

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

IN RE: NAVISTAR MAXXFORCE
ENGINES MARKETING, SALES
PRACTICES AND PRODUCTS LIABILITY
LITIGATION

Case No. 14-cv-10318

MDL No. 2590

Hon. Joan B. Gottschall

DECLARATION OF ROBERTA D. LIEBENBERG

I, Roberta D. Liebenberg, declare as follows:

1. I am a senior Member of the law firm of Fine, Kaplan and Black, R.P.C. ("FKB").

I submit this declaration in support of the application by the plaintiffs' Co-Lead Counsel for an award of attorneys' fees and reimbursement of expenses in connection with the services rendered in this litigation. I make this Declaration based on my own personal knowledge, and if called as a witness, I could and would competently testify to the matters stated herein.

2. Fine, Kaplan and Black, R.P.C. served as counsel to the named plaintiffs in this action (including ALJEN Enterprises, LLC; A.T.T. Trucking, LLC; B&T Express, Inc.; H.J. O'Malley Trucking, LLC; and Traficanti Trucking, LLC), and the proposed class. The background and experience of FKB and of its attorneys whose work is included in the firm's lodestar are summarized in the *curriculum vitae* attached hereto as Exhibit A.

3. Fine, Kaplan and Black has prosecuted this litigation solely on a contingent-fee basis, and has been at risk that it would not receive any compensation for prosecuting claims against the Defendants.

4. I was primarily responsible for the matter at Fine, Kaplan, and Black, and four other attorneys and two paralegals worked with me. Fine Kaplan's work is described in greater detail in paragraph 10 below.

5. I chaired the committee that was in charge of drafting the First Master Consolidated Class Action Complaint, working closely with Co-Lead Counsel, FKB attorneys, and co-counsel. In addition to drafting and editing the complaint, I performed legal research and analyzed numerous legal, factual, and strategic issues. I also served on the Discovery committee, and worked with Co-Lead Counsel, Ria Momblanco, and Mary Russell to develop the strategy and framework for responding to defendants' document requests and interrogatories, including with regard to ESI.

6. Paul Costa, a member of the Master Complaint committee, focused on preparation of the First Master Consolidated Class Action Complaint, including legal and factual research, drafting, editing, client consultation, and strategic analysis.

7. Ria Momblanco, also a member of the Master Complaint committee, initially focused on the legal research involved in preparing the First Master Consolidated Class Action Complaint. Among other things, she identified legal and factual issues to be researched, organized co-counsel from multiple firms to perform the research, analyzed the research, prepared legal and strategic memoranda for Co-Lead Counsel and the team drafting the complaint, and drafted and edited the complaint. Ms. Momblanco, a member of the Discovery Committee, also worked on developing and implementing the strategy and framework for responding to defendants' discovery requests, including drafting objections, response templates, and instructions for counsel and clients, and conferring with co-counsel. She also participated in

reviewing Navistar's document production (which FKB billed at the capped rate for document review activities).

8. Mary Russell was involved in each of the tasks identified in paragraph 10 below, with a primary focus on tasks 10(d) through 10(q) relating to legal research, briefing, and numerous discovery tasks. (FKB billed her document review time at the capped rate.)

9. Joseph Borgia primarily worked on analyzing plaintiffs' and defendants' document productions and other document review related matters.

10. At the direction of Co-Lead Counsel, FKB performed the following tasks in this litigation:

- a. chaired the Master Complaint committee and served on the Law and Motions and Discovery committees;
- b. coordinated and conducted significant legal and factual research for the First Master Consolidated Class Action Complaint, including the viability of specified causes of action in multiple jurisdictions, application of alter ego theories, conflict of law issues, standing, affirmative defenses raised in defendants' answers to initial complaints, and other legal and strategic issues;
- c. prepared memoranda for, and conferred in depth with, Co-Lead Counsel as to legal, factual, and strategic issues regarding the First Master Consolidated Class Action Complaint and, with Co-Lead and other counsel, drafted and revised the First Master Consolidated Class Action Complaint;
- d. reviewed subsequent amended complaints with named plaintiffs and counsel to verify factual averments, and edited or commented on subsequent complaints accordingly;

- e. coordinated plaintiffs' responses to defendants' written discovery requests (which included multiple sets of interrogatories, requests for production of documents and things, and requests for admission), including: conducted legal research and developed strategies and plans for responding to defendants' discovery requests; organized counsel to work with named plaintiffs in gathering documents for plaintiffs' case in chief and for responding to discovery requests; drafted, revised, and circulated instructions to named plaintiffs and plaintiffs' counsel to ensure document preservation and thorough collection and production of documents and information; drafted, consulted co-counsel about, and revised customizable templates for objecting and responding to document requests, interrogatories, and requests for admission; circulated customizable templates for discovery responses to Co-Lead Counsel, other co-counsel, and named plaintiffs with instructions for completion and discussed same with them; assessed compliance with discovery obligations, and followed up with named plaintiffs and counsel throughout the discovery period as required;
- f. worked with named plaintiffs and co-counsel in preparing named plaintiffs' individualized responses and supplemental responses to document requests, interrogatories, and requests for admission, including reviewing deposition testimony, documents produced, client interview notes, and other materials to ensure the accuracy and comprehensiveness of responses, and served responses and supplemental responses;
- g. assisted Co-Lead Counsel in re-interviewing named plaintiffs to ensure their adequacy to serve as named plaintiffs, and addressed issues related to removing

- certain named plaintiffs from the consolidated complaint for failure to comply with discovery obligations and for other reasons;
- h. performed legal research for and assisted in drafting and revising the proposed ESI protocol and instructions to named plaintiffs regarding preservation, collection, and production of ESI; addressed issues regarding collection and production of ESI in proprietary programs; coordinated ESI collection with plaintiffs' e-discovery expert and with co-counsel; participated in ESI-related interviews with named plaintiffs and the ESI consultant, and followed up with plaintiffs and the consultant as to collection, review, and production of ESI;
 - i. prepared correspondence to defendants' counsel raising and responding to multiple discovery issues, and participated in multiple meet and confer sessions with defendants' counsel about discovery issues, including the ESI protocol, objections to discovery requests, and the sufficiency of discovery responses;
 - j. at Co-Lead Counsel's request, drafted or edited periodic litigation and discovery-related updates from Co-Lead Counsel to other co-counsel;
 - k. met with Co-Lead Counsel in person and by phone to discuss multiple discovery-related matters, and responded to requests for information and for assistance with specific tasks from Co-Lead Counsel;
 - l. conducted legal and factual research and consulted with Co-Lead Counsel in preparation for 30(b)(6) depositions of defendants and of named plaintiffs, and assisted in coordination of plaintiffs' depositions;
 - m. addressed truck inspection scheduling issues and attended defendants' inspection of Ferraro Foods' Class trucks;

- n. transmitted multiple settlement proposals to specific named plaintiffs and co-counsel, discussed details with them, and reported back to Co-Lead Counsel;
- o. gathered and analyzed information for, and then prepared, a detailed Appendix to an anticipated motion for class certification, showing the status of each currently-named plaintiff as to residence, Class truck purchase or lease information, Class truck inspection dates, deposition dates, document production volume, interrogatory and request for admission responses, and warranty status, with citations to the record for each plaintiff attribute;
- p. revised declarations in support of the anticipated motion for class certification;
- q. reviewed and analyzed plaintiffs' "hard copy" documents and ESI for production, including second-level review to ensure responsiveness and proper designation of privileged and confidential documents; and
- r. analyzed defendants' document production, including reviewing memoranda and instructions from Co-Lead Counsel, conferring with them regarding specific documents or issues, and identifying and circulating "hot" documents.

11. FKB paralegals Allyson Katzman and Susan Hufnagel assisted counsel with the tasks assigned by Co-Lead Counsel, including: indexing plaintiffs' "hard copy" document production; following up with specific plaintiffs to ensure complete production; organizing and uploading documents received from clients to counsels' internal databases; processing plaintiffs' documents for appropriate redactions and confidentiality designations and uploading them to the production database; searching databases for documents requested by Co-Lead and other counsel; conferring with Co-Lead and other counsel and with vendors regarding multiple database and production issues; creating a redaction log; preparing and updating information

about Class and non-Class truck ownership by named plaintiffs, including information about VINs and purchase and finance data; producing documents to defendants; uploading specified discovery materials, memoranda, pleadings, discovery responses, and other documents to a shared database for use by co-counsel; and collection and preparation of exhibits for an Appendix to the anticipated class certification motion, and proofreading the Appendix.

12. Throughout the litigation, FKB communicated frequently with Co-Lead and Liaison Counsel, including to receive and clarify assignments, provide updates, discuss issues, and plan courses of action.

13. The following lodestar report shows the hours expended by Fine, Kaplan and Black attorneys and paralegals during the period March 5, 2015 through June 13, 2019 for which FKB requests compensation, the hourly rate for each attorney and paralegal computed at historical rates, and the resulting lodestar. This period reflects the time spent from the appointment of Interim Co-Lead Counsel and Liaison Counsel for Plaintiffs in this litigation to preliminary approval of the settlement.

FINE KAPLAN AND BLACK LODESTAR				
NAME	TITLE	HOURS	RATE(S)	TOTAL
Liebenberg, Roberta D.	Partner	175.2	\$750 - \$795	\$136,044.00
Costa, Paul	Partner	91.1	\$575 - \$600	\$52,405.00
Russell, Mary L.	Associate	2185.0	\$350 - \$550	\$1,115,535.00
Momblanco, Ria C.	Associate	313.0	\$350 - \$550	\$144,980.00
Borgia, Joseph J.	Counsel	1043.5	\$350 - \$400	\$365,605.00
Katzman, Allyson L.	Paralegal	566.0	\$250 - \$300	\$159,027.50
Hufnagel, Susan J.	Paralegal	21.3	\$275	\$5,857.50
TOTAL		4,395.1		\$1,979,454.00

14. The lodestar chart reflects 4,395.1 hours of work by Fine, Kaplan, and Black on behalf of the Class during this period of time, with a corresponding lodestar of \$1,979,454.00.

FKB's lodestar figures are based on the firm's historical billing rates, which do not include

charges for expense items. Expense items are billed separately and such charges are not duplicated in FKB's billing rates. This summary was prepared from contemporaneous daily time records regularly prepared and maintained by FKB. The lodestar amount is for work assigned by Co-Lead Counsel, and was performed by attorneys and paralegals at FKB for the benefit of the Class.

15. Since April 2015, FKB has submitted to Co-Lead Counsel in this case monthly reports setting forth the hours FKB (by individual) has devoted to work on this case, the work performed by each person, and the expenses incurred in connection with the firm's work.

16. Fine, Kaplan and Black has performed a line-by-line review of the time records that form the basis of this declaration to correct any billing errors and to exercise its billing judgment. All time included in FKB's lodestar was reasonable and necessary for the prosecution of the case. Fine Kaplan and Black expended additional hours of work, including by additional attorneys, for which it is not seeking compensation. Thus, the lodestar report does not reflect all of the time FKB incurred during this matter. Among other things, FKB has omitted the following:

- a. All time expended before the March 5, 2015 appointment of Co-Lead Counsel and Liaison Counsel and time expended by persons who billed fewer than 20 hours after March 5, 2015;
 - b. time in excess of 14 hours that a timekeeper billed on a single calendar day;
 - c. time that other FKB partners and I spent from 2017 to date on this litigation, including time conferring with and advising Ms. Russell and Ms. Momblanco;
- and

- d. time spent creating and auditing timekeeping and expense records, including all time spent preparing this declaration in support of Plaintiffs' application for an award of attorneys' fees and reimbursement of expenses.

17. Subject to the cap established by Co-Lead Counsel of a maximum hourly billing rate of \$350 for document review, the hourly rates for the attorneys and professional support staff included in FKB's lodestar are the same as the regular rates charged for their services in non-contingent matters and/or rates that have been accepted in other complex or class action litigation.

18. Fine Kaplan and Black's primary practice is representing class action plaintiffs. Typically, the attorney fee requests submitted by Fine Kaplan and Black in this Circuit and others have been for a percentage of the common fund earned for the class. In percentage of the fund cases, courts often perform a lodestar cross-check to confirm the appropriateness of the fee award. By finding that the lodestars in cases in which FKB was involved were reasonable, courts in this Circuit and elsewhere have explicitly or implicitly found that FKB's hourly rates were reasonable. (In fact, in most cases the fee award has included a positive "multiplier," meaning that the lodestar was lower than the amount ultimately awarded in attorneys' fees.) *See* Order Awarding Attorneys' Fees, Reimbursement of Litigation Expenses to Class Counsel, and Incentive Payments for Class Representatives from the Common Settlement Funds, *In re: Steel Antitrust Litig.*, No. 08-cv-5214, slip op. at 3 (N.D. Ill. Feb. 16, 2017) (Doc. 680) (Shah, J.) (finding billing rates were "appropriate and consistent with market rates for attorneys of similar skill doing similar work"¹) (copy attached as Exhibit B-1); *Standard Iron Works v. ArcelorMittal*,

¹ The 2015 and 2016 hourly rates included in FKB's *Navistar* lodestar were also included in FKB's *Steel* lodestar. The 33% fee award in *Steel* represented a multiplier of about 1.67 based on counsel's historical rates.

No. 1:08-cv-05214, 2014 WL 7781572, at *2 (N.D. Ill. Oct. 22, 2014) (Zagel, J.) (same); *In re: Lithium Ion Batteries Antitrust Litig.*, No 4:13-md-02420-YGR, 2018 WL 3064391, at *2 (N.D. Cal. May 16, 2018) (noting that underlying lodestar was reasonable²); Order, *In re: Processed Egg Products Antitrust Litig.*, 2:08-md-02002-GP, slip op. at 1-2, 2 n.3 (E.D. Pa. Nov. 20, 2017) (fees "were fair and reasonable" and "akin to fees authorized in other similar cases and similar to previous settlements within this same MDL" and the 0.90 lodestar "is well below similar cases") (copy attached as Exhibit B-2).

19. The hourly rates on which FKB's lodestar is based are the same rates charged to paying clients for similar work. The Seventh Circuit recognizes the "presumption that an hourly rate is reasonable where the attorney demonstrates that the hourly rate she has requested is in line with what she charges other clients for similar work." *Jeffboat, LLC v. Director, Office of Workers' Comp. Programs*, 553 F.3d 487, 489-90 (7th Cir. 2009).

20. FKB has expended a total of \$111,522.77 in unreimbursed costs and expenses in connection with the prosecution of this litigation. These costs and expenses are broken down in the chart attached hereto as Exhibit C. They were incurred on behalf of Plaintiffs by FKB on a contingent basis, and have not been reimbursed. The expenses incurred in this action are reflected on the books and records of FKB. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

² In fact, Co-Lead counsel in the *Batteries* litigation capped hourly rates for the duration of that litigation, starting in 2013. The capped rates – which were below market rates in 2013 and are farther below now -- included \$850 per hour for partners, \$650 per hour for senior lawyers such as Of Counsel or Special Counsel (excluding document review), and \$450 per hour for associates (excluding document review). FKB's hourly rates throughout the *Navistar* litigation for attorneys in those categories were even below the *Batteries* below-market-rate caps. In both *Navistar* and *Batteries*, document review was capped at \$350 per hour.

21. The unreimbursed expenses in Exhibit C include a total of \$102,500 in assessments Fine, Kaplan and Black paid for the joint prosecution of the litigation against the Defendants.

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

Executed on this 9th day of September, 2019 at Philadelphia, Pennsylvania.


ROBERTA D. LIEBENBERG

EXHIBIT A

Exhibit A

ABOUT THE FIRM

FINE, KAPLAN AND BLACK, RPC

One South Broad Street, 23rd Floor
Philadelphia, Pennsylvania 19107
(215) 567-6565

Fine, Kaplan and Black is a nationally recognized firm located in Philadelphia, Pennsylvania that devotes its practice entirely to litigation, with particular emphasis on antitrust, class actions, complex commercial litigation, consumer protection, and white collar criminal defense.

Fine, Kaplan and Black has consistently been ranked as one of the premier antitrust practices in Pennsylvania by the *Chambers USA Client Guide*. The *Guide* praises the Firm as an “excellent boutique firm” that is composed of “erudite and capable attorneys.” In the *Guide*, clients praised the Firm for its “absolutely fantastic service” and “superb attorneys.”

In addition, many of Fine, Kaplan and Black’s litigation attorneys have been named Pennsylvania Super Lawyers or Rising Stars by *Philadelphia Magazine*.

Since its formation in 1975, the Firm has been involved in many of the most significant antitrust and class action cases in federal and state courts. A few examples of these cases include:

In re Urethane Antitrust Litigation (Polyether Polyols), 768 F.3d 1245 (10th Cir. 2014). The firm served as co-lead counsel in this antitrust class action alleging price fixing of certain urethane chemical products. After a four-week trial in early 2013, Plaintiffs obtained a jury verdict in excess of \$400,000,000 against The Dow Chemical Company. The Court entered judgment for \$1.06 billion after trebling—the largest antitrust judgment in 2013 and the largest price-fixing verdict ever. While on appeal to the Supreme Court of the United States, Plaintiffs reached an agreement to settle the case against Dow for \$835 million. Combined with earlier settlements, the total settlements reached in the case were \$974 million.

In re Generic Pharmaceuticals Pricing Antitrust Litigation, M.D.L. No. 2724 (E.D. Pa.), a case in which the firm has been appointed Lead Counsel for a putative class of end-payer plaintiffs pursuing price-fixing claims against dozens of generic drug manufacturers in one of the largest multidistrict antitrust litigations ever established.

In re: Railway Industry Employee No-Poach Antitrust Litigation, No. 2:18-mc-00798 (W.D. Pa.), multi-district litigation asserting that an illegal conspiracy among the world's dominant rail equipment suppliers restrained competition and reduced compensation for railway industry employees, in which the firm was appointed Interim Co-Lead Class Counsel.

In re Domestic Airline Travel Antitrust Litigation, M.D.L. No. 2656 (D.D.C.), in which the firm is defending Southwest Airlines against allegations of an unlawful conspiracy to limit capacity.

Standard Iron Works v. ArcelorMittal, 639 F. Supp. 2d 877 (N.D. Ill. 2009), a price-fixing class action in which the Firm was appointed Co-Lead Counsel for a putative class of direct purchasers of steel products, alleging a conspiracy among manufacturers to restrict supply. Settlements were reached with all eight defendants, totaling \$193.9 million.

United States v. Stolt-Nielsen, et al., 524 F. Supp. 2d 586 (E.D. Pa. 2007), a criminal prosecution brought after the Antitrust Division rescinded an Amnesty Agreement that promised immunity from prosecution to the Company and its executives. This represented the first case in which the Government had rescinded an Amnesty Agreement and attempted to maintain a criminal prosecution against the parties to such an Agreement. After a four-week trial on a Motion to Dismiss the Indictment and extensive briefing by the parties, the Court found that the Government had “no reasonable basis” for revoking the Amnesty Agreement, and dismissed the indictment.

In re NASDAQ Market-Makers Antitrust Litigation, 187 F.R.D. 465 (S.D.N.Y. 1998), a case in which defendants and others successfully conspired to increase the fix and “spreads” paid by plaintiffs and the members of the class in connection with purchases and sales of class securities, one of the country’s largest and most complex multidistrict price-fixing class actions. The Firm served as one of Plaintiffs’ Co-Lead Counsel, on behalf of a class of more than a million class members. The case was certified and ultimately settled for more than one billion dollars.

Love Terminal Partners v. City of Dallas, 527 F. Supp. 2d 538 (N.D. Tex. 2007), a complex antitrust litigation arising out of the Wright Amendment Reform Act of 2006, in which the Firm successfully defended Southwest Airlines and the Court granted its motion to dismiss the complaint.

In re Terrapin Express, Inc. v. Airborne Express, Inc., No. 11-199-01536-05 (AAA 2007), a class-wide arbitration in which the Firm represented a class of independent contractors alleging systematic underpayment and breach of contract. In June 2008, a panel of arbitrators approved a \$24.75 million settlement.

In re Copper Antitrust Litigation, 528 F. Supp. 2d 908 (W.D. Wis. 2007), an antitrust case in which the Firm represented a group of large purchasers of copper in litigation alleging price manipulation in the copper market. The case settled favorably in 2007.

In re Remeron End-Payor Antitrust Litigation, 2005 WL 2230314 (D.N.J. Sept. 13, 2005), an antitrust class action in which the Firm was Co-Lead counsel, and achieved a settlement of \$36 million for the class of end users of a prescription drug.

In re TriCor Indirect Purchasers Antitrust Litigation, Civil Action No. 05-360 (SLR) (D. Del.). The firm represented a plaintiff class of indirect purchasers of TriCor® and other prescription drugs containing fenofibrate. The class obtained a settlement of \$65.7 million.

In re Linerboard Antitrust Litigation, 305 F.3d 145 (3d Cir. 2002) and 2004 WL 1221350 (E.D. Pa. June 2, 2004), a horizontal price-fixing class action against the major manufacturers of corrugated containers, in which the Firm was a member of Plaintiffs' Executive Committee. Settlements in the fall of 2003 resulted in a recovery in excess of \$202.5 million for the benefit of the class.

A number of courts have commented favorably on the quality of our Firm's work in antitrust and other class actions. For example, in approving plaintiffs' \$835 million settlement with The Dow Chemical Company in *In re Urethane Antitrust Litig.*, M.D.L. No. 1616, 2016 WL 4060156, at *4 (D. Kan. July 29, 2016), in which Fine Kaplan served as Co-Lead Counsel, the District Court stated that "counsel achieved **incredible success** on the merits of the claims, earning a verdict of over \$400 million that would be trebled and eventually obtaining settlements totaling over \$974 million (much more than double the amount of damages)...**In almost 25 years of service on the bench, this Court has not experienced a more remarkable result.**" (Emphasis added.) In *In re Linerboard Antitrust Litig.*, 2004 WL 1221350, at *6 (E.D. Pa. June 2, 2004), in which our Firm was a member of Plaintiffs' Executive Committee, the Court approved a settlement of \$202.5 million for the benefit of the class, and stated, "the lawyering in the case at every stage was superb." In approving the settlement in *In re Lorazepam and Clorazepate Antitrust Litig.*, M.D.L. No. 1290, 2003 WL 22037741, *6 (D.D.C. June 16, 2003), in which our Firm was Co-Counsel for the class of direct purchasers, the Court characterized

counsel as "among the best and most experienced antitrust litigators in the country." In *In re NASDAQ Market-Makers Antitrust Litig.*, 187 F.R.D. 465, 474 (S.D.N.Y. 1998), the Firm served as one of Plaintiffs' Co-Lead Counsel, and the Court approved a settlement of over \$1 billion and complimented the Firm by noting that, "[i]t is difficult to conceive of better representation than the parties to this action achieved."

ROBERTA D. LIEBENBERG

Roberta D. Liebenberg, a member, is a graduate of the University of Michigan and the Catholic University Columbus School of Law, *magna cum laude*, where she was the Notes Editor of the Law Review. Thereafter, she served as a law clerk for the United States Court of Appeals for the Fourth Circuit.

Ms. Liebenberg served as one of trial counsel for the plaintiff class in *In re Urethane [Polyether Polyols] Antitrust Litigation*, MDL No. 1616 (D. Kan.). After a four-week trial, a jury returned a verdict for the class against The Dow Chemical Company in excess of \$400 million, prior to trebling. After accounting for pre-trial settlements with other defendants of \$139 million, the Court entered a final judgment for the class in the amount of \$1.06 billion. This was the largest judgment ever awarded in a price-fixing case. The judgment was later unanimously affirmed by the Tenth Circuit. *In re Urethane Antitrust Litig.*, 768 F.3d 1245 (10th Cir. 2014). While the case was pending on appeal in the United States Supreme Court, Dow agreed to a settlement for \$835 million, the largest settlement ever recovered in a price-fixing case from a single defendant.

She has also held leadership roles for the plaintiff classes in numerous other complex antitrust and consumer class actions as well. For example, Ms. Liebenberg was appointed by the Court as Lead Counsel for the End-Payer Plaintiff Class in *In re Generic Pharmaceuticals*

Pricing Antitrust Litigation, MDL No. 2724 (E.D. Pa.), and Co-Lead Counsel for the class in *In re Railway Industry Employee No-Poach Antitrust Litigation*, MDL No. 2850 (W.D. Pa.).

Ms. Liebenberg defended Southwest Airlines in *In re Domestic Airline Travel Antitrust Litig.*, MDL No. 2656 (D.D.C.) and successfully defended Southwest in an antitrust action brought against it in *Love Terminal Partners, L.P. v. City of Dallas*, 527 F. Supp. 2d 538 (N.D. Tex. 2007). She is representing Temple University in connection with a high profile class action lawsuit brought by students enrolled in the Fox School of Business and Management. *Smith, et al. v. Temple University*, No. 18-590 (E.D. Pa.). She served as one of trial counsel in *United States v. Stolt-Nielsen, S.A.*, a complex and landmark criminal matter involving the Antitrust Division's Amnesty Program in which she successfully defended a high-level executive charged with violations of the Sherman Antitrust Act. The charges were all dismissed after a three-week bench trial. *United States v. Stolt-Nielsen, S.A.*, 524 F. Supp. 2d 609 and 524 F. Supp. 2d 586 (E.D. Pa. 2007).

In addition, Ms. Liebenberg has served in leadership roles in a number of other antitrust and consumer class actions: *In re Aftermarket Filters Antitrust Litigation*, M.D.L. No. 1957 (N.D. Ill.) (Co-Lead Counsel for direct purchasers) (\$18 million settlement); *In re Provident Financial Corp. Credit Card Terms Litigation*, M.D.L. No. 1301 (E.D. Pa.) (Co-Lead Counsel) (\$105 million settlement); *In re Linerboard Antitrust Litigation*, M.D.L. No. 1261 (E.D. Pa.) (Executive Committee) (\$202.5 million settlement); *In re Capacitors Antitrust Litigation*, M.D.L. No. 2574 (N.D. Cal.) (Expert Committee); *In re Vitamins Antitrust Litigation*, M.D.L. No. 1285 (D.D.C.) (Expert Committee) (approximately \$325 million settlement); *In re MSG Antitrust Litigation*, M.D.L. No. 1328 (D. Minn.) (Co-Chair, Expert Committee) (\$123 million settlement); *In re Automotive Paint Antitrust Litigation*, M.D.L. No. 1426 (E.D. Pa.) (Executive

Committee) (\$105.75 million settlement); *Thomas & Thomas Rodmakers, Inc. v. Newport Adhesives & Composites, Inc. (Carbon Fibers)*, No. CV-99-07796 (C.D. Cal.) (Expert Committee) (\$68 million settlement); *In re Polypropylene Carpet Antitrust Litigation*, M.D.L. No. 1075 (N.D. Ga.) (Co-Chair, Expert Committee) (approximately \$50 million settlement); *In re Commercial Explosives Antitrust Litigation*, M.D.L. 1093 (D. Utah) (Co-Chair, Discovery Committee) (\$71 million settlement); *United States v. Stolt-Nielsen*, 524 F. Supp. 2d 586 (E.D. Pa. 2007); and *Love Terminal Partners, L.P. v. City of Dallas, Texas*, 527 F. Supp. 2d 538 (N.D. Tex. 2007).

She has repeatedly been listed in the highest band-level as one of the leading antitrust lawyers in the country by the *Chambers USA Guide: America's Leading Business Lawyers*. Also, every year since 2004, *Chambers* has included her in the highest band level among antitrust lawyers in Pennsylvania. The *Chambers Guide* has described her as “a first-class litigator” and stated that “she truly is one of the most talented and accomplished antitrust lawyers in the country.” Also, she was named by *Best Lawyers* as “Antitrust Lawyer of the Year” in Philadelphia in 2013 and 2018. Since 2006, she has been listed in *Best Lawyers in America* in the field of Antitrust. The US Legal 500 listed Ms. Liebenberg as one of the nation's “leading lawyers” in the field of antitrust class actions and she was listed by “Who's Who: Legal Competition,” by Global Competition Review.

In 2019, Ms. Liebenberg was named by The National Law Journal as one of the “Elite Women of the Plaintiffs’ Bar.” She also received The Philadelphia Inquirer’s “Influencers of Law” Lifetime Achievement Award in 2019. She was also named by Corporate Counsel and Inside Counsel as the recipient of their 2018 “Lifetime Achievement Award.” She was honored with Hortense Ward Courageous Leader Award by the Center for Women in Law at the

University of Texas School of Law in April 2018. In June 2017, she received the “Distinguished Leader Award” from *The Legal Intelligencer*. In February 2017, she received the Martha Fay Africa Golden Hammer Award from the American Bar Association's Law Practice Division, in recognition of professional excellence in her career and her commitment to diversity. In August 2016, she received the Margaret Brent Women Lawyers of Achievement Award from the American Bar Association's Commission on Women in the Profession. This is the highest award bestowed upon a woman attorney by the ABA. In May 2015, the *National Law Journal* named Ms. Liebenberg as one of the nation's 75 most “Outstanding Women Lawyers.” Previously, in 2007 the *National Law Journal* had named her as one of its “50 Most Influential Women Lawyers in America.” In April 2015, she was honored with the “Lifetime Achievement Award” by *The Legal Intelligencer*, in recognition of her “exemplary career” and her “significant impact on the profession.” She has been named five times as one of the “Top Ten Super Lawyers in Pennsylvania.” In April 2014, she received the Chambers Women in Law “Outstanding Achievement Award.” She received the Ms. JD “Sharing Her Passion Award” in February 2014. Ms. Liebenberg was the recipient of the inaugural Chambers Women in Law Award for “Outstanding Contributions to Gender Diversity and Equality” in January 2013. In November, 2012, she received the Florence K. Murray Award from the National Association of Women Judges. That award is given to someone “who has opened doors and advanced opportunities for women attorneys.” Ms. Liebenberg also is the recipient of the 2008 Sandra Day O'Connor Award by the Philadelphia Bar Association. This award is conferred annually on a woman attorney “who has demonstrated superior legal talent, achieved significant legal accomplishments, and has furthered the advancement of women in both the profession and the community.”

Ms. Liebenberg served as Chair of the American Bar Association's Standing Committee on the Federal Judiciary from 2006-2007. That Committee performs peer review evaluations of all federal court nominees. Prior to that appointment, she served as the Third Circuit representative on the Standing Committee from 2005-2006. She served as Co-Chair of the Practitioners' Reading Group in connection with the Standing Committee's evaluations of the nominations of Supreme Court Justices Sotomayor and Kagan. From 2003 to 2005, Ms. Liebenberg was a member of the Board of Governors of the ABA, representing Pennsylvania and New Jersey. In addition, she served on the Governing Council of the ABA's Section of Litigation and was the Section's Delegate to the House of Delegates. She was Vice Chair of the ABA Antitrust Section's Cartel and Criminal Practice Committee. She also served as Chair of the Class Actions and Derivative Suits Committee of the ABA Section of Litigation. Ms. Liebenberg formerly chaired the Philadelphia Bar Association's Antitrust Committee from 1993-1997 and 2002-2007.

GERARD A. DEVER

Gerard A. Dever, a member, received his law degree from Temple University School of Law in 2000, from which he graduated *magna cum laude*. He received his undergraduate education at American University from which he graduated *cum laude*. Prior to joining Fine Kaplan in January 2002, he was an associate at Pepper Hamilton LLP. Mr. Dever has been named a “Super Lawyer” by *Philadelphia Magazine*. Mr. Dever is also ranked in *The Chambers USA Client Guide*, which described him as “a strong attorney with excellent analytical abilities.”

Mr. Dever has represented both plaintiffs and defendants in antitrust matters, including class actions, criminal matters and merger reviews. In addition, Mr. Dever has litigated a variety of other cases in both federal and state courts, including contract disputes, legal malpractice

matters and consumer class actions. Mr. Dever served as trial counsel in *United States v. Stolt-Nielsen, S.A.*, a complex criminal matter in which the firm successfully represented an executive charged with criminal antitrust violations. The charges were dismissed after a three-week bench trial. *United States v. Stolt-Nielsen, S.A.*, 524 F. Supp. 2d 609 and 524 F. Supp. 2d 586 (E.D. Pa. 2007). Mr. Dever also served as part of the co-lead counsel team for the plaintiff class in *In re Urethane Antitrust Litigation (Polyether Polyols)*, M.D.L. No. 1616 (D. Kan.). After a four week jury trial, the class obtained a judgment in excess of \$1 billion in that case. While the case was on appeal to the United States Supreme Court, the parties reached an agreement to settle the case against Dow for \$835 million.

Mr. Dever also has been part of the trial team in cases that settled just before trial. *See In re Cathode Ray Tube (CRT) Antitrust Litigation*, No. CV-07-5944 (N.D. Cal.) (an indirect purchaser antitrust class action); *Gratz College v. Synergis Education, Inc.*, No. 14-6966 (E.D. Pa.) (a breach of contract case).

PAUL COSTA

Paul Costa, a member, received his undergraduate degree from the University of Pennsylvania, where he graduated *cum laude*. He received his law degree from Georgetown University Law Center, where he graduated *magna cum laude* and was elected to the Order of the Coif. Following law school, he worked as an associate in the Washington, D.C. offices of Akin, Gump, Strauss, Hauer & Feld, L.L.P. Prior to joining Fine, Kaplan and Black in October 2004, he served as a law clerk to the Honorable Cynthia M. Rufe of the United States District Court for the Eastern District of Pennsylvania. For several years running, Mr. Costa has been named a "Pennsylvania Super Lawyer" by *Philadelphia Magazine* in its annual listing of the top lawyers in Pennsylvania.

Mr. Costa has represented plaintiffs and defendants in complex matters in federal and state courts and in arbitration. His practice focuses on antitrust, breach of contract, and consumer class actions. He has extensive experience in all aspects of commercial litigation, including new matter investigations, document discovery, depositions, and, like many of the firm's attorneys, he has authored numerous prevailing briefs during nearly every stage of litigation. Mr. Costa also was a member of the trial team in *In re Urethane Antitrust Litigation*, M.D.L. No. 1616 (D. Kan.), is part of the lead counsel team in *In re Generic Pharmaceuticals Pricing Antitrust Litigation*, M.D.L. No. 2724 (E.D. Pa.), and was one of the principal attorneys representing a plaintiff class of indirect purchasers of the pharmaceutical Toprol-XL® in *In re Metoprolol Succinate Antitrust Litigation*, 2010 WL 1485328 (D. Del. Apr. 13, 2010).

MARY L. RUSSELL

Mary L. Russell, a senior associate, received her law degree *cum laude* from Georgetown University Law Center, where she was an editor of the American Criminal Law Review. She was a United States Senate staff person before obtaining her law degree. She received her undergraduate education at Kalamazoo College, where she was a Stone Honor Scholarship recipient. She was previously associated with Winthrop, Stimson, Putman & Roberts in New York City and Ballard, Spahr, Andrews & Ingersoll in Philadelphia, and was Of Counsel at Liebenberg & White. She is a member of the bar in Pennsylvania, New York, New Jersey, and Connecticut.

Since joining Fine, Kaplan and Black in 2001, Ms. Russell has focused on complex litigation, including antitrust and consumer protection class actions. Representative cases include *In re Urethane Antitrust Litig.*, 768 F.3d 1245 (10th Cir. 2014); *In re Lithium Ion Batteries Antitrust Litig.*, 2016 WL 1054584 (N.D. Cal. Mar. 16, 2016); *In re Capacitors*

Antitrust Litigation, M.D.L. No. 2574 (N.D. Cal.); *Baker et al. v. Family Credit Counseling Corp. et al.*, No. 04-CV-5508 (E.D. Pa.) (consumer protection); *In re Providian Financial Corp. Credit Card Terms Litigation*, MDL No. 1301 (E.D. Pa.) (consumer protection); *In re Harleysville Mutual*, Nov. Term 2011, No. 02137 (Phila. CCP) (class and derivative action); and *IBEW Local Union 98 v. Noven Pharmaceuticals, Inc.*, Consolidated Civil Action No. 4732-CC (Del. Chancery) (securities).

RIA C. MOMBLANCO

Ria C. Momblanco, a senior associate, received her law degree from the University of Pennsylvania Law School in 2002, where she was a senior editor and the technology editor for the Law Review. She received her undergraduate degree in chemical engineering from the University of California, Los Angeles. She is admitted to practice before the U.S. Patent and Trademark Office as well as in Pennsylvania and California. Prior to joining Fine, Kaplan and Black, Ms. Momblanco was an associate at Jones Day in Orange County, California where she practiced complex commercial litigation in the fields of health care and consumer credit reporting.

Since joining Fine Kaplan and Black in 2006, Ms. Momblanco has had wide-ranging experience in complex cases, including antitrust, products liability, and securities fraud litigation. Representative cases include *In re Domestic Airline Travel Antitrust Litig.*, MDL No. 2656 (D.D.C) (counsel for Southwest Airlines); *In re Fluidmaster, Inc., Water Connector Components Products Liability Litig.*, Civ. A. No. 14-cv-5696 (N.D. Ill.); *Ajose v. Interline Brands, Inc.*, Civ. A. No. 3:14-cv-1707 (M.D. Tenn.) (product liability); *Trabakoolas v. Watts Water Technologies, Inc.*, No. C12-01172 (N.D. Cal.) (product liability); *Love Terminal Partners L.P. v. City of*

Dallas, 2007 WL 3196307 (N.D. Tex. 2007) (antitrust); and *In re Air Cargo Shipping Services Antitrust Litigation*, MDL No. 1775, Civ. A. No. 06–MD–1775 (E.D.N.Y.).

Ms. Momblanco has been named a Pennsylvania Super Lawyer by *Philadelphia Magazine* (2015-2019).

JOSEPH J. BORGIA

Joseph Borgia, of counsel, focuses on antitrust class actions and other complex civil litigation. Mr. Borgia received his undergraduate degree in history from The Pennsylvania State University and his law degree from the Widener University School of Law, which he attended at night while working full time at Fine, Kaplan and Black. He is highly experienced in analyzing and coding documents for document reviews, including as a second-level and quality control reviewer in complex and document-intensive litigation. Representative cases include: *In re Broiler Chicken Antitrust Litigation*, No. 1:16-cv-08637 (N.D. Ill.); *In re Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, No. 3:15-md-02672-CRB (N.D. Cal.); *In re Capacitors Antitrust Litigation*, M.D.L. No. 2574 (N.D. Cal.); *Alaska Elec. Pension Fund v. Bank of Am. Corp.* No. 14-cv-7126 (S.D.N.Y.); *In re Domestic Airline Travel Antitrust Litigation*, M.D.L. No. 2656 (D.D.C.); and *In re: Railway Industry Employee No-Poach Antitrust Litigation*, No. 2:18-mc-00798 (W.D. Pa.).

EXHIBIT B-1

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

<p>IN RE: STEEL ANTITRUST LITIGATION</p> <hr/> <p>THIS DOCUMENT RELATES TO ALL DIRECT PURCHASER ACTIONS:</p> <p><i>Standard Iron Works v. ArcelorMittal, et al., Case No. 08-cv-5214</i></p> <p><i>Wilmington Steel Processing Co., Inc. v. ArcelorMittal, et al., Case No. 08-cv-5371</i></p> <p><i>Capow, Inc. d/b/a Eastern States Steel v. ArcelorMittal, et al., Case No. 08-cv-5633</i></p> <p><i>Alco Industries, Inc. v. ArcelorMittal, et al., Case No. 08-cv-6197</i></p> <p><i>Gulf Stream Builders Supply, Inc. v. ArcelorMittal, et al., Case No. 10-cv-4236</i></p>	<p>Case No. 08-cv-5214</p> <p>Honorable Manish S. Shah</p>
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**ORDER AWARDING ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION
EXPENSES TO CLASS COUNSEL, AND INCENTIVE PAYMENTS FOR CLASS
REPRESENTATIVES FROM THE COMMON SETTLEMENT FUNDS**

The Court, having considered Class Counsel's Motion for Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Incentive Awards for Class Representatives, and the Memorandum of Law and exhibits in support thereof (Dkt. No. 666); having held hearings on February 16, 2017 concerning final settlement approval, attorneys' fees and other related issues; and having considered all of the submissions and arguments with respect thereto, pursuant to Rules 23 and 54 of the Federal Rules of Civil Procedure it is hereby ORDERED, ADJUDGED

AND DECREED that Class Counsel's Motion for Attorneys' Fees, Reimbursement of Litigation Expenses, and Incentive Awards for Class Representatives is GRANTED as follows:

1. Settlement Class Counsel have moved for attorneys' fees and reimbursement of litigation expenses out of the common settlement funds in this litigation. As a result of the Settlements with Nucor Corporation, Steel Dynamics, Inc. and SSAB Swedish Steel Corporation, Class Counsel have secured \$30 million for the benefit of the Settlement Class, minus a \$72.66 reduction for opt outs as provided in the settlement agreements, plus approximately \$2,268 in interest accrued on the settlement funds through December 2016. Together with the prior settlements achieved in the case, Class Counsel have secured a total common fund recovery of approximately \$193.9 million for the benefit of the Settlement Class.

2. After appropriate notice to the Settlement Class of their intention to seek up to 33% of the total common settlement fund as attorneys' fees and to seek reimbursement of litigation expenses and incentive awards for Class Representatives, and upon consideration of the motion and all related submissions and argument, and the response of the Settlement Class thereto; now therefore pursuant to Rules 23(h) and 54(d) of the Federal Rules of Civil Procedure, this Court awards Settlement Class Counsel 33% of the net Settlement Fund (*i.e.*, 33% of the sum of the settlements obtained with Nucor, Steel Dynamics and SSAB after accounting for the opt-out reduction) as a fair and reasonable attorneys' fee.

3. The Court finds that a 33% fee comports with the prevailing market rate for legal services of similar quality in similar cases. The Court rests this conclusion on, *inter alia*, information provided by Class Counsel concerning market rates; the Court's consideration of fee awards in similar complex litigation, including many recent antitrust class actions in which 33% fees were awarded for similar work; the nature and complexity of this particular litigation; the

substantial risks of non-recovery borne by Class Counsel in prosecuting this matter on a purely contingent basis while advancing all litigation costs; the amount and quality of Class Counsel's work; and the results obtained on behalf of the Class.

4. Class Counsel initiated and developed this case with no assistance from any prior government investigation or prosecution, and handled the matter effectively through more than eight years of hard-fought litigation. The issues were risky and difficult, and Class Counsel's ultimate success in recovering an additional \$30 million for the Class—payable promptly in cash—supports the requested fee award.

5. A lodestar “cross check” further supports a 33% fee award. Class Counsel devoted approximately \$6 million in professional time to litigating this case during the period August 2014 through the present. The work involved, *inter alia*, supervising the claims and distribution process after the initial settlements were approved in 2014; continuing to build the case throughout the 2015-16 timeframe by interviewing fact witnesses; successfully opposing Defendants' Rule 23(f) petition after the certification of a litigation class; several rounds of motion practice to determine the proper scope and sequence of merits discovery; preparing for and taking the depositions of six senior executives from Nucor, Steel Dynamics and SSAB; reviewing documents, developing the record, and drafting papers in opposition to Defendants' summary judgment motions; extensive settlement negotiations with the remaining Defendants; and handling all filings, court appearances, and administration relating to the recent settlements.

6. The Court finds that Class Counsel performed their work reasonably and efficiently, that their billing rates are appropriate and consistent with market rates for attorneys of similar skill doing similar work, and that the lodestar totals are reasonable.

7. Based on historical billing rates, the requested lodestar “multiplier” is approximately 1.67. Based on current billing rates, the requested lodestar multiplier is approximately 1.61. The Court finds that Class Counsel’s request is well within the range of reasonable multipliers awarded in similar contingent cases. The requested multiplier is further supported by the fact that Class Counsel bore all the risk of litigating this complex case (including more than \$450,000 in litigation expenses) with no guarantee of reimbursement. Having shouldered these risks, and having achieved outstanding results for the Class, Class Counsel have earned their requested multiplier.

8. The reaction of the Class supports the requested fee award. The Settlement Class in this case includes thousands of direct purchasers, many of which are sophisticated business entities. The absence of objections indicates that the fee is fair and reasonable and consistent with prevailing market rates.

9. The Court directs that Co-Lead Counsel allocate the fee award among co-counsel in a reasonable manner consistent with Co-Lead Counsel’s assessment of each firm’s contribution to the prosecution of the case.

10. Class Counsel also requests reimbursement for \$465,602.62 in expenses they have advanced in the prosecution of this lawsuit. The Court grants that request and finds the expenses to be fair and reasonably incurred to achieve the benefits to the Settlement Class obtained in the Settlement.

11. Class Counsel also requests incentive awards in the amount of \$50,000 to each of the five Class Representatives. The Court grants that request and finds that the incentive awards are fair and reasonable in light of what the Class Representatives did and achieved for the Class. The Court finds that the Class Representatives (i) represented the Class adequately and

effectively throughout eight years of difficult litigation; and (ii) shouldered substantial discovery burdens to advance the claims of the Class, including preservation and production of tens of thousands of pages of sensitive business documents, preparing and sitting for depositions, answering written discovery, and monitoring the case and settlement negotiations. The Class Representatives undertook these efforts despite the business risks associated with filing class action litigation against their major steel suppliers, and by doing so the Class Representatives delivered a favorable recovery of more than \$190 million for the benefit of the Class.

Accordingly, incentive awards of \$50,000 per Class Representatives are fair and reasonable.

WHEREFORE the Court grants an attorneys' fee award of 33% of the total common settlement funds (*i.e.*, 33% of \$29,999,973, or a total fee of \$9,899,991), authorizes Co-Lead Counsel to allocate the fee award among co-counsel at Co-Lead Counsel's discretion, awards Class Counsel reimbursement of their requested "out of pocket" litigation costs and expenses from the Settlement funds in the amount of \$465,602.62, and awards incentive payments of \$50,000 to each of the five Class Representatives.

SO ORDERED this the 16th day of February, 2017.



Manish S. Shah
United States District Judge

EXHIBIT B-2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: PROCESSED EGG PRODUCTS : **MULTIDISTRICT**
ANTITRUST LITIGATION : **LITIGATION**
:
:
:
:
THIS DOCUMENT APPLIES TO ALL : **No. 08-md-2002**
DIRECT PURCHASER ACTIONS :

ORDER

AND NOW, this 17th day of November, 2017, upon consideration of the following:

- 1) The Direct Purchaser Plaintiffs’ Motion for Attorneys’ Fees and Reimbursement of Expenses (Doc Nos. 1537 & 1540).
- 2) The requested attorneys’ fee represents 33% of the aggregate Michael Foods settlement agreement and the lodestar in the present case is 0.90.¹
- 3) The Court finds notice to the class to be adequate; no class members have objected to these fees.²
- 4) The Court finds that the requested attorney fees, representing 33% of the Michael Foods settlement and a .90 lodestar, to be fair and reasonable, and that such fees are akin to fees

¹ Courts must perform a “thorough judicial review of fee applications . . . in all class action settlements.” *In re GMC Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 819 (3d Cir. 1995). In assessing attorneys’ fees, courts may use the percentage-of-recovery method or the lodestar method. “In this Circuit, the percentage of recovery method is ‘generally favored’ in cases involving a common settlement fund” such as this. *In re Auto. Refinishing Paint Antitrust Litig.*, MDL No. 1426, 2008 WL 63269, at *3 (E.D. Pa. Jan. 3, 2008) (quoting *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 732 (3d Cir. 2001)). The Third Circuit Court of Appeals has “suggested that district courts cross-check the percentage award at which they arrive against the ‘lodestar’ award method.” *Gunter v. Ridgewood Energy Corp.*, 223 F.3d 190, 195 n.1 (3d Cir. 2000). A lodestar award “is calculated by multiplying the number of hours reasonably worked on a client’s case by a reasonable hourly billing rate for such services based on the given geographical area, the nature of the services provided, and the experience of the attorneys.” *Chakejian v. Equifax Info. Servs., LLC*, 275 F.R.D. 201, 216 (E.D. Pa. 2011) (internal quotation omitted). The reasonableness of an hourly rate depends on the experience and skill of the attorneys and staff who worked on the litigation. *See id.* The reasonableness of the hours worked requires counsel to not spend excessive time on a case and to not use top legal talent for routine work that associates or paralegals could perform. *Id.* at 217. In calculating a lodestar award to evaluate a settlement that occurs before the conclusion of a case, courts may include the time spent by counsel performing tasks that are not directly related to the settlement. *See In re Ins. Brokerage Antitrust Litig.*, 579 F.3d 241, 282-85 (3d Cir. 2009).

² For a detailed discussion of the sufficiency of notice, see this Court’s November 17, 2017 memorandum opinion on the fairness of the settlement. Notice here was effectuated in the same manner analyzed in that opinion. Such notice far exceeded the minimum required to meet the requirements of Rule 23 and due process.

authorized in other similar cases and similar to previous settlements within this same MDL.³

Accordingly, it is **hereby ORDERED** that the Direct Purchaser Plaintiffs' Motion for Attorneys' Fees and Reimbursement of Expenses (Doc. Nos. 1537 & 1540) is **GRANTED**. It is **FURTHER ORDERED** that:

1. Counsel for the Direct Purchaser Plaintiffs are awarded attorneys' fees in the amount of \$24,750,000, with accrued interest.
2. Counsel for the Direct Purchaser Plaintiffs are awarded reimbursement of litigation and individual firm expenses in the amount of \$2,613,674.80 with accrued interest.
3. Interim Co-Lead Counsel are responsible for allocating and distributing attorneys' fees and expenses among counsel for the Direct Purchaser Plaintiffs.
4. The Court retains jurisdiction over the Michael Foods settlement agreement to include resolution of any matters which may arise related to the allocation and distribution of attorneys' fees and expenses.

BY THE COURT:



GENE/E.K. PRATTER

UNITED STATES DISTRICT JUDGE

³ District courts "must consider" ten factors "[i]n determining what constitutes a reasonable percentage fee award[.]" *In re Diet Drugs*, 582 F.3d 524, 541 (3d Cir. 2009). The factors are: (1) the size of the fund created and the number of beneficiaries; (2) the presence or absence of substantial objections by members of the class to the settlement terms or fees requested by counsel; (3) the skill and efficiency of the attorneys involved; (4) the complexity and duration of the litigation; (5) the risk of nonpayment; (6) the amount of time devoted to the case by plaintiffs' counsel; (7) the awards in similar cases; (8) the value of benefits attributable to the efforts of class counsel relative to the efforts of other groups, such as government agencies conducting investigations; (9) the percentage fee that would have been negotiated had the case been subject to a private contingent fee arrangement at the time counsel was retained; and (10) any innovative terms of settlement. *Id.* These factors weigh in favor of settlement. A 33% attorney fee is well within the range established within the Third Circuit, and the 0.90 lodestar is well below similar cases. *See, e.g., In re Prudential Ins. Co. America Sales Practice Litigation Agent Actions*, 148 F.3d 283, 341 (3d Cir. 1998) ("multiples ranging from one to four are frequently awarded in common fund cases when the lodestar method is applied."); *In re Flonase Antitrust Litig.*, 951 F. Supp. 2d 739 (E.D. Pa. 2013) (2.99 lodestar, four-year antitrust litigation). The Court also incorporates the reasoning from this Court's November 17, 2017 memorandum opinion concerning the fairness of the Michael Foods settlement itself, insofar as it bears on the above factors.

EXHIBIT C

Exhibit C

FINE KAPLAN BLACK COSTS	
CATEGORY	AMOUNT
COST FUND	\$ 102,500.00
PHONE	\$ 208.80
IN-HOUSE COPY	\$ 1,969.20
HOTELS	\$ 1,010.76
MEALS	\$ 111.36
MILEAGE	\$ 32.10
AIR TRAVEL	\$ 1,238.31
LEGAL RESEARCH	\$ 4,035.26
COURT FEES	\$ 50.00
GROUND TRANSPORTATION	\$ 267.94
MISC	\$ 99.04
TOTAL	\$ 111,522.77