

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re Navistar MaxxForce Engines)	Case No. 1:14-cv-10318
Marketing, Sales Practices and Products)	
Liability Litigation)	This filing applies to:
)	All Class Cases
)	
)	Judge Joan B. Gottschall
)	
)	

DECLARATION OF JONATHAN SHUB

I, Jonathan Shub, declare pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am a shareholder in the law firm of Kohn, Swift & Graf, P.C. (“KS&G” or “Class Counsel”), counsel for Plaintiffs in the above-captioned action. I respectfully submit this Declaration in support of the following:

- a. Plaintiffs’ Motion for Final Approval of Class Action Settlement; and
- b. Plaintiffs’ Motion for Attorneys’ Fees, Expenses, and Service Award Payments.

2. I lead the Firm’s consumer class action practice and have been class counsel in cases similar to this one involving allegations of defective trucking engines. *See In Re: Caterpillar Inc., C13 and C15 Engine Productions Liability Litigation*, MDL No. 2540, No. 14-3722 (D.N.J).

3. KS&G attorneys have successfully litigated complex class actions in federal and state courts all across the country, and have obtained successful results for clients against some of the world’s largest corporations. A sampling of the Firm’s more significant past and present cases can be found in the Firm’s Resume, attached as Exhibit A.

Attorneys' Fees and Costs

4. As this Court is aware, this case involved the production of voluminous documents over the course of several years. KS&G attorneys, Hailemariam DeBass, Jr., Shane Thompson, and Gregory Waks, were charged at the outset of the litigation with working on the document review team and thus were intimately involved in thoroughly analyzing and coding these documents for use in pleadings, briefs, and depositions.

5. All three attorneys have substantial document review experience. Mr. DeBass, a 1999 Georgetown Law School graduate and Mr. Waks, a 1997 University of Miami Law School graduate, each have more than 15 years of document review experience and have participated in more than 25 document reviews in complex cases such as this one. Mr. Thompson has been practicing since 2015 and had document review experience before working on this matter.

6. From inception through today, these attorneys expended the following number of hours at the following hourly rates, in performing legal services on behalf of Plaintiffs

NAME	TITLE	HOURS	RATE	LODESTAR
DeBASS JR, HAILEMARIAM	Associate	197.8	\$350	\$69,230.00
THOMPSON, SHANE	Associate	387.6	\$350	\$135,660.00
WAKS, GREGORY	Associate	1845.9	\$350	\$646,065.00
TOTAL		2431.3		\$850,955.00

7. These numbers reflect extreme billing discretion, including the write off of time that I decided should not be included in Plaintiffs' fee application, including consultation with me regarding the status of the review.

8. Based on my knowledge and experience, the rates charged by KS&G attorneys are within the range of rates normally and customarily charged in Illinois and Pennsylvania by attorneys of similar qualifications and experience in cases of this kind.

9. KS&G's hourly rates have been approved in the Court and others across the country. *See, e.g., Bishop v. Behr Process Corp.*, No. 1:17-cv-04454 (N.D.Ill. 2019) (Blakey, J.); *Thomas v. Lennox International, Inc.*, No. 1:13-cv-07747 (N.D. Ill. 2015) (ECF Nos. 111,112) (Ellis, J.) *Basile v. Stream Energy Pennsylvania, LLC et al.*, No. 15-1518 (M.D.Pa 2018), ECF No. 97; *Silvis v. Ambit Energy, L.P. et al.*, No. 14-5005 (E.D.Pa. 2018), ECF. No. 97 and 98; *Sanborn v. Viridian Energy, Inc.*, No. 14-1731 (D.Conn. 2018), ECF. No. 185 and 186.

10. In my judgment, and based on my years of experience, the number of hours expended and the services performed by KS&G attorneys were reasonable and expended for the benefit of Plaintiffs in this action.

11. KS&G also incurred expenses in the amount of \$42,576.92. These expenses were primarily incurred in connection with assessments for the litigation fund which was used to pay "common" expenses such as experts, deposition transcripts and other necessary related litigation costs.

CATEGORY	AMOUNT
COST FUND	\$ 42,500.00
POSTAGE	\$ 1.41
PHONE	\$ 51.60
IN-HOUSE COPY	\$ 16.30
LEGAL RESEARCH	\$ 7.61
TOTAL	\$ 42,576.92

12. KS&G is a mid-sized law firm comprising seventeen attorneys. As a result, the time spent litigating against Defendant in the hope of eventually obtaining a substantial verdict or settlement for the Class, and a fee for Class Counsel, was a significant commitment of the

Firm's resources. KS&G spent substantial time litigating this case that it could not spend on other matters.

13. Moreover, because it is mid-sized, the Firm carefully screens its class action contingency matters to enhance its likelihood of success. Even then, there was absolutely no assurance that the extraordinary commitment of time and effort devoted to these actions would result in the payment of any fee at all.

Executed on September 4, 2019 in Philadelphia, Pennsylvania.

KOHN, SWIFT & GRAF, P.C.

By: /s/ Jonathan Shub
Jonathan Shub

EXHIBIT A

KOHN, SWIFT & GRAF, P.C.

Since its founding in 1969, the firm of Kohn, Swift & Graf, P.C., has been a national leader in the prosecution of securities class actions, antitrust class actions and other complex commercial litigation. Kohn, Swift & Graf, P.C. and its attorneys have been selected by courts and co-counsel to be lead counsel, or members of the executive committee of counsel, in scores of class actions throughout the country in the securities fraud, antitrust, tort and consumer protection fields.

The firm has been co-lead counsel in the *Holocaust Era* cases and other ground breaking international human rights litigation which have resulted in settlements totaling billions of dollars for plaintiff classes from Swiss banks and German and Austrian industries. The firm also maintains a general business litigation practice representing plaintiffs and defendants, including Fortune 500 and other publicly traded corporations, in state and federal courts.

The firm and its partners have been recognized for their excellence in antitrust and business litigation by numerous publications, including the *Best Lawyers in America*, *Chambers USA America's Leading Business Lawyers* and *Pennsylvania Super Lawyers*.

The Kohn firm has been retained by institutional investors, including several multi-billion dollar pension funds, to monitor their investments and to commence

litigation when appropriate. The firm has brought litigation on behalf of the Retirement System of the City of Philadelphia, the Police and Fire Retirement System of the City of Detroit and the General Retirement System of the City of Detroit. The Kohn firm is a leader in mortgage-backed securities litigation, including cases such as *Police and Fire Retirement System of the City of Detroit v. Goldman Sachs & Co., et al.*, 10-CV-4429 (MGC); *In re IndyMac Mortgage-Backed Securities Litigation*, Master Docket No. 09-CV-04583 (LAK) (S.D.N.Y.); and *In Re: Bear Stearns Mortgage Pass-Through Certificates Litigation*, Master Docket No. No. 08-CV-8093 (LTS)(KNF). The Kohn firm has been lead or co-lead counsel in the following securities class actions, among others: *In re KLA-Tencor Corp. Securities Litigation*, Master File No. 06-cv-04065-MJJ (N.D. Cal) (\$65 million settlement approved); *In re Marvell Technology Group, Ltd. Securities Litigation*, Master File No. 06-06286-RMW (N.D. Cal.) (\$72 million settlement approved); *In re Calpine Corporation Securities Litigation*, Master File No. C-02-1200 (N.D. Cal) (settled on an individual basis after trial preparation nearly complete); *In re Schulman Partnerships Securities Litigation*, MDL 753-AAH (C.D. Ca.); *Goldenberg, et al. v. Marriott PLP Corp., et al.*, No. PJM 95-3461 (D. Md.); *In re Intelligent Electronics, Inc. Securities Litigation*, Master File No. 92-CV-1905 (E.D. Pa.); *WEBBCO v. Tele-Communications, Inc., et al.*, No. 94-WM-2254 (D. Colo.); *The Carter Revocable Trust v. Tele-Communications,*

Inc., et al., No. 94-WM-2253 (D. Colo.); *Rabin v. Concord Assets Group, Inc., et al.*, 89 Civ. 6130 (LBS) (S.D.N.Y.); *Sadler v. Stonehenge Capital Corp., et al.*, 89 Civ. 6512 (KC); *Ramos, et al. v. Patrician Equities Corp., et al.*, 89 Civ. 5370 (TPG) (S.D.N.Y.); *In re Advacare Securities Litigation*, (E.D. Pa. 1993); *Solo, et al. v. Duval County Housing Finance Authority, et al.*, No. 94-1952-CA (Duval Cty. Fla.); *In re Clinton Oil Securities Litigation*, (D. Kan. 1982).

Kohn, Swift & Graf, P.C. is also a leader in the field of derivative litigation. Kohn, Swift & Graf, P.C. was co-lead counsel in *In re Par Pharmaceutical Companies, Inc. Litigation*, Consolidated C.A. No. 7715-VCP (Del. Ch. Ct.), and *In re MBIA Derivative Action*, 08 Civ 1515 (KTK) (S.D.N.Y.). Kohn, Swift & Graf, P.C. recently actively participated in *In re PPDI Litigation*, 11CVS 4186 (North Carolina Court of Justice Superior Court Division, County of New Hanover), and *In re Nvidia Corp. Derivative Litigation*, Master File No. C-06-06110-SBA.

The Kohn firm has also been a leader in the prosecution of antitrust class actions for the past 40 years. The firm has recently been appointed co-lead counsel in separate cases involving the following motor vehicle parts: wire harnesses and related products; instrument panel clusters; heater control panels; bearings; and safety products. These cases are all under the umbrella *In re Automotive Parts Antitrust Litigation*, 12-md-023211(MDL No. 2311) (E.D. Mich.) The firm was

also appointed sole lead counsel in *In re Packaged Ice Antitrust Litigation*, Case No. 08-MD-01952 and MDL No. 1942 (E.D. Mich.), and one of the co-lead counsel in *In re Fasteners Antitrust Litigation*, MDL No. 1912 (E.D. Pa.). The firm has also served as lead or co-lead counsel in the following antitrust class actions, among others: *In re Graphite Electrodes Antitrust Litigation*, MDL No. 1244 (E.D. Pa.) (over \$133 million in settlements obtained for the class); *In re Automotive Refinishing Paint Antitrust Litigation*, MDL No. 1426 (E.D. Pa.) (settlements totaling \$105.75 million); *In re Plastics Additives Antitrust Litigation*, MDL No. 1684 (E.D. Pa.) (settlements of \$46 million); *In re Residential Doors Antitrust Litigation*, MDL 1039 (E.D. Pa.) (\$18 million in settlements); *In re Chlorine and Caustic Soda Antitrust Litigation*, 116 F.R.D. 622 (E.D. Pa. 1987) (settled on eve of trial for \$51 million); *Cumberland Farms, Inc. v. Browning Ferris Indus., Inc.*, 120 F.R.D. 642 (E.D. Pa. 1988) (class action alleging price fixing in waste hauling industry-case settled shortly before trial for \$50 million); *In re Compact Disc Minimum Advertised Price Antitrust Litigation*, MDL No. 1361 (D. Me.) (settlements totaling \$143 million approved); *In re Stock Exchanges Options Antitrust Litigation*, MDL No. 1283 (S.D.N.Y.) (settlements reached with over 40 defendants for \$44 million); *In re Pillar Point Partners Antitrust Litigation*, MDL No. 1202 (D. Arizona) (settlements of \$50 million); *In re Amino Acid Lysine Antitrust Litigation*, 918 F.Supp. 1190 (N.D. Ill. 1996) (settlements in

excess of \$50 million); *In re Toys “R” Us, Inc., Antitrust Litigation*, MDL 1211 (E.D.N.Y.) (\$55 million settlement value); *In re Plywood Antitrust Litigation*, MDL 159 (D. La.) (tried to verdict for plaintiffs; affirmed by Fifth Circuit; total settlements of approximately \$173 million).

In addition, the Kohn firm is and has been a member of a steering committee or executive committee of counsel in dozens of antitrust class actions, including: *In re Currency Conversion Fee Antitrust Litigation*, (S.D.N.Y.); *In re Carbon Fiber Antitrust Litigation* (C.D. Cal.); *In re Linerboard Antitrust Litigation* (E.D.Pa.); *In re Relafen Antitrust Litigation* (D.Mass.); *In re Brand Name Prescription Drugs Antitrust Litigation* (N.D. Ill.); *In re Commercial Explosives Antitrust Litigation* (D. Utah); *In re Catfish Antitrust Litigation* (N.D. Miss.); *In re Commercial Paper Antitrust Litigation* (M.D.Fla.); *In re Glassine and Greasproof Paper Antitrust Litigation* (E.D. Pa.); *In re Corrugated Container Antitrust Litigation*, (S.D. Tex.); *In re Sugar Industry Antitrust Litigation* (E.D. Pa.).

The Kohn firm also maintains a business litigation practice and has represented private clients as plaintiffs in antitrust cases where it was the sole counsel, or assisted by a few co-counsel. These cases were hard fought and several have proceeded through trial and appeals: *Alvord-Polk, Inc. v. F. Schumacher & Co.*, 37 F.3d 996 (3d Cir. 1994), *cert. denied*, 514 U.S. 1063 (1995) (summary judgment in favor of defendants reversed by Third Circuit; certiorari denied by the

Supreme Court; case tried to conclusion before a jury and settled after trial); *Gulfstream III Associates, Inc. v. Gulfstream Aerospace Corp.*, 995 F.2d 425 (3d Cir. 1993) (jury verdict in favor of plaintiff; case settled); *Big Apple BMW, Inc. v. BMW of North America, Inc.*, 974 F.2d 1358 (3d Cir. 1992), *cert. denied*, 507 U.S. 912 (1993) (summary judgment in favor of defendant reversed by Third Circuit; case settled prior to trial).

The firm also has litigated numerous consumer and mass tort class actions, such as: *In re Synthroid Marketing Litigation*, MDL No. 1182 (N.D. Ill.); *In re Temporomandibular Joint (TMJ) Implants Products Liability Litigation*, MDL No. 1001 (D. Minn.); *In re Bolar Pharmaceutical Co., Inc. Generic Drug Consumer Litigation*, MDL No. 849 (E.D.Pa.); *In re General Motors Corporation Pickup Truck Fuel Tank Products Liability Litigation*, MDL No. 961 and Master File No. 92-6450 (E.D.Pa.); *In re Factor VIII or Factor IX Concentrate Blood Products Litigation*, Civil Action No. 93-5969 and MDL No. 986 (N.D.Ill.); *In re Copley Pharmaceutical, Inc., "Albuterol" Products Liability Litigation*, MDL Docket No. 94-140-1013 (D. Wyo.).

Courts throughout the country have praised the firm's ability to handle complex class litigation:

In re Automotive Refinishing Paint Antitrust Litigation, MDL No. 1426 (E.D. Pa.). Judge Surrick stated: "I want to commend counsel on both sides of

this litigation. I think the representation on both sides of this litigation is as good as I've ever seen in my entire professional career. ” Transcript of hearing, August 9, 2007, pp. 18-19.

In re Graphite Electrodes Antitrust Litigation, Master File No. 97-CV-4182, MDL No. 1244 (E.D. Pa.). Judge Weiner wrote that “[c]lass counsel exhibited the highest level of skill and professionalism in their conduct of this litigation.” Order of September 8, 2003.

In re Compact Disc Minimum Advertising Price Antitrust Litigation, MDL No. 1361 (D. Me.). In selecting the firm as lead counsel, Judge Hornby stated that “I have concluded that the firm Kohn, Swift & Graf has the experience, skill, resources, and expertise best able to move this matter forward, and I hereby designate that firm as lead counsel.” Order of January 26, 2001, p. 2.

In re Amino Acid Lysine Antitrust Litigation, MDL No. 1083 (N.D. Ill.). After selecting Kohn Swift & Graf, P.C. as sole lead counsel, at the conclusion of the case Judge Shadur praised the firm’s “extraordinarily professional handling” of the matter, which justified the selection of the firm *ab initio*. Transcript of hearing, February 27, 1998, pp. 3 & 4.

In re: Rio Hair Naturalizer Products Liability Litigation, MDL 1055 (E.D. Mich.). Judge Rosen stated that “the work of [lead counsel] and the manner in which they conducted themselves exhibited the very highest level of

professionalism and competence in our legal system.” 1996 U.S. Dist. LEXIS 20440, *57 (E.D. Mich., December 20, 1996).

In re: Montgomery Ward Catalog Sales Litigation, Master File No. 85-5094, MDL No. 685 (E.D. Pa). Judge Green praised “the efficient and excellent quality of the attorneys’ work.” Memorandum and Order, August 24, 1988.