSEL'S PARALEGAL RATE COMPARED TO
PARALEGAL RATES IN SOUTHERN DISTRICT SECURITIES CLASS ACTIONS**

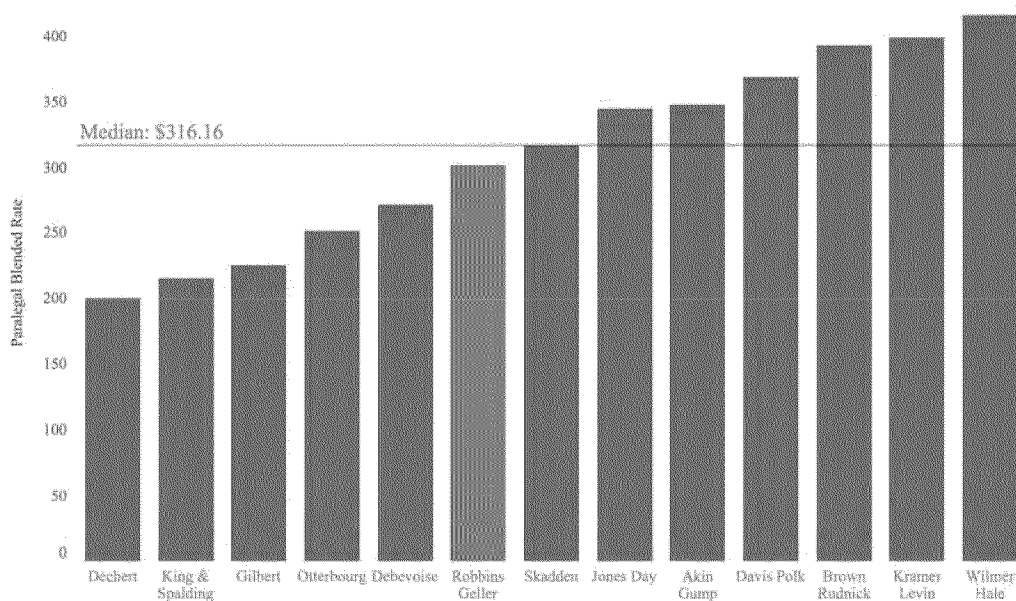


⁴⁴ *Rudman v. CHC Grp. Ltd.*, No. 15-CV-3773 (LAK), 2018 WL 3594828, at *5 (S.D.N.Y. July 24, 2018) (Kaplan, J.) (“[I]t is well known that paralegals, at least in this market, customarily are billed by law firms for their time at hourly rates.”).

35. As is visually evident in Graph 9, Lead Counsel’s proposed rates for paralegal work fall above the median case but not at the highest end. Lead Counsel’s blended paralegal rate (\$302) exceeds the median blended rate (\$290) – which is also the mean rate – by 4.1%.

36. While Lead Counsel’s proposed paralegal rates are entirely normal, it is worth noting that they also fall below the paralegal rates of the firms in the *Purdue Pharma* bankruptcy which, again, are represented by those firms to the bankruptcy court to be paralegal rates paid by paying clients in this District. The blended hourly rates for paralegals in the *Purdue Pharma* bankruptcy ranged from a low of \$200/hour to a high of \$416/hour, with a median rate of \$330.50. For simplicity’s sake, we also included a bar in this graph representing the blended paralegal rate that Debevoise charged (\$271.44) in the three bankruptcies (2013, 2016, 2017) noted above. These data points are reflected in Graph 10, below, with the blended paralegal rate in this case (\$302) highlighted in red.

**GRAPH 10
LEAD COUNSEL'S PARALEGAL RATE COMPARED TO
PARALEGAL RATES IN BANKRUPTCY FILINGS**



37. As is visually evident in Graph 10, Lead Counsel's proposed rates for paralegal work fall below the median case, with Lead Counsel's blended paralegal rate (\$302) falling 4.5% below the median (\$316.16) among the other firms and 3.05% below the mean (\$311.50).

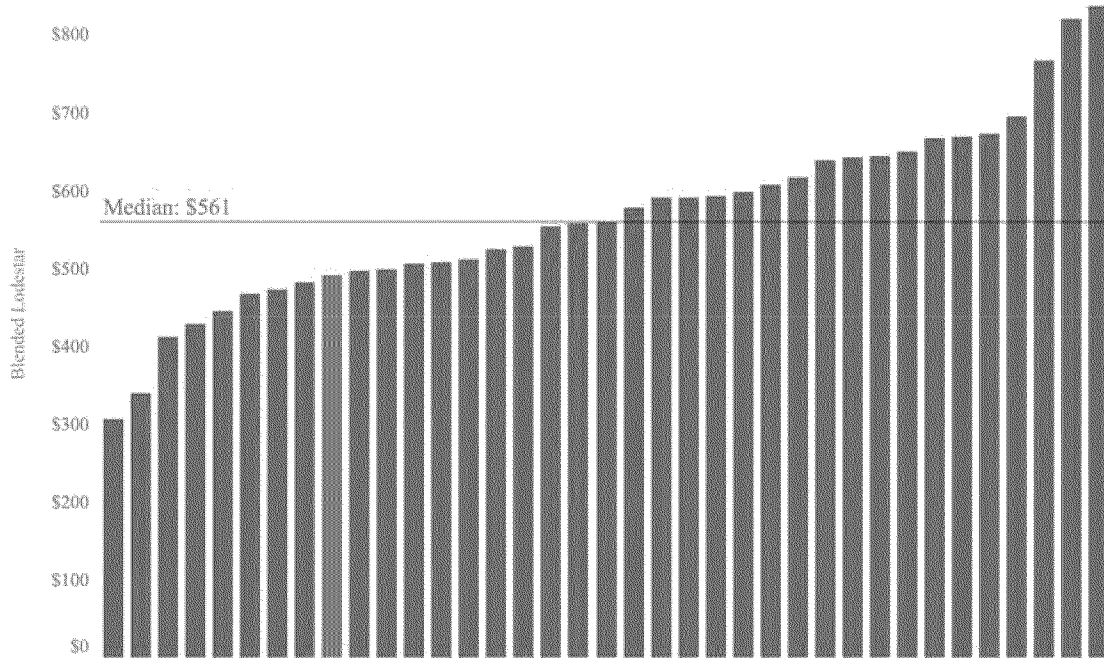
Total Blended Hourly Rates

38. Finally, in addition to assessing hourly rates for individual lawyers, we also reviewed Lead Counsel's blended lodestar for the entire case. The blended lodestar is calculated by taking the total lodestar and dividing it by the total number of hours worked by all of the timekeepers (partners, associates, staff attorneys, paralegals, etc.) in the case. The resulting number provides the cost of an average hour expended on the case. We reviewed the blended lodestar in this matter by comparing it to the blended lodestars of the 20 securities class action settlements in this District⁴⁵ and of the 19 class action approvals in the Northern District of California.⁴⁶ The blended lodestar rates in the comparison cases ranged from a low of \$308/hour to a high of \$838/hour, with a median rate of \$561. This is reflected in Graph 11, below, with the blended lodestar in this case (\$492) highlighted in red.

⁴⁵ In one case in our data set, this Court found class counsel's "hourly rates reasonable in all the circumstances," *id.* at *7, but nevertheless reduced the total lodestar by excluding the time of some professionals and reducing the hours for certain categories of work. We here use the revised blended lodestar calculated by this Court for that case. *Id.* at *12.

⁴⁶ The blended hourly lodestars for the Northern District of California rates were adjusted for inflation and geography in the same manner described in ¶ 26, *supra*.

GRAPH 11
LEADCOUNSEL’S BLENDED LODESTAR COMPARED TO BLENDED
LODESTARS IN SOUTHERN DISTRICT SECURITIES CLASS ACTIONS
AND NORTHERN DISTRICT OF CALIFORNIA CLASS ACTIONS



39. As is visually evident in Graph 11, the blended rate in this case is on the lower end of the graph. At \$492, Lead Counsel’s rate is 12.3% below the median rate (\$561) and 13.22% below the mean (\$567). This finding reflects not only the reasonableness of Lead Counsel’s proposed rates, but also that higher paid lawyers delegated work appropriately to lower paid attorneys and professionals.

* * *

40. I have stated the following conclusions:

- **The hourly rates Lead Counsel assigns to lawyers are fully consistent** with (1) the rates used by firms in approved securities class action fee petitions in this District; (2) the rates used by firms in approved class action fee petitions in the Northern District of California; (3) the rates charged by large private firms in this District; and (4) the rates utilized by defense counsel in this case, in their bankruptcy fee petitions.
- **The hourly rates Lead Counsel assigns to staff attorney are likewise consistent with the rates** used in other securities class action fee petitions in this District and in the Purdue bankruptcy case pending here.
- **The hourly rates Lead Counsel assigns to paralegals are consistent with the rates** used in other securities class action fee petitions in this District and below the rates used by defense firms – including the lead defense firm here – in bankruptcy cases.
- **Lead Counsel’s total blended hourly rate for the full case is well below the median for securities class actions in this District and for all class actions in the Northern District of California, adjusted to New York rates.**

In sum, empirical evidence provides strong and consistent support for the conclusion that Lead Counsel’s proposed hourly rates are consistent with rates customarily used by attorneys with similar levels of experience in comparable complex litigation setting in this District and are, accordingly, reasonable.



William B. Rubenstein

April 8, 2021

EXHIBIT 4



4 of 5 DOCUMENTS

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THE NATIONAL LAW JOURNAL

The National Law Journal

January 5, 2015 Monday

SECTION: NLJ'S BILLING SURVEY; Pg. 7 Vol. 37 No. 19

LENGTH: 540 words

HEADLINE: Billing Rates at the Nation's Priciest Law Firms;
 Here are the 50 firms that charged the highest average hourly rates for partners.

BODY:

Here are the 50 firms that charged the highest average hourly rates for partners.

Billing Rates at the Nation's Priciest Law Firms

RA NK	FIRM NAME	LARGE ST U.S. OFFICE	NUM- BER OF ATTOR- NEYS	PART- NER HOURLY RATES	ASSO- CIATE HOURLY RATES	LO W	AVER- AGE	HIGH	LO W
1	Debevoise & Plimpton	New York	595	\$1,055	\$1,075	\$95 5	\$490	\$760	\$12 0
2	Paul, Weiss, Rifkind, Wharton & Garrison	New York	854	\$1,040	\$1,120	\$76 0	\$678	\$735	\$59 5

Billing Rates at the Nation's Priciest Law Firms; Here are the 50 firms that charged the highest average hourly rates for partners. The National Law Journal January 5, 2015 Monday

3	Skadden, Arps, Slate, Meagher & Flom	New York	1,664	\$1,035	\$1,150	\$845	\$620	\$845	\$340
4	Fried, Frank, Harris, Shriver & Jacobson	New York	450	\$1,000	\$1,100	\$930	\$595	\$760	\$375
5	Latham & Watkins	New York	2,060	\$990	\$1,110	\$895	\$605	\$725	\$465
6	Gibson, Dunn & Crutcher	New York	1,154	\$980	\$1,800	\$765	\$590	\$930	\$175
7	Davis Polk & Wardwell	New York	810	\$975	\$985	\$850	\$615	\$975	\$130
8	Stroock & Stroock & Lavan	New York	285	\$960	\$1,125	\$675	\$549	\$840	\$350
9	Willkie, Farr & Gallagher	New York	526	\$950	\$1,050	\$790	\$580	\$790	\$350
10	Weil, Gotshal & Manges	New York	1,157	\$930	\$1,075	\$625	\$600	\$790	\$300
11	Cadwalader, Wickersham & Taft	New York	437	\$930	\$1,050	\$800	\$605	\$750	\$395
12	Kramer Levin Naftalis & Frankel	New York	313	\$921	\$1,100	\$745	\$675	\$815	\$515
13	Quinn Emanuel Urquhart & Sullivan	New York	673	\$915	\$1,075	\$810	\$410	\$675	\$320
14	Wilmer Cutler Pickering Hale and Dorr	Washington	988	\$905	\$1,250	\$735	\$290	\$695	\$75
15	Dechert	New York	845	\$900	\$1,095	\$670	\$530	\$735	\$395
16	Andrews Kurth	Houston	337	\$890	\$1,090	\$745	\$670	\$1,090	\$265
17	Hughes Hubbard & Reed	New York	351	\$890	\$995	\$725	\$555	\$675	\$365
18	Irell & Manella	Los Angeles	166	\$890	\$975	\$800	\$535	\$750	\$395
19	Proskauer Rose	New York	712	\$880	\$950	\$725	\$465	\$675	\$295
20	White & Case	New York	1,895	\$875	\$1,050	\$700	\$525	\$1,050	\$220
21	Morrison & Foerster	San Francisco	1,020	\$865	\$1,195	\$595	\$525	\$725	\$230
22	Pillsbury Winthrop Shaw Pittman	Washington	591	\$865	\$1,070	\$615	\$520	\$860	\$375
23	Kaye Scholer	New York	392	\$860	\$1,250	\$725	\$597	\$795	\$370

Billing Rates at the Nation's Priciest Law Firms; Here are the 50 firms that charged the highest average hourly rates for partners. The National Law Journal January 5, 2015 Monday

24	Brown Rudnick	Boston	187	\$856	\$1,045	\$65 0	n/a	n/a	n/a
25	Orrick Herrington & Sutcliffe	New York	954	\$845	\$1,095	\$71 5	\$560	\$375	\$71 0
26	Kasowitz, Benson, Torres & Friedman	New York	372	\$835	\$1,195	\$60 0	\$340	\$625	\$20 0
27	Hogan Lovells	Washington	2,313	\$835	\$1,000	\$70 5	n/a	n/a	n/a
28	Kirkland & Ellis	Chicago	1,554	\$825	\$995	\$59 0	\$540	\$715	\$23 5
29	Cooley	Palo Alto	673	\$820	\$990	\$66 0	\$515	\$640	\$33 5
30	Arnold & Porter	Washington	720	\$815	\$950	\$67 0	\$500	\$610	\$34 5
31	Paul Hastings	New York	889	\$815	\$900	\$75 0	\$540	\$755	\$33 5
32	Winston & Strawn	Chicago	822	\$800	\$995	\$65 0	\$520	\$590	\$42 5
33	Curtis, Mallet-Prevost, Colt & Mosle	New York	323	\$800	\$860	\$73 0	\$480	\$785	\$34 5
34	Bingham McCutchen	Boston	795	\$795	\$1,080	\$22 0	\$450	\$605	\$18 5
35	Akin Gump Strauss Hauer & Feld	Washington	809	\$785	\$1,220	\$61 5	\$525	\$660	\$36 5
36	Covington & Burling	Washington	760	\$780	\$890	\$60 5	\$415	\$565	\$32 0
37	King & Spalding	Atlanta	874	\$775	\$995	\$54 5	\$460	\$735	\$12 5
38	Norton Rose Fulbright	New York	3,537	\$775	\$900	\$52 5	\$400	\$515	\$30 0
39	DLA Piper	New York	3,962	\$765	\$1,025	\$45 0	\$510	\$750	\$25 0
40	Lowenstein Sandler	Rose-land, N.J.	261	\$765	\$990	\$60 0	\$450	\$650	\$30 0
41	Greenberg Traurig	New York	1,690	\$763	\$955	\$53 5	\$470	\$570	\$32 5
42	Bracewell & Giuliani	Houston	441	\$760	\$1,125	\$57 5	\$440	\$700	\$27 5
43	Baker & McKenzie	Chicago	4,087	\$755	\$1,130	\$26 0	\$395	\$925	\$10 0
44	Dickstein Shapiro	Washington	254	\$750	\$1,250	\$59 0	\$475	\$585	\$31 0

Billing Rates at the Nation's Priciest Law Firms; Here are the 50 firms that charged the highest average hourly rates for partners. The National Law Journal January 5, 2015 Monday

46	Jones Day	New York	2,464	\$745	\$975	\$445	\$435	\$775	\$205
45	Jenner & Block	Chicago	434	\$745	\$925	\$565	\$465	\$550	\$380
47	Manatt, Phelps & Phillips	Los Angeles	329	\$740	\$795	\$640	n/a	n/a	n/a
48	Reed Smith	Pittsburgh	1,555	\$737	\$890	\$605	\$420	\$530	\$295
49	Seward & Kissel	New York	143	\$735	\$850	\$625	\$400	\$600	\$290
50	O'Melveny & Myers	Los Angeles	721	\$715	\$950	\$615	n/a	n/a	n/a

LOAD-DATE: January 5, 2015

EXHIBIT C

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
BUSINESS COURT**

LESLIE J. MURPHY and VINCENT J.
MARTIN, III, Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

SAMUEL M. INMAN, III, JOHN F. SMITH,
BERNARD M. GOLDSMITH, WILLIAM O.
GRABE, LAWRENCE DAVID HANSEN,
ANDREAS MAI, JONATHAN YARON, and
ENRICO DIGIROLAMO,

Defendants.

Case No: 2017-159571-CB
Hon. Victoria A. Valentine

Business Court Case

**AFFIDAVIT OF SARA K. MACWILLIAMS IN SUPPORT OF PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF SETTLEMENT AND AWARD OF
ATTORNEYS' FEES AND EXPENSES**

Sara K. Williams, duly sworn, deposes and states as follows:

1. I make this Affidavit on my own information and belief, am competent to testify to the matters herein, and will testify to the same if called to do so.

2. I am a member of the Bar of the State of Michigan, and a Partner of the law firm Doerr MacWilliams Howard PLLC ("DMH," f/k/a MacWilliams Law PC). Along with Monteverde & Associates PC ("Monteverde"), I am Counsel for Plaintiffs Leslie J. Murphy ("Murphy") and Vincent J. Martin III ("Martin") (collectively, "Plaintiffs") and the Settlement Class¹ in the above-captioned action ("Action").

¹ All capitalized terms not defined herein have the same meanings as set forth in the Stipulation and Agreement of Compromise, Settlement, and Release, dated June 25, 2024 ("Stipulation"), and/or Plaintiffs' Motion for Preliminary Approval of Settlement.

3. I submit this affidavit in support of Plaintiffs' Motion for Final Approval of Settlement and Award of Attorneys' Fees, and Expenses.

4. My customary hourly rate is \$475 an hour, though I sometimes charge more or less depending on the matter.

5. When this matter started, I was the sole attorney at my then-law firm, which has now merged into DMH.

6. This case was pursued on a pure contingency with significant investment required for all attorneys involved, which for local counsel I personally funded through the advancement of my, Paige Serra, and Laura Alexandre's services and the advancement of costs.

7. Although we have several associates and paralegals who routinely assist with drafting and filing, due to the high complexity and high stakes of this matter, I personally did most of the work, including filing, to ensure accuracy.

8. To date, my firm has accrued 476.6 attorney hours representing a total lodestar of \$215,647.50 from June 30, 2017, through September 2024 (DMH Task Report is attached hereto as **Exhibit 1**). The chart below summarizes my firm's work performed in connection with prosecution of the Action:

PROFESSIONAL	HOURS	RATE	LODESTAR
Sara K. MacWilliams (Partner)	440.10	\$475	\$209,047.50
Paige Serra (Associate)	7.5	\$300	\$2,250.00
Laura Alexandre	29	\$150	\$4,350.00
TOTAL	476.60		\$215,647.50

9. A detailed task report depicting the hours worked is attached as **Exhibit 1**.

10. As reflected in **Exhibit 1**, this lodestar was calculated based on my firm's hourly billing rates that are prevalent in complex litigation and was prepared from regularly kept and

maintained contemporaneous time records. The time reflected was reasonably and necessarily expended.

11. The hourly rates for Plaintiffs' Counsel are the usual and customary hourly billing rates for our services, though upon investigation and belief our rates would raise by at least \$100/hour per timekeeper if DMH merged into a larger law firm with higher overhead and thus may be low for the services performed.

12. My firm seeks reimbursement of \$3,202.00 in litigation expenses incurred in connection with the Action, a summary of which is provided below:

CATEGORY	AMOUNT
Court Filing Fees	\$2,703.82
Process Server and Courier Fees	\$498.18
TOTAL	\$3,202.00

13. The expenses summarized above are supported by the books and records of my firm, which are prepared from expense vouchers, check records, or other documents, and represent an accurate record of the expenses incurred in connection with this Action.

14. The time entries were kept in the regular course of business in my firm billing account with backup records.

Timekeeper Data

15. The professionals who worked on this matter have the following backgrounds and credentials.

16. As stated, I was the primary timekeeper. I have 20 years of experience in complex litigation including many trials, and I have tried complex cases throughout Michigan state and federal courts and in six other states.

17. I am a graduate of the University of Michigan Law School, which I put myself through after graduating *summa cum laude* from Kalamazoo College.

18. I am a first-generation attorney and have owned my own firm, or been a partner in my own firm, since 2017.

19. During my career I have won numerous awards, including being named a top “Women in the Law,” featured regularly as a Top 100 and Top 50 Women SuperLawyer, and a DBusiness Top Attorney for business litigation.

20. I am a regular contributor to the Institute of Continuing Legal Education (ICLE).

21. I also am regularly asked to contribute, both as a writer and speaker, to legal seminars for attorneys and businesspeople.

22. My verdicts and settlements are regularly featured in Michigan Lawyers Weekly.

23. In addition to my legal work, I am a proud mother of five which increases my passion for the justice system.

24. I personally supervise the other timekeepers, Laura Alexandre and Paige Serra, and can verify that the time entries submitted for them are accurate.

Paige Serra

25. Paige Serra is an associate with DMH who has worked with me since she was in law school. When we formed DMH, she became an associate of the firm.

26. Ms. Serra is a graduate of Detroit Mercy Law School, which she graduated *cum laude* in 2020. She was admitted to the State Bar of Michigan the same year.

27. She has an undergraduate degree in Sports Management from Syracuse University.

28. In addition to research and writing, Ms. Serra's litigation experience has included second chairing two evidentiary hearings, one jury trial, one arbitration, and handling many motion hearings with supervision from myself and the other DMH partners.

29. In addition to her trial work, Ms. Serra has had her writing published in the Michigan Bar Journal.

30. Ms. Serra was named a Rising Star by SuperLawyers in 2024.

31. The standard rate for Ms. Serra is \$300 an hour, which is sometimes higher or lower depending on the complexity of the matter.

Laura Alexandre

32. Laura Alexandre is the DMH officer manager and my primary assistant. She joined the firm in 2017.

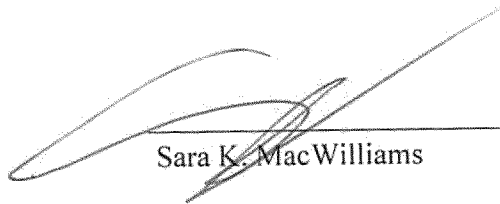
33. Typically Ms. Alexandre supervises all scheduling and handles judge's copies, binders for arguments and other paralegal needs.

34. A graduate of Michigan State University, Ms. Alexandre has business experience, especially with running non-profit organizations, she has taken business law courses through her position at DMH, and she is generally involved in all matters on an as-needed basis.

35. The customary hourly rate charged for Ms. Alexandre's services is \$150/hour.

I declare under the penalties of perjury that this Affidavit has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Executed on September 18, 2024



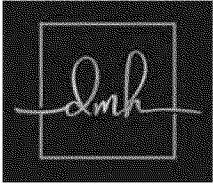
Sara K. MacWilliams

Subscribed and Sworn Before:

Laura Marie Alexandre
Notary Public, State of Michigan, County of Oakland
My commission expires on 2/9/2025
Today's Date: 9/18/24
Acting in the County of Oakland

Laura Marie Alexandre
Notary Public - State of Michigan
County of Oakland
My Commission Expires 2/9/2025
Acting in the County of Oakland

Exhibit 1
Task Report



DMH Law 838 West Long Lake Road, Suite
211 Bloomfield Hills, MI 48034 US
+12484321586
sara@dmhlawyers.com

Legal Invoice

BILL TO

Murphy v Inman, Case No. 2017-159571-CB

LEGAL INVOICE

858

DATE	ACTIVITY	QTY	RATE	AMOUNT
06/24/2017	Legal Services Review, redline to draft, corr. re same; research re issues.	3.60	475.00	1,710.00
06/24/2017	Legal Services Corr. re and filing unopposed motion for extension of pages and reply addendum; review of order re same; filing proofs of service for brief.	2.90	475.00	1,377.50
06/25/2017	Legal Services Further corr. re complaint, next steps, attention to matter.	3.70	475.00	1,757.50
06/28/2017	Legal Services Corr. re pending items.	0.50	475.00	237.50
06/30/2017	Legal Services Final review of complaint, filing, calls, corr. re same; preparation of summons for filing.	1.50	475.00	712.50
07/03/2017	Legal Services Corr. re filing status, docket, pending items, coordinating required filing.	1.80	0.00	0.00
07/07/2017	Legal Services Coordinating service, call, corr. re same.	1.60	475.00	760.00
07/08/2017	Legal Services Assembly of judge's copy (LA)	2.40	150.00	360.00
07/08/2017	Legal Services Filing, preparation of summones, corr. re matter.	1.40	475.00	665.00
07/09/2017	Legal Services Corr. re pending items.	0.40	475.00	190.00
07/12/2017	Legal Services Review and revision of first document request; corr. re same; preparation of cover letters.	2.50	475.00	1,187.50
07/12/2017	Legal Costs Postage	1	1.82	1.82
07/16/2017	Legal Services	0.80	475.00	380.00

DATE	ACTIVITY	QTY	RATE	AMOUNT
07/18/2017	Review of order granting reply brief pages, corr. re same. Legal Services	2.20	475.00	1,045.00
07/19/2017	Preparation of summones, proof of service; corr. re same. Legal Services	0.90	475.00	427.50
08/01/2017	Corr. re pending items, arguments. Legal Costs	1	561.95	561.95
08/15/2017	Filing, copy and courier costs. Legal Services	3.30	475.00	1,567.50
08/16/2017	Corr. re pro hac, preparation of declaration, preparation of sample declarations and to do list for finalizing, preparation and filing of motion. Legal Services	0.60	475.00	285.00
08/23/2017	Corr. re pending items. Legal Services	1.40	475.00	665.00
08/24/2017	Preparation of motion for pro hac, corr. re and filing same. Legal Services	0.60	475.00	285.00
08/29/2017	Corr., call re pending items. Legal Services	2.60	475.00	1,235.00
09/04/2017	Review and revision to complaint; various corr. re same. Legal Services	0.80	475.00	380.00
09/05/2017	Corr. re upcoming issues, arguments Legal Services	3.50	475.00	1,662.50
09/25/2017	Review, filing first amended complaint, corr. re same. Legal Services	0.90	475.00	427.50
09/26/2017	Filing proof of service, call re matter. Legal Services	0.80	475.00	380.00
09/28/2017	Review of pro hac motions granted; corr. re matter. Legal Services	2.40	150.00	360.00
10/07/2017	Preparation of summons, filing, draft orders. (LA) Legal Services	4.10	475.00	1,947.50
10/09/2017	Review of notice of removal; research re and call re same and response. Legal Services	3.10	475.00	1,472.50
10/17/2017	Filing appearances federal court, review of docket, call re same; review of order re matter. Legal Services	0.80	475.00	380.00
10/18/2017	Corr. re upcoming issues. Legal Services	1.10	475.00	522.50
10/19/2017	Corr. re upcoming issues. Legal Services	1.30	475.00	617.50
10/26/2017	Review, filing stip order to extend; corr. re same. Legal Services	1.30	475.00	617.50
11/01/2017	Corr. re status and upcoming issues Legal Services	2.20	475.00	1,045.00
11/02/2017	Review of, finalizing and filing appearance, corr. re same. Legal Services	2.60	475.00	1,235.00
11/06/2017	Call re and preparation of motion to file oversized brief. Legal Services	4.10	475.00	1,947.50
11/07/2017	Review of, revision to motion for remand, call re same. Legal Services	0.80	475.00	380.00

DATE	ACTIVITY	QTY	RATE	AMOUNT
11/11/2017	Corr. re pending items, strategy. Legal Services	0.60	475.00	285.00
11/13/2017	Corr. re pending items. Legal Services	1.10	475.00	522.50
11/14/2017	Review of notice of order of assignment, corr. re same. Legal Services	0.60	475.00	285.00
11/16/2017	Corr. re pending items. Legal Services	4.10	475.00	1,947.50
11/17/2017	Review, corr. re, revision to and filing motion for remand. Legal Services	0.70	475.00	332.50
11/18/2017	Corr. re pending matters. Legal Costs	1	69.90	69.90
11/19/2017	Pacer fee and Mileage Legal Services	1.40	475.00	665.00
11/30/2017	Call re pending items. Legal Services	4.10	475.00	1,947.50
12/03/2017	Review of response to motion, corr. re same and likely arguments. Legal Services	2.10	475.00	997.50
12/04/2017	Call, corr. re brief. Legal Services	3.60	475.00	1,710.00
12/04/2017	Final review, revision, filing of brief, corr. re same. Legal Services	3.10	150.00	465.00
12/13/2017	Assembly, delivery of judge's copy. (LA) Legal Services	0.70	475.00	332.50
12/14/2017	Corr. re upcoming items. Legal Services	3.50	475.00	1,662.50
12/17/2017	Coordination of filing for leave to file oversized brief; review, revision to declaration for filing; call, corr. re same; review and revision to reply brief for filing and filing same. Legal Services	0.50	475.00	237.50
12/20/2017	Corr. re matter. Legal Services	0.80	475.00	380.00
01/09/2018	corr and review of status Legal Costs	1	218.00	218.00
01/09/2018	Copying costs for binder, judge's copies. Legal Services	3.10	150.00	465.00
01/09/2018	Assembly of binders (LA) Legal Services	2.10	300.00	630.00
01/10/2018	Memo re potential arguments, issues (PS) Legal Services	3.60	475.00	1,710.00
01/15/2018	Preparation for, travel to and appearance at hearing. Legal Services	0.40	475.00	190.00
02/12/2018	Corr. re status. Legal Services	0.30	475.00	142.50
02/22/2018	corr and review of pending issues Legal Services	0.50	475.00	237.50
03/02/2018	Review of remand order, corr. re same. Legal Services	1.50	475.00	712.50
	Review of order, call re same.			

DATE	ACTIVITY	QTY	RATE	AMOUNT
03/17/2018	Legal Services Corr. re pending issues.	0.80	475.00	380.00
03/18/2018	Legal Services Corr. re open items.	0.50	475.00	237.50
03/21/2018	Legal Costs Filing fee	1	25.00	25.00
03/23/2018	Legal Services Review of objections served; corr. re same.	1.20	475.00	570.00
03/26/2018	Legal Services Review of MSD, corr. re same.	3.40	475.00	1,615.00
03/27/2018	Legal Services Reseach re MSD arguments, corr. re same.	4.50	475.00	2,137.50
04/19/2018	Legal Services Corr. and review of current issues	0.30	475.00	142.50
05/01/2018	Legal Costs Filing fees, postage, court reporter	1	624.05	624.05
05/09/2018	Legal Services Calls, corr. re arguments, research for briefing.	3.50	475.00	1,662.50
05/15/2018	Legal Services Corr. re and filing stipulation for pages	1.20	475.00	570.00
05/16/2018	Legal Services Review, revision to, preparation of filing for brief in opposition to motion for summary disposition, key citing cases, assembly of exhibits and corr., call re same; final preparation of and cover letter for requests, judge's copy.	4.60	475.00	2,185.00
05/17/2018	Legal Services Assembly of binder, delivery of same. (LA)	2.30	150.00	345.00
05/17/2018	Legal Costs Copying costs for binder.	1	214.00	214.00
05/22/2018	Legal Services Attention to pro hac issues, corr. with counsel. (LA)	1.60	150.00	240.00
05/30/2018	Legal Services Assembling pro hac materials, corr. re same and exhibits, praeciping motion. (LA)	1.60	150.00	240.00
05/30/2018	Legal Services Review, revision to, filing motion for pro hac Miles, corr. re same; review of reply brief; preparation of notice of hearing.	3.10	475.00	1,472.50
05/30/2018	Legal Costs Filing fee	1	26.10	26.10
05/31/2018	Legal Services Review of orders filed, corr. re concurrence, stipulation to pro hacs.	1.20	475.00	570.00
06/07/2018	Legal Services Corr. re pending items.	1.10	475.00	522.50
06/10/2018	Legal Services Call re strategy items.	1.40	475.00	665.00
06/11/2018	Legal Services Review of order on pro hac granted.	0.40	475.00	190.00
06/11/2018	Legal Services Corr. re hearing, case issues.	0.50	475.00	237.50

DATE	ACTIVITY	QTY	RATE	AMOUNT
06/13/2018	Legal Services Preparation for, travel to and appearance at hearing.	5.20	475.00	2,470.00
06/13/2018	Legal Costs Mileage for hearing	1	22.10	22.10
06/20/2018	Legal Services Calls re and preparation for hearing.	4.10	475.00	1,947.50
06/21/2018	Legal Services Travel to and appearance at hearing.	5.20	475.00	2,470.00
07/14/2018	Legal Services Corr. re pending issues.	0.40	475.00	190.00
07/15/2018	Legal Services Corr. re items in progress.	0.70	475.00	332.50
07/17/2018	Legal Services Call re pending items.	0.60	475.00	285.00
08/20/2018	Legal Services Corr and review of pending items	0.50	475.00	237.50
09/24/2018	Legal Services Review of order on summary; calls, corr. re same and appellate issues.	2.60	475.00	1,235.00
10/02/2018	Legal Services Preparation of, filing jurisdictional checklist for claim of appeal, call re same.	2.40	475.00	1,140.00
10/03/2018	Legal Services Updating appellate filing.	1.10	475.00	522.50
10/04/2018	Legal Services Preparation of claim of appeal proofs of service, corr. re transcript needed and ordering same.	2.60	475.00	1,235.00
10/09/2018	Legal Services Preparation of service cover letter. (LA).	1.10	475.00	522.50
10/09/2018	Legal Costs Postage	1	1.21	1.21
10/09/2018	Legal Services Filing certificate of transcript for appeal.	0.70	475.00	332.50
10/12/2018	Legal Services Corr. re pending items.	0.60	475.00	285.00
11/01/2018	Legal Services Preparation of, filing docketing statement.	2.20	475.00	1,045.00
11/30/2018	Legal Services Corr. re status	0.60	475.00	285.00
12/15/2018	Legal Services Corr. re pending items.	0.60	475.00	285.00
01/21/2019	Legal Services Call re appellate issues, research, corr. re same.	3.90	475.00	1,852.50
01/25/2019	Legal Services Corr. re strategy	0.60	475.00	285.00
01/28/2019	Legal Services Corr. re appeal issues.	0.90	475.00	427.50
03/01/2019	Legal Services Preparation of stipulation to extend, corr. re same.	1.30	475.00	617.50
03/15/2019	Legal Services	0.90	475.00	427.50

DATE	ACTIVITY	QTY	RATE	AMOUNT
03/21/2019	Corr. re appellate issues. Legal Services	1.40	150.00	210.00
03/21/2019	Preparation of updated caption for COA materials. (LA). Legal Costs	1.40	475.00	665.00
03/27/2019	Review, revision to, filing of Amended Motion for Pro Hac Vice Admission of Miles D Schreiner Legal Services	0.60	475.00	285.00
03/28/2019	Review of COA corr, docket. Legal Services	1.60	475.00	760.00
04/01/2019	Call re ITC opinion, inconsistency with same; corr. re same and pending items. Legal Services	5.20	475.00	2,470.00
04/02/2019	Review of, revision to draft brief, call re same; assembly of materials for filing, confirming same. Legal Services	0.40	475.00	190.00
04/03/2019	Review of orders re pro hacs. Legal Services	2.80	475.00	1,330.00
06/01/2019	Appearance at scheduled hearing, corr. re same. Legal Costs	1	238.00	238.00
06/03/2019	Motion fees and mileage charges Legal Services	3.40	475.00	1,615.00
06/11/2019	Review of appellee filings, notes re same. Legal Services	0.70	475.00	332.50
06/24/2019	Review of corr. from COA, call re same. Legal Services	3.70	475.00	1,757.50
07/10/2019	Finalizing, filing reply, POS re same. Legal Services	1.10	475.00	522.50
08/19/2019	Call re potential amicus, corr. re same. Legal Services	2.60	475.00	1,235.00
09/18/2019	Call re similar appeal, review of docket and materials re same, corr. re same and pending items. Legal Services	1.80	475.00	855.00
10/22/2019	Review of docket re related case, corr. re same and status. Legal Services	0.30	475.00	142.50
01/07/2020	Review and corr re file. Legal Services	0.40	475.00	190.00
01/09/2020	Corr. re pending items, status. Legal Services	2.30	475.00	1,092.50
01/22/2020	Call and corr. re oral argument, review of outline and call re same. Legal Services	1.60	475.00	760.00
02/11/2020	Preparation of appearances, filings. Legal Costs	1	66.80	66.80
02/11/2020	Mileage, pick up counsel and to court and back Legal Services	4.20	475.00	1,995.00
03/15/2020	Preparation for, travel to and appearance at hearing. Legal Services	0.60	475.00	285.00
03/19/2020	Corr. re status Legal Services	0.60	475.00	285.00
03/19/2020	Review of docket, corr. re same and status.			

DATE	ACTIVITY	QTY	RATE	AMOUNT
04/13/2020	Legal Services Corr. re status.	0.30	475.00	142.50
04/30/2020	Legal Services Review of opinion; call re same and next steps.	1.60	475.00	760.00
05/15/2020	Legal Services Corr, call re pending items.	0.70	475.00	332.50
06/01/2020	Legal Services Corr re strategy issue and status of same	0.60	475.00	285.00
06/10/2020	Legal Costs Filing fees	1	386.25	386.25
06/10/2020	Legal Costs Filing fees	1	25.75	25.75
06/10/2020	Legal Services Review of, filing notices of appeal, call re same.	1.60	475.00	760.00
06/11/2020	Legal Services Review of corr. re application.	0.50	475.00	237.50
07/23/2020	Legal Costs Filing fees	1	77.25	77.25
08/26/2020	Legal Services Review, revision, assembly, filing reply brief for MI Supreme Court	3.80	475.00	1,805.00
09/15/2020	Legal Services Corr and review of file status	0.30	475.00	142.50
09/16/2020	Legal Services Corr. re pending items, status.	0.40	475.00	190.00
10/12/2020	Legal Services Review of docket, corr. re same.	0.70	475.00	332.50
11/11/2020	Legal Services Call re related matter, review of materials and corr. re same.	1.70	475.00	807.50
11/19/2020	Legal Services Review of docket for session, corr. re same.	0.70	475.00	332.50
01/12/2021	Legal Services Corr. re pending items.	0.40	475.00	190.00
04/16/2021	Legal Services Corr. re anticipated next steps, strategy	0.50	475.00	237.50
07/23/2021	Legal Services Finalizing, filing motion for extension.	1.70	475.00	807.50
08/17/2021	Legal Services Call re supplemental brief, corr. re same.	2.20	475.00	1,045.00
08/23/2021	Legal Services Corr. re, review of order for extension.	0.60	475.00	285.00
08/30/2021	Legal Services Call re supplemental filing, filings and case issues, review of materials re same.	2.20	475.00	1,045.00
08/31/2021	Legal Costs Call re and filing plaintiff Appellant's Supplemental Brief in Support of his application for leave to Appeal	2.70	475.00	1,282.50
09/14/2021	Legal Services Corr. re amicus issues.	1.10	475.00	522.50
10/11/2021	Legal Costs	1	150.00	150.00

DATE	ACTIVITY	QTY	RATE	AMOUNT
10/18/2021	Supreme court filing fee Legal Services	1.10	475.00	522.50
	Call re amicus brief, arguments.			
10/19/2021	Legal Services	1.70	475.00	807.50
	Call, corr. re supplemental brief issue, legal argument.			
10/25/2021	Legal Costs	1	375.00	375.00
	Supreme Court Filing Fee			
10/26/2021	Legal Services	3.90	475.00	1,852.50
	Review of amicus brief filed, motion for pro hac; finalizing supplemental reply for filing; review of filing entered.			
11/01/2021	Legal Costs	2.20	25.00	55.00
	Supreme Court notice of appeal circuit court; filing pro hac notice, review of filings for same.			
11/23/2021	Legal Costs	1	25.00	25.00
	Supreme Court Filing Fee			
11/23/2021	Legal Services	2.30	475.00	1,092.50
	Review of amicus brief filed, corr. re same.			
12/03/2021	Legal Services	2.40	475.00	1,140.00
	Corr. re preparation for oral argument, review of material for same.			
12/08/2021	Legal Services	2.70	475.00	1,282.50
	Review of material for oral argument, call re same.			
12/09/2021	Legal Services	2.10	475.00	997.50
	Appearance at oral argument, call re same.			
02/13/2022	Legal Services	2.60	475.00	1,235.00
	Call re similar case, question from attorney, review of material, corr. re same.			
04/05/2022	Legal Services	2	475.00	950.00
	Review of order from Supreme Court, calls, corr. re same.			
04/27/2022	Legal Services	1.20	475.00	570.00
	review of Order following remand, call re same.			
04/29/2022	Legal Services	0.60	475.00	285.00
	Corr. re plan.			
05/06/2022	Legal Services	0.40	475.00	190.00
	Corr. re CMO			
05/09/2022	Legal Services	1.40	475.00	665.00
	Calls re and final preparation of joint case management plan for filing.			
05/10/2022	Legal Services	0.50	475.00	237.50
	Review of plan as filed.			
05/11/2022	Legal Services	1.20	475.00	570.00
	Corr. re and preparation of request for eservice, filing same.			
05/16/2022	Legal Services	0.60	475.00	285.00
	Review of scheduling order, corr. re same steps.			
06/03/2022	Legal Services	0.90	475.00	427.50
	Call re and preparation of joint notice of facilitator per schedule.			
06/06/2022	Legal Services	0.50	475.00	237.50
	Corr. re facilitator notice, receipt of same as filed.			
06/14/2022	Legal Services	0.40	475.00	190.00
	Review of order filed.			
06/19/2022	Legal Services	1.70	475.00	807.50

DATE	ACTIVITY	QTY	RATE	AMOUNT
06/22/2022	Review of filings re MSD as amended, order. Legal Services	1.50	475.00	712.50
06/29/2022	Receipt of order re Defendant's Motion for leave to File their Amended Motion for Summary, call re same. Legal Services	0.40	475.00	190.00
07/08/2022	Corr. re briefing issues. Legal Services	0.60	475.00	285.00
07/11/2022	Corr. re strategy issues. Legal Services	2.20	475.00	1,045.00
07/12/2022	Call and corr. re brief in opp to summary disposition round two; review, redline to same. Legal Services	3.80	475.00	1,805.00
07/12/2022	Final assembly and filing of brief in opposition, various corr. re materials for same, Compendium of Unpublished Authorities; call re same. Legal Services	2.10	300.00	630.00
07/14/2022	Resizing exhibits, separating files for filing, formatting with cover sheets. (PA) Legal Services	2.50	150.00	375.00
07/19/2022	Preparation of judge's copy binder and cover letter re same; delivery of binder. (LA) Legal Services	1.10	475.00	522.50
07/25/2022	Defendant's reply in Support of Amended MSD Legal Services	1.50	475.00	712.50
08/11/2022	Review of compendium filed, reply brief. Legal Services	0.40	475.00	190.00
09/08/2022	Review of NOH Defendants' Amended MSD for Sept 14 Legal Services	1.10	150.00	165.00
09/08/2022	preparation of cover letter for requests and sending same. (LA) Legal Services	1	1.10	1.10
09/14/2022	Postage Legal Services	0.70	475.00	332.50
09/15/2022	Preparation of proposed order denying motion, corr. re same. Legal Services	1.70	475.00	807.50
09/19/2022	Corr. re order, filing same. Legal Services	1.40	475.00	665.00
09/21/2022	Review of draft motion for class cert, corr. re same. Legal Services	2.20	475.00	1,045.00
09/26/2022	Review of and call re Order Denying Defendants' Amended Motion for Summary Disposition, next steps, strategy. Legal Services	2.20	475.00	1,045.00
09/27/2022	Call, corr. re initial disclosures framework, begin preparation of same. Legal Services	0.60	475.00	285.00
09/28/2022	Review, redline to requests for production, corr. re same. Legal Services	1.40	475.00	665.00
10/12/2022	Call re, finalizing and filing initial disclosures. Legal Services	1.50	475.00	712.50
10/24/2022	Review of various subpoenas, discovery updates. Legal Services	1.90	475.00	902.50
	Call re, preparation of and filing joint motion to amend scheduling			

DATE	ACTIVITY	QTY	RATE	AMOUNT
	order.			
10/26/2022	Legal Services Review of Def's Objs and Responses to Plaintiff Leslie Murphy's First Set of Requests for Production of Docs, POS filed.	1.50	475.00	712.50
11/15/2022	Legal Services Preparation for and appearance at hearing, call re same; receipt of stipulated order filed. (PS)	3.30	300.00	990.00
11/16/2022	Legal Services Review of adjournment of trial filed, hearing notice, corr. re same.	0.60	475.00	285.00
11/17/2022	Legal Services Review and corr. re Defendant's initial disclosure	1.40	475.00	665.00
11/22/2022	Legal Services Corr. re and research re company, insurance issues.	2.20	475.00	1,045.00
12/13/2022	Legal Services Corr. re and preparation of Joint notice of Mediation - Robert Meyer; call re same.	1.40	475.00	665.00
01/03/2023	Legal Services Various corr. re model protective order for submission, submitting same.	1.20	475.00	570.00
01/04/2023	Legal Services Receipt of Stipulated Protective Order Judge Valentine	0.50	475.00	237.50
01/06/2023	Legal Services Review of subpoenas, discovery material.	0.90	475.00	427.50
02/14/2023	Legal Services corr. re discovery requests, review, finalizing same for sending.	2.20	475.00	1,045.00
02/14/2023	Legal Services Preparation of cover letter for discovery requests, sending same. (LA).	1.70	150.00	255.00
02/14/2023	Legal Costs Postage for first interrogatories local counsel	1	8.95	8.95
02/14/2023	Legal Costs Postage to CA counsel	1	11.05	11.05
02/14/2023	Legal Costs Printing costs	1	115.32	115.32
02/17/2023	Legal Services Review, preparation of second amended complaint for filing, call re same.	3.20	475.00	1,520.00
03/12/2023	Legal Services Review, revision of requests, corr. re same.	1.50	475.00	712.50
03/13/2023	Legal Services Filing notice of change of firm, updating caption; corr. re same.	0.80	475.00	380.00
03/14/2023	Legal Services Review of objections filed, notices.	1.40	475.00	665.00
03/15/2023	Legal Services Corr. re pending items.	0.40	475.00	190.00
03/16/2023	Legal Services Preparation of notice of change of law firm (LA)	0.90	150.00	135.00
03/30/2023	Legal Services Review of notice filed.	0.30	475.00	142.50
04/06/2023	Legal Services	1.60	475.00	760.00

DATE	ACTIVITY	QTY	RATE	AMOUNT
04/06/2023	Corr. re, finalizing and praecipe of motion for pro hac Lerner. Legal Services	1.40	475.00	665.00
04/14/2023	Finalizing, filing revised pro hac motion. Legal Services	0.60	475.00	285.00
04/17/2023	Review of corr. filed, order filed, corr. re next steps. Legal Services	1.10	475.00	522.50
04/18/2023	Preparation of deposition notice on caption, corr. re same and serving same. Legal Services	0.30	475.00	142.50
04/20/2023	Corr. re pending items. Legal Services	1.10	475.00	522.50
04/24/2023	Review, revision of discovery notices, corr. re same. Legal Services	0.30	475.00	142.50
04/26/2023	Corr. re hearing schedule. Legal Services	1.10	475.00	522.50
04/27/2023	hearing of Plaintiff's unopposed motion for Pro Hac Vice Admission Legal Services	3.20	475.00	1,520.00
05/01/2023	Final preparation and filing of motion for class cert, calls and corr. re same and discovery updates; praecipe and NOH for motion. Legal Services	0.80	475.00	380.00
05/04/2023	Filing request for eservice Legal Services	2.20	475.00	1,045.00
05/05/2023	Review, revision, filing motion to extend schedule with proposed schedule, call re same; preparation of NOH for motion for class certification and corr. re motion. Legal Services	0.70	475.00	332.50
05/06/2023	Preparation of, filing re-notice of hearing. Legal Services	2.60	150.00	390.00
05/25/2023	Preparation of judge's copy of materials, cover letter re same and confidential items. (LA). Legal Costs	1	20.60	20.60
05/31/2023	Filing fees Legal Services	1.40	475.00	665.00
05/31/2023	Call re, filing P's Uncontested Motion to Modify Scheduling Order Legal Costs	1	20.60	20.60
06/15/2023	Filing fee Legal Services	1.80	475.00	855.00
06/23/2023	Corr. re, praecipe and filing re-NOH Motion for Class Cert for Aug 2, 2023, call re scheduling order, corr. and preparation of motion re same; review of order entered. Legal Services	0.40	475.00	190.00
07/13/2023	Review of order entered re second scheduling order. Legal Services	1.90	475.00	902.50
07/17/2023	Review of Defendant's Opp to Plaintiffs Combined Motion for Class Certification, corr. re same. Legal Services	0.90	475.00	427.50
07/27/2023	Review of filing. Legal Services	0.80	475.00	380.00
07/30/2023	Preparation of, filing re-NOH, praecipe of same. Legal Services	1.50	475.00	712.50

DATE	ACTIVITY	QTY	RATE	AMOUNT
08/01/2023	Final preparation of, filing reply brief, corr. re same. Legal Services	0.90	475.00	427.50
08/02/2023	Preparation of, serving deposition notice. Legal Services	1.10	475.00	522.50
08/21/2023	Hearing Re Re NOH Motion for Class Cert for Aug 2,2023 Legal Services	0.90	475.00	427.50
08/23/2023	Corr re, review of Motion to Admit Raymond Stockstill PHV Legal Services	1.10	475.00	522.50
08/30/2023	Review of corr. re hearing moved, filings re same, corr. re language. Legal Services	0.60	475.00	285.00
09/11/2023	Corr. re hearing to Admit Raymond Stockstill PHV, review of order. Legal Services	0.90	475.00	427.50
09/14/2023	Review of notice of order for mandatory conference, corr. re same and issue with insurance. Legal Services	2.30	150.00	345.00
09/14/2023	Drafting motion re change of address, corr. re file issues. (LA) Legal Services	2.10	475.00	997.50
09/15/2023	Finalizing, filing change of address, corr. re upcoming matters, insurance dispute, review of docket re same. Legal Services	0.40	475.00	190.00
09/21/2023	Various corr. re matter. Legal Services	0.50	475.00	237.50
09/27/2023	Corr. re records, scheduling. Legal Services	2.50	475.00	1,187.50
09/28/2023	Corr. re statement, process, review, revision to same. Legal Services	0.40	475.00	190.00
10/02/2023	Corr. re Veritext Legal Services	2.80	475.00	1,330.00
10/03/2023	Corr. re pending items and plan, review of corr. re proposed edits to draft, finalizing same for filing. Legal Services	0.40	475.00	190.00
10/09/2023	Corr. re plan for conference. Legal Services	1.80	475.00	855.00
10/11/2023	Review of opinion filed, call re same, next steps and additional matters. Legal Services	0.80	475.00	380.00
10/18/2023	Review of corr. re opinion, corr. from opposing counsel re status. Legal Services	1.90	475.00	902.50
10/19/2023	Corr re, revision to argument, scheduling, call re mediation. Legal Services	4.20	475.00	1,995.00
10/27/2023	Preparation for, travel to, attendance at mandatory mediation. Legal Services	0.60	475.00	285.00
10/30/2023	Call with opposing counsel re trial issues. Legal Services	0.80	475.00	380.00
11/01/2023	Corr. re issue raised by opposing counsel re scheduling, response to same, other issues. Legal Services	2.80	475.00	1,330.00
11/07/2023	Corr. re status of outstanding items, scheduling issues, motion to finalize, deadlines, court administrator, request for concurrence. Legal Services	0.70	475.00	332.50

DATE	ACTIVITY	QTY	RATE	AMOUNT
11/08/2023	Various corr. re discovery position, demands. Legal Services	3.40	475.00	1,615.00
11/10/2023	Corr. re filing of plan, coordinating same; review of expert submissions, discovery items. Legal Services	1.70	475.00	807.50
11/11/2023	Call re strategy items; review of various corr. re discovery, position. Legal Services	0.40	475.00	190.00
11/13/2023	Corr. re strategy questions. Legal Services	0.40	475.00	190.00
11/18/2023	Corr. re production issues. Legal Services	2.40	475.00	1,140.00
11/27/2023	Corr. re mediation position, statement; review of final submissions. Legal Services	1.20	475.00	570.00
11/28/2023	Corr. re experts with all counsel. Legal Services	3.20	475.00	1,520.00
11/29/2023	Corr. re motion issues and update, motion needed, review, preparation of same; call with opposing counsel re status and next steps. Legal Services	1.20	475.00	570.00
11/29/2023	Final preparation, filing, and corr. re no objection to motion. Legal Costs	1	20.60	20.60
12/13/2023	Filing Costs Legal Services	2.40	475.00	1,140.00
12/15/2023	Call, corr. re strategy items, proposal on experts and response to same. Legal Services	2.20	475.00	1,045.00
12/20/2023	Review of rebuttal, corr. re same. Legal Services	0.80	475.00	380.00
01/02/2024	Corr. re motion, hearing on unopposed motion, order. Legal Services	0.60	475.00	285.00
01/03/2024	Corr. re deposition items. Legal Services	0.40	475.00	190.00
01/04/2024	Corr. re discovery items. Legal Services	3.30	475.00	1,567.50
01/05/2024	Call re pending legal issues, research re and preparation of detailed corr. re Michigan law for same; notice of deposition and corr. re same. Legal Services	1.60	475.00	760.00
01/09/2024	Review of privilege log, corr. re same; call re strategy issue. Legal Services	0.50	475.00	237.50
01/15/2024	Corr. re depositions. Legal Services	0.50	475.00	237.50
01/27/2024	Corr. re proposal, pending matters. Legal Services	2.60	475.00	1,235.00
01/28/2024	Call re insurance case, review of docket, corr. re same and filing. Legal Services	0.60	475.00	285.00
02/04/2024	Further corr. re impact of insurance issue on case. Legal Services	0.80	475.00	380.00
02/05/2024	Corr. re strategy, call re same. Legal Services	0.70	475.00	332.50
	Corr. re hearing dates, case issues, order.			

DATE	ACTIVITY	QTY	RATE	AMOUNT
02/06/2024	Legal Services Corr. re pending items with lead, local counsel.	1.10	475.00	522.50
02/09/2024	Legal Services Corr. re motion; receipt of MSD and exhibits filed, call re same and response.	2.60	475.00	1,235.00
02/12/2024	Legal Services Preparation of stipulated order re hearing for filing; review of trial notice, corr. re same; review of motion as accepted for filing.	1.80	475.00	855.00
02/13/2024	Legal Services Review of order filed, notice filed, corr. re same.	0.80	475.00	380.00
02/29/2024	Legal Services Corr. re motion filing, concurrence.	0.40	475.00	190.00
03/04/2024	Legal Services Call, corr. re response arguments, exhibits, confidentiality designations.	2.30	475.00	1,092.50
03/05/2024	Legal Services Review, call re and filing brief in opposition to motion for summary.	2.80	475.00	1,330.00
03/06/2024	Legal Services Assembly of brief, compendium materials for filing.	3.50	475.00	1,662.50
03/07/2024	Legal Services Review of notice of filings accepted.	0.30	475.00	142.50
03/11/2024	Legal Services Review of filings entered.	0.60	475.00	285.00
03/18/2024	Legal Services Corr. re pending items, review of insurance matter docket.	2.10	475.00	997.50
03/19/2024	Legal Services Review and corr. re Defendants reply in support of motion for Summary	2.50	475.00	1,187.50
03/20/2024	Legal Services Corr. re draft, revisions to same.	2.40	475.00	1,140.00
04/03/2024	Legal Services Review of draft, corr. re same.	1.10	475.00	522.50
04/04/2024	Legal Services Call re mediation plan; review, redline to submission; corr. re same.	3.30	475.00	1,567.50
04/11/2024	Legal Services Various corr. re upcoming hearing, issues, arguments re same.	1.20	475.00	570.00
04/15/2024	Legal Services Preparation of witness list for filing, filing same, appearance at mediation; various corr. re same.	9.10	475.00	4,322.50
04/16/2024	Legal Services Corr. re signature needed for mediation, delivery of same; review, receipt of notice of settlement for filing; call re mediation and next steps; receipt of witness list filed; various corr. re settlement items.	3.50	475.00	1,662.50
04/17/2024	Legal Services Call and corr. re motion pending settlement, motion removed from docket, settlement issues, various corr. re same.	3.50	475.00	1,662.50
04/18/2024	Legal Services Corr. re settlement issues.	1.20	475.00	570.00
04/24/2024	Legal Services Review of various corr. re settlement issues.	1.10	475.00	522.50
05/14/2024	Legal Services Corr. re shareholder issue.	0.60	475.00	285.00

DATE	ACTIVITY	QTY	RATE	AMOUNT
06/04/2024	Legal Services Corr. re pending edits.	0.40	475.00	190.00
06/06/2024	Legal Services Corr. re status of settlement.	0.40	475.00	190.00
06/07/2024	Legal Services Corr. re outstanding issues.	0.50	475.00	237.50
06/25/2024	Legal Services Call re, review of and assembly of motion for preliminary approval for filing.	2.40	475.00	1,140.00
06/25/2024	Legal Costs Filing fee	1	20.60	20.60
07/02/2024	Legal Services Corr. and call re hearing, issues for same.	1.20	475.00	570.00
07/03/2024	Legal Services Call re and appearance at hearing to approve; corr. re and preparation of preliminary approval order for filing.	3.10	475.00	1,472.50
07/08/2024	Legal Services Calls re matter.	1.30	475.00	617.50
07/09/2024	Legal Services Call with court re and receipt of entry of order of preliminary approval, corr. re same.	2.10	475.00	997.50
07/11/2024	Legal Services Corr. re settlement logistics.	0.80	475.00	380.00
07/25/2024	Legal Services Corr. re status.	0.40	475.00	190.00
08/07/2024	Legal Services Review of corr. re hearing needed, corr., conf. re same.	1	475.00	475.00
08/19/2024	Legal Services Appearance at hearing re court as class member, corr. re same and next steps.	1.30	475.00	617.50
08/21/2024	Legal Services Corr., call re hearing requested	0.60	475.00	285.00
08/22/2024	Legal Services Review of corr. re update on disclosure.	0.40	475.00	190.00
08/23/2024	Legal Services Appearance at hearing with court, corr. re follow up for same, corr. re language.	1.80	475.00	855.00
09/13/2024	Legal Services Various corr. re objections.	0.60	475.00	285.00
09/13/2024	Legal Services Review, revision of draft declaration, review of various corr. re settlement issues.	1.10	475.00	522.50

This is your legal invoice. Please feel free to contact me if you have any questions.

BALANCE DUE

\$218,174.50

Thank you for your business!

EXHIBIT D

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
BUSINESS COURT**

LESLIE J. MURPHY and VINCENT J.
MARTIN, III, Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

SAMUEL M. INMAN, III, JOHN F. SMITH,
BERNARD M. GOLDSMITH, WILLIAM O.
GRABE, LAWRENCE DAVID HANSEN,
ANDREAS MAI, JONATHAN YARON, and
ENRICO DIGIROLAMO,

Defendants.

Case No: 2017-159571-CB
Hon. Victoria A. Valentine

Business Court Case

DECLARATION OF PLAINTIFF LESLIE J. MURPHY

I, Leslie J. Murphy, hereby declare as follows:

1. I am a Plaintiff in the above-captioned action (“Action”).
2. I submit this declaration in support of the Settlement and my request for a service award of \$5,000 for the time and expenses I incurred in connection with my representation of the Settlement Class in the Action.
3. I held stock in Covisint Corporation. (“Covisint”) prior to June 5, 2017 (*i.e.*, the date the merger agreement was executed), and through and including, July 26, 2017 (*i.e.*, the merger closing date).
4. Over the course of the last seven years, I have regularly communicated with my counsel Juan E. Monteverde at Monteverde & Associates PC (“Monteverde”). In fact, I exchanged over 50 emails and had numerous calls with Mr. Monteverde.

5. Further, as a Plaintiff representing the Settlement Class, I have spent at least 75 hours of my time actively participating in prosecution of the Action. I partook in litigation tasks necessary to advance the interests of the Settlement Class in the Action, including but not limited to: (i) evaluating the Merger and contacting Monteverde to discuss a potential class action; (ii) reviewing the complaints, motions and orders filed or entered in the case; (iii) collecting documents and responding to various requests for discovery and preparing for and testifying at my deposition; and (iv) discussing and considering potential settlement with Monteverde, and reviewing the Settlement papers.

6. I have not received, been promised or offered, and will not accept any form of compensation, directly or indirectly, for prosecuting or serving as a representative party in this Action, except for: (i) such damages or other relief the Court may award me as a member of the Settlement Class; and (ii) any service award or reimbursement of expenses the Court expressly approves to be paid to me.

I declare under penalty of perjury under the laws of Michigan that the foregoing is true and correct.

Dated: 9/4/2024

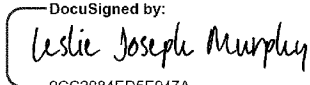
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Leslie J. Murphy

EXHIBIT E

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
BUSINESS COURT**

LESLIE J. MURPHY and VINCENT J.
MARTIN, III, Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

SAMUEL M. INMAN, III, JOHN F. SMITH,
BERNARD M. GOLDSMITH, WILLIAM O.
GRABE, LAWRENCE DAVID HANSEN,
ANDREAS MAI, JONATHAN YARON, and
ENRICO DIGIROLAMO,

Defendants.

Case No: 2017-159571-CB
Hon. Victoria A. Valentine

Business Court Case

DECLARATION OF PLAINTIFF, VINCENT J. MARTIN, III

I, Vincent J. Martin, III, hereby declare as follows:

1. I am a Plaintiff in the above-captioned action (“Action”).
2. I submit this declaration in support of the Settlement and my request for a service award of \$5,000 for the time and expenses I incurred in connection with my representation of the Settlement Class in the Action.
3. I held stock in Covisint Corporation. (“Covisint”) prior to June 5, 2017 (*i.e.*, the date the merger agreement was executed), and through and including, July 26, 2017 (*i.e.*, the merger closing date).
4. I have regularly communicated with my counsel Juan E. Monteverde at Monteverde & Associates PC (“Monteverde”). I held lengthy calls with Mr. Monteverde before deciding whether to join the Action.

5. Further, as a Plaintiff representing the Settlement Class, I have spent at least 30 hours of my time actively participating in prosecution of the Action. I partook in litigation tasks necessary to advance the interests of the Settlement Class in the Action, including but not limited to: (i) reviewing the 2017 complaints and the second amended complaint to add myself as a Plaintiff; (ii) collecting documents and responding to various requests for discovery and preparing for and testifying at my deposition; and (iii) discussing and considering potential settlement with Monteverde, and reviewing the Settlement papers.

6. I have not received, been promised or offered, and will not accept any form of compensation, directly or indirectly, for prosecuting or serving as a representative party in this Action, except for: (i) such damages or other relief the Court may award me as a member of the Settlement Class; and (ii) any service award or reimbursement of expenses the Court expressly approves to be paid to me.

I declare under penalty of perjury under the laws of Michigan that the foregoing is true and correct.

Dated: 9/4/2024

DocuSigned by:
Vincent J. Martin III
B94F694705414BC...
Vincent J. Martin, III

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2024, I electronically filed the foregoing document and all exhibits thereto with the Clerk of the Court using the TrueFiling electronic filing system, which will send notification of this filing to all counsel of record.

/s/ Sara K. MacWilliams

Sara K. MacWilliams (P67805)

Attorney for Plaintiffs