

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**PLAINTIFFS' PETITION FOR AN AWARD OF ATTORNEYS' FEES AND COSTS,
AND SERVICE AWARDS**

Pursuant to Federal Rule of Civil Procedure 23(e)(2) and 23(h), Plaintiffs respectfully file this petition for Class Counsel's¹ application for an award of attorneys' fees and expenses of the following:

- (1) Class Counsel's attorneys' fees in the amount of \$7,000,000; and
- (2) Class Counsel's costs and expenses in the amount of \$95,198.99.

Additionally, Plaintiffs respectfully request that the Court enter an order granting the following:

- (3) A service payment in the amount of \$3,500 to each Class Representative, in addition to the share of the Settlement Fund to which he or she is entitled.

The reasons for this petition are set forth in the accompanying memorandum of law, declarations, exhibit, and oral argument that the Court may consider at the Fairness Hearing.

¹ All capitalized terms herein have the same meaning as defined in the Settlement Agreement (ECF No. 153-1).

Dated: July 21, 2022

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SIGNATURE ATTESTATION

Pursuant to the United States District Court for the Northern District of Illinois' General Order on Electronic Case Filing, General Order 16-0020(IX)(C)(2), I hereby certify that authorization for the filing of this document has been obtained from the signatories shown above and that each signatory concurs in the filing's content.

/s/ Amy E. Keller

Amy E. Keller

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed using this Court's CM/ECF service, which will send notification of such filing to all counsel of record this 21st day of July 2022.

/s/ Amy E. Keller

Amy E. Keller

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
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ALL CASES

MDL No. 2909

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Hon. Judge Robert M. Dow, Jr.

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' PETITION FOR AN
AWARD OF ATTORNEYS' FEES AND COSTS, AND SERVICE AWARDS**

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I. INTRODUCTION

On April 14, 2022, almost three years after this matter was commenced, and only after multiple arm's-length mediation sessions led by the Honorable Wayne R. Andersen (Ret.), the Named Plaintiffs¹ and Defendants (collectively, the "Settling Parties") reached agreement on a proposed nationwide class action settlement (the "Settlement") in connection with Defendants' alleged false and uniform promise that the dairy cows producing their Milk Products were treated humanely. Noting the adequacy of the result achieved, the Court preliminarily approved the Settlement and directed notice to the members of the Settlement Class on April 27, 2022. *See* ECF 163 ¶ 5 (finding that the "Settlement Agreement provides adequate relief to the proposed Settlement Class.").

The Settlement is an excellent result for the Class. Under its terms, Class Counsel accomplished, for the benefit of the Class, (i) a \$21 million, non-reversionary cash Settlement Fund that allows the Class to recover 100% of the premium they paid for the Covered Products (25% of the purchase price); and, (ii) meaningful injunctive relief designed to create an accountability structure that ensures the humane treatment of dairy cows. As compensation for their efforts in achieving this outstanding result, and in keeping with precedent from this Circuit, Class Counsel seek an award of attorneys' fees in the amount of one-third of the Settlement Fund—\$7,000,000—plus expenses incurred in the prosecution of this action in the amount of \$95,198.99. Class Counsel also seek service awards to compensate the nineteen² Class Representatives for their

¹ All capitalized terms herein have the same meaning as defined in the Settlement Agreement (ECF No. 153-1).

² They are Terri Birt, Carol Cantwell, Debra French, Karai Hamilton, Henry Henderson, Paula Honeycutt, Michelle Ingrodi, Jae Jones, Nabil Khan, Kaye Mallory, Christina Parlow, Cindy Peters, Jenny Rossano, David Rothberg, Eliana Salzhauer, Connie Sandler, Diana Tait, Demetrios Tsipsis, and Arnetta Velez.

important contributions to this litigation, including the time and effort that they expended in helping Class Counsel reach this result, in the amount of \$3,500 each (\$70,000 total).

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Defendants' animal welfare promises led to several class action lawsuits.

This multidistrict litigation consists of nine putative class action lawsuits against Defendants, which were transferred to this Court by the Judicial Panel for Multidistrict Litigation (“JMPL”) for consolidation and coordination. At its heart, this case is about Defendants’ alleged failure to deliver on the very essence of their brands’ promise: the humane treatment of the dairy cows from which Defendants’ Milk Products derive. Plaintiffs allege that they relied on, and were damaged when, they paid a premium for the false promise that Defendants’ dairy cows were treated humanely, which uniformly appeared on Defendants’ Milk Product labels. The Litigation alleged, however, that Defendants could not live up to these promises. Contrary to their marketing, video footage from an animal rights organization demonstrated that the dairy cows that produced the Milk Products suffered severe, inhumane treatment and abuse at the hands of Defendants. As discussed in more detail below, Class Counsel’s time and effort in prosecuting this case, and bringing it to successful resolution, was substantial.

B. Class Counsel led a significant investigation and negotiated a robust settlement.

Class Counsel’s involvement in this case dates back to a time long before the filing of the first complaint. *See* Preliminary Decl.³ ¶ 5. Prior to the filing of a lawsuit, Class Counsel initiated a detailed investigation into Defendants’ deceptive advertising and animal welfare practices. *Id.* Through their extensive research, Class Counsel gained a firm understanding of the products

³ Refers to Class Counsel’s Omnibus Declaration in Support of Plaintiffs’ Motion for Preliminary Approval, ECF No. 153-2.

Defendants sold, their target consumer demographics, and the representations Defendants generally made about Milk Products. *Id.* With this enhanced knowledge, combined with the additional consideration of video footage and reports documented by Animal Recovery Mission (“ARM”) via an unrelated investigation that depicted abuse of Defendants’ dairy cows at their “flagship farm” Fair Oaks, Class Counsel filed their team’s initial class action complaint. *Id.* ¶¶ 4-5. Class action lawsuits containing analogous allegations were filed against Defendants in various federal courts, which were then transferred to this Court for coordination by the JPML *Id.* ¶¶ 4, 7.

Because Class Counsel were concerned about the potential for ongoing abuse of the dairy cows at Defendants’ facilities and the facilities of their suppliers, Class Counsel sought to begin mediation discussions with the Defendants to potentially adopt measures related to dairy cow welfare before the cases were consolidated. Although the Parties came to no agreement in those early mediation sessions, overseen by Judge Andersen, they created the foundation for the meaningful injunctive relief achieved in this Settlement. *Id.* ¶ 6.

In recognition of their qualifications, this Court appointed Amy E. Keller of DiCello Levitt Gutzler LLC, Melissa S. Weiner of Pearson, Simon & Warshaw, LLP, and Michael R. Reese of Reese LLP as Co-Lead Interim Counsel on behalf of the putative classes. ECF No. 75.

Upon their appointment as Co-Lead Interim Counsel, Class Counsel immediately demonstrated their continued commitment to the successful resolution of this matter. In addition to conducting additional research and analysis prior to filing a Consolidated Class Action Complaint on behalf of the actions then-transferred into the MDL, Class Counsel also filed a separate complaint sufficient to confer subject matter jurisdiction for claims on behalf of additional plaintiffs and negotiated orders and practices concerning discovery and litigation of this matter. With the Court’s support of the Parties’ shared interest in exploring settlement, Class Counsel began intense, arm’s-length settlement negotiations under the expert guidance of skilled class-

action mediator Judge Andersen, who has particularized knowledge of the laws in this District. Preliminary Decl. ¶¶ 12-17. During this two-year process, Class Counsel participated in numerous, full-day mediation sessions, exchanged written discovery requests, produced and reviewed voluminous documents in response to those requests on several occasions, submitted multiple rounds of mediation briefs to Judge Andersen in advance of each mediation session, along with settlement positions, proposals, and counterproposals during those sessions, exchanged correspondence with Defendants and Judge Andersen, and participated in dozens of conference calls between each mediation session. *Id.* Class Counsel’s efforts prosecuting this matter paid off, resulting in a substantial, non-reversionary Settlement Fund of \$21 million that provides enormous benefits to the Class, along with important injunctive relief that targets the very heart of Defendants’ alleged wrongful conduct: inhumane treatment of their dairy cows. *Id.* ¶ 23.

C. The Settlement’s benefits provide valuable monetary relief and important injunctive relief addressing the very concerns which led to the Litigation.

1. The Settlement provides significant monetary relief.

As described in Plaintiffs’ Memorandum of Law in Support of their Motion for Final Approval of the Class Action Settlement, Defendants have agreed to pay the \$21,000,000.00 to create a non-reversionary Settlement Fund for the benefit of Settlement Class Members to receive Cash Awards for filing Valid Claims (per the Plan of Allocation described below). Settlement Agreement §§ I(73), IV(1), IV(3)(a)-(b), ECF No. 153-1. Subject to certain caps and *pro rata* increases or decreases, Claimants will receive 25% of the purchase price for the Covered Products, which—based upon the experience and work of Class Counsel comparing the Covered Products to other products available on the market—is likely more than the calculated price premium consumers paid for the Products based upon the allegedly false and misleading Animal Welfare Promises. Preliminary Decl. ¶¶ 18-20. Claimants will be eligible to receive up to \$20 for claims without Valid Proof of Purchase and up to \$80 for claims with Valid Proof of Purchase, for a total

of \$100 possible relief. Settlement Agreement § IV(3)(b). Claims will be subject to a *pro rata* increase—upward or downward—depending upon the number of claims filed. *Id.* § V(3). Though the Notice Period has not concluded in its entirety, Epiq estimates that, given the positive reaction to the Settlement and number of Claims filed, combined with any *pro rata* adjustment, the Settlement Fund will be exhausted.⁴

2. Substantial injunctive relief addresses Defendants’ welfare promises.

Plaintiffs allege that the Defendants’ animal welfare promises were important to them when they purchased the Milk Products, and that they paid a price premium for the Milk Products based upon Defendants’ promises that their dairy cows were treated humanely. Preliminary Decl. ¶ 2. Given the importance of those promises to the issues in this Litigation, Class Counsel worked on what measures should be taken to ensure that the dairy cows which produce Defendants’ Milk Products are treated humanely. *Id.* ¶ 23. Class Counsel spent years negotiating detailed injunctive relief that will create a monitoring and compliance program, aimed at ensuring their cows receive humane treatment. *Id.*

III. THE REQUESTED ATTORNEYS’ FEES ARE SUPPORTABLE AND REASONABLE UNDER CONTROLLING LAW.

A. Class Counsel should be awarded fees based upon a percentage of the Settlement Fund.

In a class action, the Seventh Circuit requires courts to determine reasonable attorneys’ fees by “do[ing] their best to award counsel the market price for legal services, in light of the risk of nonpayment and the normal rate of compensation in the market at the time.” *In re Synthroid Mktg. Litig.*, 264 F.3d 712, 718 (7th Cir. 2001) (collecting cases). Compensation also depends on “the quality of [counsel’s] performance, . . . in part on the amount of work necessary to resolve the

⁴ See Declaration of Cameron R. Azari ¶ 34, *filed with Plaintiffs’ final approval brief*.

litigation, and in part on . . . the stakes of the case.” *Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 597 (N.D. Ill. 2011) (citing *Synthroid*, 264 F.3d at 721).

When a party obtains compensation for the class’s benefit in the form of a common fund, courts have long recognized that the costs of the litigation and attorneys’ fees should be recovered from the fund. *See Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) (“a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to reasonable attorney’s fee from the fund as a whole”); *Mills v. Elec. Auto-Lite Co.*, 396 U.S. 375, 392 (1970); *see also Primax Recoveries, Inc. v. Sevilla*, 324 F.3d 544, 548 (7th Cir. 2003) (creation of a common fund “entitles [counsel] to a share of that benefit as a fee”). The percentage of the fund method is “based on the equitable notion that those who have benefited from litigation should share in its costs.” *Sutton v. Bernard*, 504 F.3d 688, 691 (7th Cir. 2007) (quoting *Skelton v. G.M. Corp.*, 860 F.2d 250, 252 (7th Cir. 1988)) (internal quotation marks omitted); *see also Boeing*, 444 U.S. at 478 (a court prevents inequity “by assessing attorney’s fees against the entire fund, thus spreading fees proportionately among those benefited by the suit”). Moreover, Federal Rule of Civil Procedure 23(h) provides a court with discretion to “award reasonable attorney’s fees . . . that are authorized by law or by the parties’ agreement” in a certified class action. Fed. R. Civ. P. 23(h).

Courts in this Circuit have discretion to employ either a percentage of the fund recovered, or the “lodestar amount” plus a “risk multiplier warranted by the contingent nature of the case.” *Americana Art China, Co., Inc. v. Foxfire Printing & Packaging, Inc.*, 743 F.3d 243, 247 (7th Cir. 2014). Although the decision lies with the district court to choose which method to apply, *id.*, both the Seventh Circuit and this Court favor the percentage-of-the-fund methodology in common fund settlements. *See Gaskill v. Gordon*, 160 F.3d 361, 363 (7th Cir. 1998) (collecting cases) (“When a class suit produces a fund for the class, it is commonplace to award the lawyers for the class a

percentage of the fund . . . in recognition of the fact that most suits for damages in this country are handled on the plaintiffs' side on a contingent-fee basis."); *Hale v. State Farm Mut. Auto. Ins. Co.*, No. 12-0660-DRH, 2018 WL 6606079, at *7 (S.D. Ill. Dec. 16, 2018) ("the percentage method is employed by the vast majority of courts in the Seventh Circuit") (internal quotations omitted); *In re Dairy Farmers of Am., Inc.*, 80 F. Supp. 3d 838, 844 (N.D. Ill. 2015) (Dow, J.) (applying the percentage-of-the-fund approach, noting that it "has emerged as the favored method for calculating fees in common-fund cases in this district"); *Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 597-99 (N.D. Ill. 2011) (Dow, J.) (applying percentage-of-the-fund approach); *Williams v. Gen. Elec. Cap. Auto Lease*, No. 1:94-cv-07410, 1995 WL 765266, at *9 (N.D. Ill. Dec. 26, 1995) (collecting cases) ("The approach favored in the Seventh Circuit is to compute attorney's fees as a percentage of the benefit conferred on the class.").⁵

Furthermore, it is standard for courts to apply the percentage-of-the-fund method in consumer class cases, such as this one. *See Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 501 (7th Cir. 2015) (noting that the "normal practice in consumer class actions" is to negotiate a fee arrangement based on a percentage of recovery); *In Re Broiler Chicken Antitrust Litig.*, No. 16 C 8637, 2021 WL 5709250, at *1 (N.D. Ill. Dec. 1, 2021) (applying the percentage-of-the-fund method). More importantly, the percentage-of-the-fund method "is appropriate here because Class Counsel accomplished what that method incentivizes: early resolution of the case without wasteful litigation to increase loadstar hours." *See Day v. NuCO2 Mgmt., LLC*, No. 1:18-CV-02088, 2018 WL 2473472, at *2 (N.D. Ill. May 18, 2018). Accordingly, the Court, in its discretion, should

⁵ *See also* Order Granting Approval of Attorneys' Fees, Costs, and Service Payment to the Class Representative, *Sheppard v. GFL Env't Services USA, Inc.*, No. 1-21-cv-02743, ECF No. 29 (N.D. Ill. Jan. 27, 2022) (Dow, J.) (awarding class counsel one-third of the settlement fund in attorneys' fees).

apply the percentage-of-the-fund method to award reasonable attorneys' fees.

B. The requested attorneys' fees are fair, reasonable, and follow this Circuit's precedent.

To determine the reasonableness of a requested fee award in common fund cases, the Court must determine "the market price for legal services, in light of the risk of nonpayment and the normal rate of compensation in the market at the time." *Synthroid*, 264 F.3d at 718; *In re Cont'l Ill. Sec. Litig.*, 962 F.2d 566, 572 (7th Cir. 1992) ("[t]he object in awarding a reasonable attorney's fee . . . is to give the lawyer what he would have gotten in the way of a fee in arm's length negotiation, had one been feasible. In other words the object is to simulate the market where a direct market determination is infeasible."). Factors bearing on the market price for legal fees may include (i) attorneys' fee awards in other class action settlements; (ii) any fee agreements between the parties; (iii) the risk of nonpayment counsel agreed to bear; (iv) the quality of Class Counsel's performance; (v) the amount of work necessary to resolve the litigation; and (vi) the stakes of the case. *See Synthroid*, 264 F.3d at 721; *Taubenfeld v. Aon Corp.*, 415 F.3d 597, 599 (7th Cir. 2005).⁶ Each factor, in turn, supports approval of Class Counsel's petition for attorneys' fees.

1. Attorneys' fee awards in other cases support approval of Class Counsel's fee application.

Class Counsel seek attorneys' fees in the amount of one-third of the \$21 million Settlement Fund, or \$7,000,000 (not including any calculation for the benefit that Settlement Class Members are receiving for the value of the Settlement's injunctive relief provisions).⁷ Such an award is

⁶ Rule 23 requires courts to examine whether "the relief provided for the class is adequate, taking into account" among other things, "the terms of any proposed award of attorney's fees, including timing of payment." Fed. R. Civ. P. 23(e)(2)(C)(iii).

⁷ The negotiated injunctive relief sets the Settlement apart from other cases criticized by the Seventh Circuit. *Compare* Settlement Agreement § VI (requiring, among other things, a third-party audit of suppliers, criminal background checks of employees, animal welfare training, approval of an animal welfare plan by a veterinarian, regular welfare visits to each supplying farm, (footnote continued)

reasonable and appropriate given the precedent of this Circuit. *See In Re Broiler Chicken Antitrust Litig.*, 2021 WL 5709250, at *4 (“There is simply little to no precedent recommending anything other than an award of 33 percent. With the only real evidence of the “market rate” being one-third, that is what the Court will award.”). *See also Taubefeld*, 415 F.3d at 599-600 (noting class actions in the Northern District of Illinois have awarded fees of 30-39% of the settlement fund); *Gaskill v. Gordon*, 160 F.3d 361, 362-63 (7th Cir. 1998) (affirming award of 38% of the fund); *Hale v. State Farm Mut. Auto. Ins. Co.*, No. 12-0660, 2018 WL 6606079, at *13 (S.D. Ill. Dec. 16, 2018) (collecting cases); *Day*, 2018 WL 2473472, at *2 (awarding plaintiffs’ counsel’s attorneys’ fees request for one-third of the gross settlement amount); *Koszyk v. Country Fin. a/k/a CC Servs., Inc.*, No. 16-cv-3571, 2016 WL 5109196, at *3 (N.D. Ill. Sept. 16, 2016) (granting request for one-third of the gross fund for attorneys’ fees plus costs); *Dairy Farmers*, 80 F. Supp. 3d at 842 (awarding fees in the amount of \$15,333,333.33, or one-third of the gross fund, plus costs and expenses); 3 Alba Conte et al., *Newberg on Class Actions* § 14.6 (4th ed. 2002) (“[F]ee awards in class actions average around one-third of the recovery[.]”).

Class Counsel’s fee application is also reasonable when compared against fee requests approved by courts in other food and beverage class cases. *See* Final Approval Order, *Suchanek et al v. Sturm Foods, Inc. et al*, 3:11-CV-00565, ECF No. 463 (S.D. Ill. Apr. 21, 2020) (granting motion for attorneys’ fees in the amount of one-third of the gross \$25 million settlement fund in lawsuit alleging defendant deceptively marketed coffee pods as filled with premium ground coffee when in fact it was instant coffee). Accordingly, Class Counsel’s fee application is consistent with

limitations on how animals are moved and handled, changes in marketing language, *and* that none of the injunctive relief is funded from the Settlement Fund) *with Pearson v. NBTY, Inc.*, 772 F.3d 778, 784 (7th Cir. 2014) (noting that the negotiated injunction was “substantively empty” and required only “purely cosmetic changes in wording” to marketing claims).

the market as it falls in line with awards in this Circuit and in other related cases. This factor favors approval.

2. Plaintiffs' requested fee is an appropriate market-based fee.

A fee award of one-third of the Settlement Fund in this case reflects a real-world arm's length transaction between the Class and Class Counsel, and is a generally accepted percentage in the Seventh Circuit. *Dairy Farmers*, 80 F. Supp. 3d at 846; *In re Lithotripsy Antitrust Litig. Et al.*, No. 98-C-8394, 2000 WL 765086, at *2 (N.D. Ill. June 12, 2000). It is justified by the remarkable results obtained for the Class and the risks faced by Class Counsel. The fee award requested here is well within the acceptable range of attorneys' fee awards in protracted, complex, and expensive litigation such as this. Thirty-three and one-third percent is a standard percentage in many fee agreements, including large, complex non-class cases. *In Re Broiler Chicken Antitrust Litig.*, 2021 WL 5709250, at *4 (citing to expert declarations and collecting cases); *see also* Lester Brickman, *ABA Regulation of Contingency Fees: Money Talks, Ethics Walks*, 65 *FORDHAM L. REV.* 247, 248 (1996) (noting that "standard contingency fees" are "usually thirty-three percent to forty percent of gross recoveries"); *Blum v. Stenson*, 465 U.S. 886, 903 (1984) (Brennan, J., concurring) ("In tort suits, an attorney might receive one-third of whatever amount the plaintiff recovers. In those cases, therefore, the fee is directly proportional to the recovery.").

3. Public policy also favors an attorneys' fee award at the market rate to incentivize competent, experienced counsel to take on high-risk, complex class action litigation.

A material consideration in determining an appropriate fee is the risk of nonpayment. *See Silverman v. Motorola Sols., Inc.*, 739 F.3d 956, 958 (7th Cir. 2013); *Taubenfeld*, 415 F.3d at 600 (approving the district court's reliance on this factor in evaluating attorneys' fees). "The greater the risk of walking away empty-handed, the higher the award must be to attract competent and energetic counsel." *Silverman v. Motorola Solutions, Inc.*, 739 F.3d 956, 958 (7th Cir.

2013); *accord, e.g., Synthroid*, 264 F.3d at 721 (finding that the market rate must account for the “risk of nonpayment a firm agrees to bear.”). Thus, “[w]hen determining the reasonableness of a fee request, courts put a fair amount of emphasis on the severity of the risk (read: financial risk) that class counsel assumed in undertaking the lawsuit.” *Dairy Farmers*, 80 F. Supp. 3d at 847-48. “[T]his consideration incentivizes attorneys to accept and (wholeheartedly) prosecute the seemingly too-big-to-litigate wrongs hidden within the esoteric recesses of the law, ensuring that the attorneys are compensated for their work at the end of the day.” *Id.* at 848. Class Counsel’s application for one-third of the Settlement Fund here is reasonable in light of the significant risks of nonpayment.

At the outset of this litigation, Class Counsel initiated this case on a contingent fee basis, assuming the risk that they could receive *no* fee or reimbursement of litigation expenses for their services. *See Sutton v. Bernard*, 504 F.3d 688, 694 (7th Cir. 2007) (“We recognized [in an earlier case] that there is generally some degree of risk that attorneys will receive no fee (or at least not the fee that reflects their efforts) when representing a class because their fee is linked to the success of the suit.”); *Matter of Cont’l Illinois Sec. Litig.*, 962 F.2d 566, 569 (7th Cir. 1992) (“The lawyers for the class receive no fee if the suit fails”); *Brewer v. Molina Healthcare, Inc.*, No. 16-cv-09523, 2018 WL 2966956, at *3 (N.D. Ill. June 12, 2018) (Dow, J.) (emphasizing that “contingency fee agreements contain the risk of no recovery whatsoever for Plaintiffs or their counsel.”).

Class Counsel’s decision to pursue this matter on a contingent fee basis thus “compensate[s] [them] for the risk of nonpayment,” *Silverman*, 739 F.3d at 958 (citing *Kirchoff v. Flynn*, 786 F.2d 320 (7th Cir. 1986)), a risk that was not merely speculative. Had Class Counsel continued to litigate this matter, there is no guarantee that Plaintiffs could establish that class treatment was appropriate, and they faced much uncertainty surrounding the determination of damages. This factor weighs in favor of granting the fee application because, as the Seventh Circuit

noted in another matter, Class Counsel “could have lost everything” they invested in taking on this matter. *Matter of Cont'l Illinois Sec. Litig.*, 962 F.2d at 570.

4. The benefits conferred upon the Settlement Class through Class Counsel’s efforts during this litigation justify the proposed award.

The next factor in evaluating reasonableness of fees is the quality of Class Counsel’s work. *Taubenfeld*, 415 F.3d at 600; *Dairy Farmers*, 80 F. Supp. 3d at 849 (“[y]et another litmus test for assessing reasonableness is quality of Class Counsel’s performance in achieving the settlement—that is, whether this is the type of outcome that willing clients would have envisioned from the outset.”). Here, the timely and substantial benefits made available to members of the Class through the Settlement evidences the quality and excellence of Class Counsel’s performance.

Class Counsel’s intent at the outset of this litigation was twofold: (i) achieve a substantial recovery for members of the Class, and (ii) stop Defendants from harming Plaintiffs and members of the Class by inducing them into paying a price premium for Milk Products that bore the false, but express, promises that Defendants treated their dairy cows humanely. The Settlement accomplished these goals in full by (i) making available a substantial non-reversionary Settlement Fund of \$21 million from which members of the Class may receive a Cash Award for 25% of the purchase price of the Covered Milk Products, which equates to at least the estimated price premium consumers paid for the Products based upon the false and misleading animal welfare promises, subject to certain caps and pro-rata increases or decreases, and (ii) achieving robust and meaningful injunctive relief that creates an accountability structure to ensure the human treatment of dairy cows, directly targeting the heart of the claims involved in this litigation.

Although hard-fought over several years, these significant benefits were negotiated in a timely manner, further enhancing the value of the settlement to members of the Class. *See Schulte*, 805 F. Supp. 2d at 586 (noting that Class Members “realize both immediate and future benefits” of the lawsuit upon settlement approval); *In re AT & T Mobility Wireless Data Servs. Sales Litig.*,

270 F.R.D. 330, 347 (N.D. Ill. 2010) (quoting *Reynolds v. Beneficial Nat'l Bank*, 288 F.3d 277, 284 (7th Cir. 2002)) (emphasizing that “a future victory is not as valuable as a present victory” because “[t]o most people, a dollar today is worth a great deal more than a dollar ten years from now.”); *Donovan v. Estate of Frank E. Fitzsimmons*, 778 F.2d 298, 309 n.3 (7th Cir. 1985) (a \$2 million settlement sum today is worth the same as a \$3.6 million recovery five years from now, at a prime interest rate of 12.5%). Because “Class Counsel have navigated a complicated case and have negotiated a Settlement Agreement that provides significant benefits to the Class Members,” the “quality of Class Counsel’s performance in this litigation favors approval of the fees requested.” *Schulte*, 805 F. Supp. 2d at 598.

5. The amount of work necessary to resolve this litigation was substantial.

Evaluating the amount of work necessary to resolve a matter turns on “what the Class Members and Counsel would have agreed to ex ante in an arm’s length negotiation.” *In re AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 792 F. Supp. 2d 1028, 1037 (N.D. Ill. 2011). The fee petition set forth by Class Counsel here is reasonable because, at the initiation of this case, it was likely that resolving this matter would require thousands, if not tens of thousands, of hours of attorney time to complete and a significant capital investment. Though the parties reached resolution earlier in the litigation than anticipated, this does not matter. *See id.* (noting that “[i]t is not a requisite of reasonable attorneys’ fees that Class Counsel engage in laborious litigation over many years.”). Nevertheless, the time and effort Class Counsel expended in advancing this matter was nothing short of substantial.

As detailed herein and in the corresponding attached declarations, consistent with the Court’s January 22, 2020 Order appointing Co-Lead Interim Class Counsel to lead this Litigation (ECF No. 75 at 8), Class Counsel developed a protocol for reporting detailed time and expenses to the Court on a monthly basis, and performed an audit of the time and expenses prior to the

submission of this petition. In total, Class Counsel and the other firms performing work for the common benefit of the Settlement Class spent 3,406.5 hours progressing this litigation through June 30, 2022, which represents a lodestar of \$2,857,344.00.⁸ This time comprised of countless tasks fundamental to the Settlement reached herein, including, *inter alia*, (i) investigating Defendants' advertising practices and treatment of farm animals, which ultimately led to the allegations contained within the initial complaint; (ii) participating in hard-fought settlement discussions and negotiations over the course of two years under the expert guidance of Judge Andersen; and (iii) in support of settlement negotiations, exchanging various written discovery requests, producing and reviewing voluminous sets of documents in response thereto on several occasions, submitting multiple rounds of mediation briefs to Judge Andersen in advance of each of the four day-long mediation sessions, and exchanging a multitude of settlement positions, proposals, counterproposals, correspondence (including numerous rounds of letters and emails), and settlement demands through Judge Andersen. Preliminary Declaration ¶¶ 12-17.

Moreover, Class Counsel's work does not end with the submission of this brief. They will need to prepare for and appear at the Final Fairness Hearing, oversee the claims administration process, and resolve any potential disputes concerning the injunctive relief negotiated in this matter. Because Class Counsel's work continues, and will continue for years after any Court order finally approving the Settlement, this factor weighs in favor of Class Counsel's fee request.

⁸ This is the amount of time spent by counsel after Class Counsel audited all of the firms' time, eliminating as non-billable that time which did not go to the common benefit of litigating this case and/or was non-compensable under the approved Time and Expense Protocol. Exhibit 1, Declaration of Amy Keller ("Keller Decl.") ¶ 15.

6. The stakes in this litigation were high.

The stakes of this case were high from the outset, and thus support Class Counsel's fee application. Several courts in the Northern District of Illinois, including this Court itself, have found that stakes in a case are high where "the class is large, the challenged activity is extensive, the complexity and costs of the legal proceedings are high, and a large amount of money is involved." *See Schulte*, 805 F. Supp. 2d at 598; *AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 792 F. Supp. 2d at 1038 (same). Each of those considerations is true here. First, the Class that this Court preliminarily certified for settlement purposes is large, comprising of millions of individuals. Second, Defendants' allegedly misleading and deceptive marketing scheme, which Plaintiffs allege has been ongoing for years, is pervasive, appearing on the packaging and labeling of all Defendants' Milk Products. Third, the claims contained herein are complex, and much uncertainty stemming from class certification and the determination of damages has remained.⁹ While Plaintiffs' firms have already amassed \$95,198.99 in necessary and reasonable litigation expenses (as detailed more fully in Section IV below and in the attached declarations), the case would become much more expensive through continued litigation, including a likely battle of the experts as to the materiality of Defendants' challenged representations. This factor weighs in favor of the requested fees and expenses.

⁹ For example, Defendants have argued that not all consumers purchased the Milk Products due to Defendants' animal welfare claims, which they argue could defeat predominance. *See, e.g., Langendorf v. Skinnygirl Cocktails, LLC*, 306 F.R.D. 574, 582-83 (N.D. Ill. 2014) (denying motion for class certification, finding that plaintiff had not established materiality of defendants' allegedly-deceptive representations of an "all natural" beverage). Additionally, the Litigation may have been either interrupted or complicated based upon the liability assessment of the varying Defendants, including the existence of indemnity and/or defense agreements.

C. Lodestar cross-checks in this Circuit are “not necessary”; regardless, Plaintiffs’ counsel’s lodestar supports the requested fees.

“In determining fees in a common fund class action settlement the use of a lodestar cross-check is no longer recommended in the Seventh Circuit.” *Bell v. Pension Committee of ATH Holding Company, LLC*, No. 15-cv-02062, 2019 WL 4193376, at *5 (S.D. Ind. Sept. 4, 2019) (citing *In re Synthroid Marketing Litig.*, 325 F.3d at 979-80). See also *Redman v. RadioShack Corp.*, 768 F.3d 622, 633 (7th Cir. 2014) (rejecting justification for attorneys’ fees based on “amount of time that class counsel reported putting in on the case,” and stating “the reasonableness of a fee cannot be assessed in isolation from what it buys”); *Young v. Rolling in the Dough, Inc.*, No. 17-cv-07825, 2020 WL 969616, at *6 (N.D. Ill. Feb. 27, 2020) (“A lodestar cross-check is not necessary.”) (citing *Williams v. Rohm & Haas Pension Plan*, 658 F.3d 629, 636 (7th Cir. 2011)); *Kaufman v. Am. Express Travel Related Servs., Co.*, No. 07-cv-1707, 2016 WL 806546, at *13 (N.D. Ill. Mar. 2, 2016), *aff’d sub nom.* 877 F.3d 276 (7th Cir. 2017) (noting that “it is true that courts in this circuit have found that ‘[t]he use of a lodestar cross-check in a common fund case is unnecessary, arbitrary, and potentially counterproductive.’”) (citations omitted); *Dairy Farmers*, 80 F. Supp. 3d at 849 (“Ultimately, the Court sees no utility in considering this somewhat arbitrary (and under-vetted) calculation [of using a lodestar cross-check], and thus disregards [evidence of counsel’s lodestar] for purposes of this fee petition.”); *Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 500 (N.D. Ill. 2015) (observing that “no Seventh Circuit case law suggests that a percentage-of-the-fund approach will yield a reasonable result only where it satisfies a lodestar cross-check.”); *Beesley v. Int’l Paper Co.*, No. 3:06-CV-703-DRH-CJP, 2014 WL 375432, at *2 (S.D. Ill. Jan. 31, 2014) (“The use of a lodestar cross-check has fallen into disfavor.”); *Will, et al. o/b/o Gen. Dynamics Corp. v. General Dynamics Corp.*, No. 06-civ-698, 2010 WL 4818174, at *3 (S.D. Ill. Nov. 22, 2010) (“The use of a lodestar cross-check in a common fund case is unnecessary,

arbitrary, and potentially counterproductive.”). Nevertheless, applying a lodestar cross-check analysis confirms the reasonableness of the award to Class Counsel.

Since the matter’s inception in 2019, Class Counsel invested 3,406.5 hours of common benefit attorney and other professional time from case inception through June 30, 2022. Keller Decl. *See also* Exhibits 2 through 11 (declarations of additional counsel). The average hourly rate by Class Counsel and their associated professional staff is approximately \$581.20, Keller Decl. ¶ 16, a rate comparable to those charged by other law firms with similar experience, expertise, and reputation, for similar services in the nation’s leading legal markets. Class Counsel’s base lodestar is \$2,857,344.00. Keller Decl., Exhibit D. Awarding one-third of the Settlement Fund would result in a conservative “multiplier” of 2.45. Such a multiplier is well within accepted ranges,¹⁰ and is warranted here.

IV. THE REQUESTED REIMBURSEMENT OF COSTS AND EXPENSES IS FAIR AND REASONABLE AND SHOULD BE APPROVED.

“It is well established that counsel who create a common fund like this one are entitled to the reimbursement of litigation costs and expenses” *Beesley*, 2014 WL 375432, at *3 (citing *Boeing*, 444 U.S. at 478); *see also* Fed. R. Civ. P. 23(h); *Mills*, 396 U.S. at 392 (recognizing the right to reimbursement of expenses where a common fund has been produced or preserved for

¹⁰ *See, e.g., Skelton*, 860 F.2d at 258 (noting that “the district court, familiar as it is with the nature of the litigation, should retain discretion to decide if and to what extent the plaintiffs’ counsel should be compensated for risk.”). *See also Harman v. Lyphomed, Inc.*, 945 F.2d 969, 974 (7th Cir. 1991) (observing that “[m]ultipliers anywhere between one and four have been approved,” although) (internal citations omitted); *Schulte*, 805 F. Supp. 2d at 598 (approving an award that “represent[s] a multiplier of less than 2.5, which is not an unreasonable risk multiplier.”); *In re Lawnmower Engine Horsepower Mktg. & Sales Practices Litig.*, 733 F. Supp. 2d 997, 1015 (E.D. Wis. 2010) (awarding a fee that represented a multiplier of 2.07 on a lodestar cross-check and recognizing that “the mean risk multiplier in cases involving class settlements comparable in size to the present settlement is 2.70.”) (citing Theodore Eisenberg & Geoffrey P. Miller, Attorney Fees & Expenses in Class Action Litigation: 1993–2008, 7 *J. of Empirical Legal Stud.* 248, 274 tbl.15 (2010)).

the benefit of a class). Reimbursable expenses are those “that are consistent with market rates and practices,” *In re Ready-Mixed Concrete Antitrust Litig.*, No. 1:05-CV-00979-SEB, 2010 WL 3282591, at *3 (S.D. Ind. Aug. 17, 2010), which includes, among other things, “expert witness costs; computerized research; court reports; travel expense; copy, phone and facsimile expenses and mediation.” *Beesley*, 2014 WL 375432, at *3; *see also In re Synthroid*, 264 F.3d at 722 (“Reducing litigation expenses because they are higher than the private market would permit is fine; reducing them because the district judge thinks costs too high in general is not.”).

In addition to their application for attorneys’ fees, Class Counsel respectfully request reimbursement for \$95,198.99 costs and expenses incurred in furtherance of this matter.¹¹ Class Counsel’s costs and expenses were incurred in furtherance of the litigation primarily for filing fees, limited travel costs, and mediation costs. Keller Decl. ¶ 17; *see also* Exhibits 1 through 11 (setting forth break down of expenses by firm and by expense category). Due to the risk that they might never be recovered, Class Counsel endeavored to keep expenses to a minimum. Keller Decl. ¶ 18. Therefore, in addition to being eminently reasonable, Class Counsel submit that the requested costs and expenses are consistent with what the market would award in a private setting, and should be approved.¹²

¹¹ Class Counsel seek their fees on the gross Settlement Fund. *See Hale*, 2018 WL 6606079, at *13 (collecting cases) (“Courts in this Circuit routinely award a percentage of the gross common fund without netting out separately awarded costs, and this Court sees no reason to depart from that approach here.”); *see also Dairy Farmers*, 80 F. Supp. 3d at 842 (awarding fees in the amount one-third of the gross fund plus costs and expenses).

¹² Separate and apart from these costs are the costs to administer the Settlement, which have been and will be incurred by Epiq Class Actions & Claims Solutions, Inc. after a competitive bidding process. *See* Settlement Agreement § XI. The Claims Administrator developed a robust Notice Program and Claims process, consistent with the recent amendments to Rule 23(c), (e)(1), and (e)(2), to encourage the filing of Claims and maximize the number of Settlement Class Members who would receive monetary compensation under the Settlement. *Id.* § I.55.; *see also* Fed. R. Civ. P. 23(e)(2)(C)(ii) (noting that the Court must consider “the effectiveness of any (footnote continued)

V. THE REQUESTED SERVICE AWARDS ARE REASONABLE AND SHOULD BE APPROVED.

In class action cases, courts may make separate awards to class representatives in recognition of their risks taken, time expended, and benefits conferred upon the class. *See Espenscheid v. Direct Sat USA, LLC*, 688 F.3d 872, 876-77 (7th Cir. 2012). The Class Representatives here request a service payment of \$3,500 each, in addition to the share of the settlement fund to which they are entitled, for their contributions to the prosecution and resolution of this litigation. The Class Representatives, among other things, (i) assisted with Class Counsel’s investigation into Defendants’ marketing and animal welfare practices; (ii) maintained electronic and hard-copy information for use in the discovery process; (iii) reviewed and approved the Consolidated Complaint; (iv) conferred and corresponded with Class counsel regularly; (v) participated in settlement discussions; and (vi) reviewed and approved the Settlement Agreement. Keller Decl. ¶¶ 25-26. As a result of their participation, Class Representatives enabled Class Counsel to advance this matter to successful resolution, conferring both significant monetary and injunctive benefit to the Class. Likewise, the proposed award is within the reasonable range of incentive awards in class cases. *See Espenscheid*, 688 F.3d at 877 (noting that the median class representative award is \$4,000). Accordingly, each named plaintiff was as an “essential ingredient of [this] class action,” *In Re Broiler Chicken Antitrust Litig.*, 2021 WL 5709250, at *4, and should be awarded \$3,500 each for their service and willingness to undertake responsibilities and risks attendant with bringing this class action.

proposed method of distributing relief to the class, including the method of processing class-member claims” when determining whether to approve the Settlement).

VI. CONCLUSION

For the foregoing reasons, Class Counsel respectfully request that the Court grant their Petition for an Award of Attorneys' Fees and Costs, and Service Awards, and enter an order awarding:

- (1) Class Counsel attorneys' fees in the amount of \$7,000,000;
- (2) Class Counsel costs and expenses in the amount of \$95,198.99; and
- (3) A service payment in the amount of \$3,500 to each Class Representative, in addition to the share of the settlement fund to which he or she is entitled.

Dated: July 21, 2022

Respectfully submitted,

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***Counsel for Plaintiffs and the Proposed
Settlement Class***

SIGNATURE ATTESTATION

Pursuant to the United States District Court for the Northern District of Illinois' General Order on Electronic Case Filing, General Order 16-0020(IX)(C)(2), I hereby certify that authorization for the filing of this document has been obtained from the signatories shown above and that each signatory concurs in the filing's content.

/s/ Amy E. Keller _____

Amy E. Keller

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed using this Court's CM/ECF service, which will send notification of such filing to all counsel of record this 21st day of July 2022.

/s/ Amy E. Keller

Amy E. Kelle

Exhibit 1

Declaration of Amy E. Keller, Esq.
DiCello Levitt Gutzler LLC
Co-Lead Class Counsel

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**DECLARATION OF AMY E. KELLER IN SUPPORT OF PLAINTIFFS' PETITION
FOR AN AWARD OF ATTORNEYS' FEES AND COSTS, AND SERVICE AWARDS**

I, AMY E. KELLER, declare and state as follows:

1. I am a partner at the law firm of DiCello Levitt Gutzler LLC ("DiCello Levitt"). DiCello Levitt's resume is attached hereto as **Exhibit E**. I have been appointed by the Court as Co-Lead Counsel for Plaintiffs in this matter, and I have personal knowledge of the facts stated herein. I submit this Declaration in support of Plaintiffs' Petition for an Award of Attorneys' Fees and Costs, and Service Awards, and in connection with services rendered and expenses incurred by my firm in connection with this litigation.

2. My firm has acted as counsel to Plaintiffs and the Class in this action. Specifically, my firm filed *Salzhauer v. The Coca-Cola Co., and Fairlife, LLC*, No. 1:19-cv-02709 (N.D. Ga.), which was consolidated into this multidistrict litigation ("MDL"), and was individually retained by Plaintiffs and Class Representatives Terri Birt, Debra French, Kaye Mallory, Christina Parlow, Cindy Peters, Diana Tait, and Demetrios Tsipsis.

3. This declaration generally summarizes the work performed by DiCello Levitt for Plaintiffs and the Settlement Class Members in this litigation. As demonstrated below, DiCello Levitt has worked diligently to perform tasks throughout the entire course of this litigation.

4. During the period from case inception through October 2, 2019, my firm, in collaboration with co-counsel Melissa S. Weiner of Pearson, Simon & Warshaw, LLP and Michael R. Reese of Reese LLP (hereinafter “Class Counsel”), conducted the following activities for the common benefit of Plaintiffs:

- a. Initiated the first investigation into Defendants’ deceptive marketing and animal welfare scheme well before the filing of the first class action complaint in this matter, expending substantial time and effort to: (i) scrutinize and catalog Defendants’ public advertising claims for “fa!rlife” products; (ii) comprehensively research the company’s supply chain through public records, digital maps, social media, and news articles; and (iii) thoroughly review and inspect undercover investigation videos and reports documented by Animal Recovery Mission (“ARM”) that depicted abuse of Defendants’ dairy cows at their “flagship farm” Fair Oaks;
- b. Gained both substantial insight and a firm understanding into the products Defendants sold, their target consumer demographics, and the representations Defendants generally made about Milk Products through the above investigation;
- c. Researched consumer fraud cases and potential claims to assert against Defendants in connection with the factual findings from Class Counsel’s investigation;

- d. Vetted potential plaintiffs to serve as class representatives for the forthcoming class action complaint;
- e. Using the enhanced knowledge obtained as a result of Class Counsel's efforts to investigate Defendants' deceptive marketing scheme, drafted and filed a class action complaint on June 13, 2019, against The Coca-Cola Company and fairlife, denoted as *Salzhauer v. The Coca-Cola Co., and Fairlife, LLC*, No. 1:19-cv-02709 (N.D. Ga.) (the "*Salzhauer Action*"); and
- f. Drafted and filed, on June 21, 2019, a motion before the Judicial Panel on Multidistrict Litigation ("JMPL") to transfer the *Salzhauer Action* and subsequent tag-along actions to a single federal court for coordinated and consolidated pretrial proceedings, to which the JMPL granted and ordered transfer on October 2, 2019. *See* ECF No. 35-001.

5. The total number of common benefit hours expended on this litigation by my firm from case inception through October 2, 2019, is 176.1 hours. The total common benefit lodestar for my firm in this time period is \$153,788.50.

6. For the time period of October 3, 2019, through June 30, 2022, my firm, in collaboration with Class Counsel, conducted the following activities for the common benefit of Plaintiffs:

- a. Oversaw the action as one of Co-Lead Counsel;
- b. Continued researching, strategizing, and drafting the consolidated amended complaint;
- c. Vetted and secured seven additional Plaintiffs to represent the Class in the forthcoming consolidated complaint;

- d. On June 25, 2020, filed: (i) a Consolidated Class Action Complaint on behalf of all actions transferred into the MDL; and (ii) a Class Action Complaint, on behalf of certain new plaintiffs, denominated as a related case to the Litigation, and captioned *Cantwell et al. v. The Coca-Cola Company et al.*, 1:20-cv-03739;
- e. Negotiated a Stipulated Protective Order and Order Regarding Discovery of Electronically Stored Information, which the Court entered on July 8, 2020 (ECF. No. 105);
- f. With the Court's support in the Parties' shared interest in early settlement discussions, engaged in intense, arm's-length settlement negotiations over the course of two years under the expert guidance of skilled, class-action mediator, the Honorable Wayne R. Andersen (Ret.), which involved:
 - i. Participating in four, day-long mediation sessions that took place on October 28, 2020; November 20, 2020; June 3, 2021; and July 8, 2021, respectively;
 - ii. Exchanging various written discovery requests;
 - iii. Receiving and reviewing, on multiple occasions, voluminous documents produced by Defendants in response to our discovery requests;
 - iv. Submitting multiple rounds of mediation briefs to Judge Andersen in advance of each mediation session, which, in totality, addressed the full scope of continued litigation, including the merits of the case on its face, the possibility of class certification, success on summary

- judgment, and all aspects of settlement, including monetary and injunctive relief;
- v. Exchanging multiple rounds of settlement positions, proposals, counterproposals, demands, and correspondence with Defendants, including numerous rounds of letters and emails;
 - vi. Reviewing, analyzing, and accepting Judge Andersen’s settlement recommendation on November 23, 2021 (the “Mediator’s Settlement Recommendation”); and
 - vii. Following acceptance of the Mediator’s Settlement Recommendation, finalizing the Parties agreement, which was later memorialized in the proposed Settlement.
- g. Solicited and evaluated proposals from several different notice and claims administration companies, conducted video interviews of the same, and ultimately selected Epiq Class Action & Claims Solutions, Inc. (“Epiq”) to administer the Settlement;
- h. Collaborated with Epiq to create a robust Notice Plan aimed to reach as many members of the Settlement Class as possible, encompassing (i) direct notice via email or postcard for members of the Settlement Class with whom Defendant fairlife had direct correspondence; (ii) digital publication notice based upon a specific, targeted, advertising campaign, aimed to provide notice to Defendant fairlife’s customers; (iv) a Settlement Website; and (v) a dedicated email address and toll-free number;

- i. Designed with Epiq a “claims stimulation” plan that would activate during the claims-filing period, if needed, to maximize the filing of Approved Claims by Settlement Class Members to ensure the exhaustion of the Net Settlement Fund;
- j. Drafted and filed Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement, Preliminary Certification, and Approval of Notice Plan Pursuant to Federal Rule of Civil Procedure 23(e)(1) (ECF No. 152), which this Court granted on April 27, 2022 (ECF No. 163);
- k. Worked closely with Epiq to monitor the notice and claims process, evaluating weekly claim submissions and opt-outs;
- l. Submitted to the Court, for *in camera* review, monthly time and expense reports on behalf of Class Counsel and the additional firms who have worked on this matter;
- m. Comprehensively reviewed and audited all time and expense reports submitted by each firm in connection with this litigation in advance of Plaintiffs’ Motion for Final Approval of Class Action Settlement to remove any redundant or unnecessary time, in addition to time that did not serve as a common benefit to the Class;
- n. Drafted and filed Plaintiffs’ Motion for Final Approval of Class Action Settlement; and
- o. Engaged in extensive strategy and correspondence with co-counsel regarding all the above activities.

7. The total number of hours expended on this litigation by my firm from the time period October 3, 2019, through June 30, 2022, for the common benefit of Plaintiff and Class Members, is 751.1 hours. The total lodestar for my firm in this time period is \$635,142.50.

8. The total number of common benefit hours expended on this litigation by my firm from case inception through June 30, 2022, is 927.2 hours. The total number of hours was determined by the examination of daily time records regularly prepared and maintained by my firm. The total lodestar for my firm is \$788,931. My firm's lodestar figures are based on the firm's current hourly billing rates. The hourly rates for the partners, attorneys, and professional support staff in my firm are the same as the usual and customary hourly rates charged for their services in contingent billable matters. Class Counsel will likely expend dozens of additional hours bringing the Settlement through completion.

9. The attorneys of DiCello Levitt billed this case at their usual and customary billing rates, which have been approved by other federal courts presiding over complex class action lawsuits, and which are commensurate with the prevailing market rates of attorneys of comparable experience and skill handling complex litigation, including:

- a. *Calhoun, et al. v. Google LLC*, No. 4:20-cv-5146-YGR-SVK (N.D. Cal.). On June 6, 2022, Judge Susan Van Keulen awarded attorneys' fees to the prevailing plaintiff on a motion to compel, finding that an attorney rate of \$600 per hour for one of the associates on this case was reasonable;
- b. *In re Navistar MaxxForce Engines Mktg., Sales Pracs., and Prods. Liab. Litig.*, No. 1:14-CV-10318 (N.D. Ill.). On January 21, 2020, Judge Joan B.

Gottschall issued an attorneys' fee award, finding Adam Levitt, Amy Keller, and Adam Prom's prior billing rates from 2020¹ reasonable;

- c. *In re Equifax Inc. Customer Data Security Breach Litig.*, No. 17-md-2800, 2020 WL 256132 (N.D. Ga. Mar. 17, 2020), *aff'd in relevant part*, 999 F.3d 1247 (11th Cir. 2021), *cert. denied* 142 S. Ct. 431 (2021) and 142 S. Ct. 765 (2022). On March 17, 2020, Chief Judge Thomas Thrash of the Northern District of Georgia approved as reasonable rates that Adam Levitt and Amy Keller charged beginning in 2017;
- d. *Simerlein, et al. v. Toyota Motor Corp. et al.*, No. 3:17-cv-1091 (VAB) (D. Conn.). On June 10, 2019, Judge Victor A. Bolden issued an attorneys' fee award, finding reasonable Adam Levitt and Amy Keller's rates from 2019.

10. Attached hereto as **Exhibit A** is a detailed summary indicating the amount of time spent by the partners, attorneys, and other professional support staff of my firm who have been involved in this litigation, and the lodestar calculation is based on my firm's current hourly billing rates from case inception through June 30, 2022.

11. As detailed in **Exhibit B**, my firm has incurred a total of \$38,690.85 in unreimbursed expenses during the period from case inception through June 30, 2022.

12. As detailed in **Exhibit C**, my firm was charged with accounting related to the established litigation fund. A record showing the amounts contributed to and charged from the litigation fund are shown in the included chart.

¹ DiCello Levitt has increased its attorneys' rates since that time commensurate with other prevailing market rates.

13. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

14. Class Counsel necessarily must continue to work with the Settlement Administrator, review and respond to objections, if any, move for final approval, handle appeals, if any, and oversee the final administration of benefits to Class Members. Based upon experience, this could amount to dozens of additional hours of attorney time.

TOTAL LODESTAR AND EXPENSES FOR CO-COUNSEL

15. Based upon Class Counsel's audit of the lodestar and expense reports that were submitted to this Court every month, after removing time and expenses that were not incurred for the common benefit of the Class, they asked each firm to review their audited time and expenses and sign declarations attesting to the time and expenses incurred in the litigation. As a result of that process, Class Counsel has included a detailed time and expense chart for the other firms at **Exhibit D**.

16. Based upon our review of Plaintiffs' time and expense submissions, the average hourly rate of attorneys and associated professional staff who worked on this litigation is approximately \$581.20.

17. Based upon our audit of the time and expense submissions in this litigation, the costs submitted for litigating this action were primarily for filing fees, limited travel costs, and mediation costs. Certain expenses that were deemed to be too high or not for the common benefit of the Class were removed.

18. Expenses incurred by Class Counsel in this case were limited due to the risk that they might never be recovered.

**DICELLO LEVITT HAS EXTENSIVE EXPERIENCE LITIGATING COMPLEX
ACTIONS AND HAS ACHIEVED SIGNIFICANT RECOVERIES
ON BEHALF OF CONSUMERS**

19. DiCello Levitt has the experience, resources, and ability to adequately represent the class members in this class action lawsuit.

20. DiCello Levitt's firm resume reflects that the attorneys in this case have successfully adjudicated some of the largest and most important class action lawsuits in the United States and have obtained billions of dollars in settlements and verdicts in a wide range of cases.

21. For example, Amy Keller was appointed co-lead counsel in *In re Equifax, Inc., Customer Data Breach Security Litig.*, No. 1:17-MD-02800 (N.D. Ga.), and secured, on behalf of 147 million Americans whose personal information was compromised, the largest settlement in data breach history. Specifically, she helped obtain a cash fund up to \$505.5 million, and a commitment from Equifax to invest \$1 billion in data security changes.

22. DiCello Levitt also served as co-lead counsel in *In re Navistar MaxxForce Engines Mktg., Sales Pracs., and Prods. Liab. Litig.*, No. 1:14-CV-10318 (N.D. Ill.), where they achieved a \$135 million settlement—a landmark in the trucking industry—in the high-profile multidistrict class action lawsuit alleging that Navistar's 2011 to 2014 model year vehicles were equipped with defective MaxxForce diesel engines.

23. In addition to those listed above, DiCello Levitt has served as co-lead counsel in some of the most advanced and cutting-edge class actions in the country, including:

- a. *In re Facebook Internet Tracking Litig.*, No. 5:12-MD-02314 (N.D. Cal.) (securing \$90 million settlement on behalf of the Class, which was preliminarily approved by the Court);

- b. *In Re: Marriot Int’l, Inc., Customer Data Security Breach Litig.*, No 8:19-MD-02879 (D. Md.) (Amy Keller serves as Co-Lead Counsel in this data breach class action, which is only one of two data breaches to be certified as a class action for purposes of litigation);
- c. *In re Blackbaud, Inc., Customer Data Breach Litig.*, No. 3:20-MN-02972 (D.S.C.) (Amy Keller serves as Co-Lead Counsel in this action, helping to assemble a team hailed as the “most diverse leadership team ever”²); and
- d. *In re: American Medical Collection Agency, Inc. Customer Data Security Breach Litig.*, No. 19-md-02904 (MCA)(MAH) (D.N.J.) (Amy Keller serves as Co-Lead Counsel in this case, which involves the unlawful disclosure of medical history).

**THE CLASS REPRESENTATIVES SERVED AN IMPORTANT ROLE
IN THIS LITIGATION**

24. Terri Birt, Carol Cantwell, Debra French, Karai Hamilton, Henry Henderson, Paula Honeycutt, Michelle Ingrodi, Jae Jones, Nabil Khan, Kaye Mallory, Christina Parlow, Cindy Peters, Jenny Rossano, David Rothberg, Eliana Salzhauer, Connie Sandler, Diana Tait, Demetrios Tsiptsis, and Arnetta Velez fulfilled their Class Representative duties and each has helped achieve an outstanding result for the Settlement Class.

25. The Class Representatives, among other things, (i) assisted with Class Counsel’s investigation into Defendants’ marketing and animal welfare practices; (ii) maintained electronic and hard-copy information for use in the discovery process; (iii) reviewed and approved the

² Amanda Bronstad, *MDL Judge Taps “Most Diverse Leadership Team Ever” in Data Breach Class Action*, LAW.COM (Mar. 3, 2021), <https://www.law.com/nationallawjournal/2021/03/03/south-carolina-mdl-judge-taps-most-diverse-leadership-team-ever-in-data-breach-class-action/>. Melissa Weiner also serves on the Plaintiffs’ Steering Committee in that litigation.

Consolidated Complaint; (iv) conferred and corresponded with Class counsel regularly; (v) participated in settlement discussions; and (vi) reviewed and approved the Settlement Agreement.

26. Each Class Representative understood that he or she would be involved in this litigation—potentially—for many years, and that—if the litigation continued—they would have to fulfill a number of additional responsibilities, including (i) sitting for one or more depositions; (ii) responding to additional discovery, beyond the informal discovery the parties exchanged as part of the mediation process; (iii) being the subject of potentially-intrusive third-party discovery; (iv) communicating regularly with Class Counsel regarding the litigation, including providing support for case filings and evidentiary hearings; (v) producing information to Class Counsel to assist Plaintiffs' experts with modeling their liability and damages theories; (vi) attending trial in Chicago, Illinois, for several weeks; and (vii) staying abreast of any appeals and remaining in communication with class counsel throughout the process. Each Class Representative agreed to the above duties and responsibilities without any guarantee of payment, and understood that, if the litigation were unsuccessful, there may have been a chance that Defendants would seek fees and litigation costs against them, individually.

27. The requested service award of \$3,500 per Class Representative falls within the reasonable range of other service awards I have requested in other cases for similar work.

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 21st of July 2022 at Chicago, Illinois.

/s/ Amy E. Keller
Amy E. Keller

Co-Lead Counsel

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit A

Lodestar Summary

Firm: **DiCello Levitt Gutzler LLC**
Reporting Period: **Inception through June 30, 2022**

| Professional | Title | Hourly Rate | Total Hours | Total Lodestar |
|---------------------|--------------|--------------------|--------------------|-----------------------|
| Banks, Sharon | PL | \$375.00 | 0.8 | \$300.00 |
| Bussert, Kayla | PL | \$335.00 | 12.2 | \$4,006.50 |
| DiCello, Mark | P | \$1,200.00 | 16.5 | \$19,800.00 |
| Frate, Joe | A | \$490.00 | 2.3 | \$1,127.00 |
| Green, AnnMarie | PL | \$325.00 | 3.9 | \$1,267.50 |
| Keller, Amy | P | \$1,010.00 | 427 | \$431,270.00 |
| Levitt, Adam | P | \$1,200.00 | 105.7 | \$126,840.00 |
| Locascio, Michelle | A | \$490.00 | 146.5 | \$71,785.00 |
| Otto, Ashtin | PL | \$325.00 | 2.7 | \$877.50 |
| Panikulangara, Anne | PL | \$325.00 | 30.7 | \$9,977.50 |
| Patel, Devarshi | PL | \$375.00 | 2.7 | \$1,012.50 |
| Prom, Adam | A | \$690.00 | 171.7 | \$118,473.00 |
| Reda, Samantha | PL | \$335.00 | 1.1 | \$368.50 |
| Toledo, Mayra | PL | \$375.00 | 1.5 | \$562.50 |
| Ulwick, James | A | \$665.00 | 1.9 | \$1,263.50 |
| | | | | |
| Totals | | | 927.2 | \$788,931.00 |

Title:

- Partner (P)
- Associate (A)
- Paralegal (PL)
- Of Counsel (OC)
- Law Clerk (LC)
- Legal Assistant (LA)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit B

Expense Summary

Firm: **DiCello Levitt Gutzler LLC**
Reporting Period: **Inception through June 30, 2022**

| Expense | Amount |
|--|--------------------|
| Court Costs (<i>i.e.</i> , Filing Fees) | |
| Experts / Consultants | |
| Federal Express / UPS | \$126.99 |
| Postage / U.S. Mail | |
| Service of Process | \$325.00 |
| Messenger / Delivery | |
| Hearing Transcripts | |
| Investigation | |
| Westlaw / Lexis / PACER | \$1,196.74 |
| Photocopies (in House) | |
| Photocopies (Outside) | |
| Telephone / Telecopier | |
| Travel – Transportation | \$2,239.94 |
| Travel – Meals | \$185.36 |
| Travel – Hotels | \$1,082.14 |
| Miscellaneous- Litigation Fund | \$20,000.00 |
| Miscellaneous- DocuSign | \$150.00 |
| Miscellaneous- Mediation | \$13,384.68 |
| Total | \$38,690.85 |

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit C

Litigation Fund Summary

Firm: **Class Counsel**
Reporting Period: **Inception through June 30, 2022**

| Contribution Per Firm | Amount |
|------------------------------|--------------------|
| DiCello Levitt Gutzler LLC | \$20,000.00 |
| Pearson, Simon & Warshaw LLP | \$18,416.67 |
| Reese LLP | \$13,500.00 |
| Total | \$51,916.67 |

| Expense | Date | Cost |
|---|-------------|----------------------|
| JAMS (mediation)- reimbursement to DiCello Levitt for invoices paid outside of litigation fund | 9/30/20 | (\$7,500.00) |
| JAMS (mediation) | 11/4/20 | (\$7,500.00) |
| JAMS (mediation) | 5/14/21 | (\$16,500.00) |
| JAMS (mediation) | 8/2/21 | (\$6,211.04) |
| JAMS (mediation) | 8/26/21 | (\$1,197.00) |
| JAMS (mediation) | 8/31/21 | (\$1,862.00) |
| JAMS (mediation) | 10/7/21 | (\$399.00) |
| JAMS (mediation) | 12/31/21 | (\$7,315.00) |
| JAMS (mediation) | 1/31/22 | (\$532.00) |
| JAMS (mediation)- reimbursement to DiCello Levitt for invoices paid outside of litigation fund | 7/21/22 | (\$2,900.63) |
| Total | | (\$51,916.67) |

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit D

Total Lodestar and Expense Summary by Firm

Firm: **All Firms**
Reporting Period: **Inception through June 30, 2022**

| Exhibit | Firm | Lodestar | Expenses |
|----------------|--|-----------------------|--------------------|
| 1 | DiCello Levitt Gutzler LLC | \$788,931.00 | \$38,690.85 |
| 2 | Pearson, Simon & Warshaw, LLP | \$704,194.00 | \$22,132.04 |
| 3 | Reese LLP | \$886,230.00 | \$21,611.58 |
| 4 | Animal Outlook | \$41,012.50 | \$0.00 |
| 5 | Doffermyre Shields Canfield & Knowles, LLC | \$15,200.00 | \$1,031.00 |
| 6 | Bursor & Fisher, P.A. | \$221,315.00 | \$3,614.67 |
| 7 | Wolf Haldenstein Adler Freeman & Herz LLC | \$74,123.50 | \$2,959.04 |
| 8 | Tycko & Zavareei LLP | \$8,172.00 | \$687.65 |
| 9 | LippSmith LLP | \$64,955.00 | \$1,748.59 |
| 10 | Saeed & Little, LLP | \$26,675.00 | \$1,166.30 |
| 11 | Faruqi & Faruqi, LLP | \$26,536.00 | \$1,557.27 |
| | Total | \$2,857,344.00 | \$95,198.99 |

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit E

FIRM RESUME

On following pages



DICELLO LEVITT GUTZLER

Justice in all its
DIMENSIONS



Overview

At DiCello Levitt, we're dedicated to achieving justice for our clients through class action, business-to-business, public client, whistleblower, and personal injury litigation. Every day, we put our reputations – and our capital – on the line for our clients. Through our \$16B in recoveries, we've helped raise the bar for corporate conduct and responsibility, paving the way for a more just and equitable world.

Practice Areas

- Agriculture and Biotechnology
- Antitrust and Competition Litigation
- Appellate and Policy Advocacy
- Civil and Human Rights Litigation
- Class Action Litigation
- Commercial Litigation
- Environmental Justice
- Insurance Litigation
- Labor and Employment Litigation
- Personal Injury
- Pharmaceutical Fraud, Waste, and Abuse
- Privacy, Technology, and Cybersecurity
- Product Liability
- Public Client
- Securities and Financial Services Litigation
- Whistleblower, Qui Tam, and False Claims Act

Members of the Firm

Our attorneys have the ability to successfully try cases across the spectrum of complex commercial litigation, financial fraud and securities litigation, public client litigation, class actions, defective drug and device cases, catastrophic injuries, and other areas of law. The firm boasts an impressive roster of additional attorneys.



Mark A. DiCello
Partner

EMAIL:
madicello@dicellolevitt.com

EDUCATION
Cleveland-Marshall College of Law,
J.D.

University of Dayton, B.A.

Mark DiCello is a founding partner of DiCello Levitt. He explains that after 20 years of jury trials and serving in lead roles in some of the largest personal injury cases in Ohio and around the country, he wanted to create a plaintiffs' firm that did not exist, a firm that brought together top talent in the most important areas of plaintiffs' law.

Mark understands that while our technology driven society continues to evolve at an unprecedented pace, the law is slow to adapt. That means the most powerful economic interests typically operate "ahead" of the law. Representing people hurt by them, from serious catastrophic physical injury to life changing economic injury, is more challenging than ever. Through that lens, he has a simple message: "While Justice is your right, society won't just give it to you, you have to fight for it." This insight forms the heart of his approach to litigation and firm building.

Mark's clients are all victims – from individuals suffering catastrophic personal injuries to groups of plaintiffs harmed by medical devices, pharmaceutical products, chemicals, automobiles, and more. He has led headline-grabbing mass tort and product liability cases and co-led massive multidistrict litigations.

For Mark, all of his experiences have led inevitably to the 2017 creation of powerhouse trial firm DiCello Levitt. He views the firm as unique in the plaintiffs' bar – a diverse and fearless team of lawyers focused on important litigations in the U.S. and abroad. His vision is to continue building a firm comprising leaders in the law with strong underlying frameworks that ensure the firm can thrive for generations to come.



Adam Levitt

Partner

EMAIL

alevitt@dicellolevitt.com

EDUCATION

Northwestern University School of Law, J.D.

Columbia College, Columbia University, A.B., *magna cum laude*

Adam Levitt has scored important wins leading dozens of significant litigations on behalf of individuals, businesses, and public clients and has built a firm that reflects his resolve for justice in all its dimensions.

One of the nation's leading advocates for plaintiffs in complex multidistrict, commercial, public client, and class action litigations, Adam has delivered nearly \$20 billion in recoveries to clients in biotechnology, financial services, insurance coverage, consumer protection, automotive defects, agricultural products, antitrust, and securities disputes.

Adam's reputation for innovatively taking on tough cases has led to his appointment by State Attorneys General in the largest ongoing environmental PFAS water contamination cases of our time, and the historic litigation arising from Volkswagen's emissions scandal, where, as a court-appointed member of a leadership group characterized as a "class action dream team," he helped to secure a \$16 billion settlement that benefitted car buyers across the United States.

Adam has also served as co-lead counsel in three of the largest biotechnology class actions in history. He secured \$1.1 billion in settlements resulting from contamination of the U.S. rice supply with genetically modified seeds; helped to obtain a \$550 million settlement on behalf of landowners and landscapers in a class action involving tree and other foliage death and harm caused by an herbicide; and recovered \$110 million for farmers who sustained market losses on corn crops from contamination of the U.S. corn supply with genetically modified corn.

In addition to securing significant financial relief for his clients, Adam's work has changed how biotechnology class action cases are litigated in the U.S. He co-created a game-changing economic model to measure crop contamination damages that set the modern industry standard.

Adam's groundbreaking work on behalf of plaintiffs has been recognized locally and nationally in prestigious ranking directories, including *Chambers USA*, where he received a Band 1 ranking for Mainly Plaintiffs Litigation in Illinois. *Chambers USA* also ranked Adam in Illinois for General Commercial Litigation and nationwide for Product Liability Litigation, where the editors describe him as the "go-to plaintiffs' attorney in the class actions space." In 2021 and 2022, *Benchmark Litigation* awarded Adam National Litigation Star: Securities and Litigation Star in Illinois. According to *The National Law Journal*, Adam is a "pioneer" in technology litigation, and *Crain's Chicago Business* named him a 2021 Notable Gen X Leader in Accounting, Consulting, and Law.

An elected member of the American Law Institute and the Economic Club of Chicago, Adam considers the formation of DiCello Levitt Gutzler in 2017 to be a pivotal moment in his decades-long legal career. With a shared vision, foundation of trust, and commitment to holding large companies accountable for injuries caused by their products and practices, he and his partners intend to maintain their industry-wide influence and successful track record for years to come.



Greg Gutzler

Partner

EMAIL

ggutzler@dicellolevitt.com

EDUCATION

University of Michigan, J.D.

University of California – Berkeley,
B.A.

Greg Gutzler is an experienced trial lawyer with a track record of billions in recoveries in high-stakes cases. Before joining DiCello Levitt, Greg litigated extensively on both the plaintiff and defense side, including working at his own boutique firm, one of the nation's most prestigious plaintiffs' firms, and as a partner of an Am Law 100 defense firm. He is a trusted advocate chosen by clients when they need candid, creative, and aggressive approaches to business solutions and decisive litigation strategy. Greg believes that the law is more than a means to pursue justice—it is the foundation of a society in which people are free to create, thrive, and feel protected. Beliefs become action through creativity, technical excellence, knowledge, and discipline.

Greg is a go-to advocate for any type of complex commercial litigation, business disputes, whistleblower cases, and sexual abuse cases. Clients seek out Greg for his expertise in contract, ownership, and valuation disputes. Whistleblowers also rely on Greg's experience and creativity in prosecuting SEC, False Claims Act, FIRREA, IRS, and FCPA matters. Greg's practice areas focus on ensuring that innovation thrives and creates competitive marketplaces. One of his clients, a major biotechnology company, spent billions of dollars to create a groundbreaking technology. When a competitor improperly exploited his client's intellectual property, Greg led his client's suit against the competitor, tried the case in federal court, and won a jury verdict of \$1 billion in damages. This was the fourth-largest patent infringement jury verdict in U.S. history—and hammered home the point that competition, no matter how intense, must always remain fair and honorable.

Greg has litigated more than a dozen high-profile securities actions against international investment banks for misrepresentations they made to investors in connection with residential mortgage-backed securities, recovering more than \$4.5 billion. When important investments and resources are at stake, hedge funds, private equity funds, venture capitalists, individuals, companies, and governmental entities turn to Greg because he is a fearless advocate in complex lawsuits in federal and state court and arbitration.

Greg is also on the front lines in protecting women and men from sexual abuse, discrimination, and exploitation. He is lead counsel in a civil suit involving the world's largest-ever sex trafficking case, which spans six countries and fifty years of abuse. On December 10, 2021, Dateline NBC featured Greg in its revered news magazine program in an episode titled, "[The Secrets of Nygard Cay.](#)"

Greg's grasp of the nuances of common law—the influence of jurisdictions, who's on the bench, and more—converge in a simple insight: The system never dispenses justice based on predictable formulas, so legal professionals must fight to achieve justice. He views DiCello Levitt Gutzler as the right firm to advance that fight for its clients, drawing on a shared vision of commitment, creativity, and loyalty.



Kenneth Abbarno

Partner

EMAIL

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EDUCATION

Cleveland-Marshall College of Law,
J.D.

Canisius College, B.A.

Toxic exposure to chemicals goes hand in hand with truck crash cases. Ken saw that early in his career. More than twenty years ago, Ken found himself called to the scene of a major truck crash. As a young lawyer, he witnessed what really happens in the aftermath of that kind of tragedy. He saw how truck companies protect their drivers. He saw a small police department struggle with securing a crime scene and preserving evidence. He saw how people in cars don't stand a chance when a truck driver loses control. He saw the impact that a spilled tanker can have on the environment and how toxic exposure can change lives in minutes. That experience shaped the rest of his professional career.

As a former defense lawyer, Ken was recruited by the most accomplished plaintiff-side law firms in the United States. Ken chose to join DiCello Levitt, understanding that he would have unique and unrivaled access to resources not available at any of the traditional personal injury firms. Since joining the firm, Ken has set himself apart as a leader who coordinates complex medical malpractice, birth injury, truck crash, and toxic exposure cases, all while mentoring young lawyers advancing in the trial bar and serving as the firm's General Counsel.

Over the past three decades, Ken has been recognized as a top-tier litigator in medical malpractice cases and in the transportation industry. He's litigating major medical malpractice and truck crash cases and toxic exposure cases in multiple jurisdictions across the United States. Throughout his career, Ken has been recognized by the medical and trucking industries and his peers as an elite trial lawyer.

Ken is a sought-after voice and has published articles in national transportation magazines and spoken at conferences across the country. He has been selected as an Ohio Super Lawyer every year since 2010, and was named an Inside Business Leading Lawyer, Cleveland's Transportation Lawyer of the Year, and recognized in The Best Lawyers in America.



Mark M. Abramowitz

Partner

EMAIL

mabramowitz@dicellolevitt.com

EDUCATION

University of Toledo College of Law,
J.D.

University of Guelph, B.A.

Mark has demonstrated expertise in leveraging cutting-edge technology in DiCello Levitt's modern and evolving trial practice to achieve what were previously believed to be impossible results for his clients. An Internet technology expert, he is a student of integrating technology into the practice of law. He has been selected to national discovery review teams and is regularly consulted on cloud-based systems, discovery technology, the Internet of Things, and litigation concerning data storage and security. He has testified before the Ohio State Legislature multiple times on data security and related issues.

Mark is a respected litigator and trial lawyer who has recouped life changing compensation for clients around the country. He has expertise and experience ranging from defective products to Internet technology disputes. Mark is recognized for breaking barriers in medical malpractice litigation through groundbreaking work in exposing electronic medical record alterations and successfully expanding states' damages caps in joint replacement surgery cases.

Mark brings a unique voice to the Sedona Conference's Data Security and Privacy Liability working group and is one of the authors of Sedona's Biometric Privacy Primer. He has also served as a Trustee of the Ohio Association for Justice since 2014. Mark is currently Editor-in-Chief of *Ohio Trial* and is a member of *Law360's* Personal Injury Editorial Advisory Board.



F. Franklin Amanat
Partner

EMAIL

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EDUCATION

Harvard Law School, J.D., *cum laude*

The University of Pennsylvania, B.A.,
summa cum laude

Frank Amanat is a highly decorated litigator with nearly 30 years of experience in a broad range of complex legal matters. He has particular expertise in constitutional and administrative law, as well as class actions, financial and securities fraud, health care and pharmaceutical litigation, False Claims Act and FIRREA litigation, complex torts, civil rights, and environmental litigation. A veteran of 19 trials and arbitrations and dozens of appeals, Frank has led some of the largest and most consequential civil litigation in the country, appearing on both the plaintiff and defense side, and he has amassed a remarkable track record delivering successful outcomes to his clients.

Frank specializes in representing victims of fraudulent and illegal conduct, as well as whistleblowers, governmental entities, and other plaintiffs, in a wide range of high impact litigation, including class actions and multidistrict litigation. His practice focuses on financial and securities fraud, health care fraud, civil rights, mass torts, and other complex commercial litigation.

Prior to joining DiCello Levitt, Frank spent 24 years at the U.S. Department of Justice (DOJ), including more than two decades as an Assistant United States Attorney and then Senior Counsel at the U.S. Attorney's Office for the Eastern District of New York (Brooklyn), plus stints at the Office of Legal Policy (OLP) and the Office of Immigration Litigation. At DOJ, Frank handled over 400 cases, both affirmative and defensive, on behalf of more than 70 federal agencies. From 2013 to 2018, he served as lead counsel for the Government in the successful investigation and prosecution of Barclays Bank and two of its former executives for fraud in connection with the sale of residential mortgage-backed securities. The \$2 billion settlement is the largest single recovery the Department of Justice has ever obtained in a civil penalty action filed under FIRREA.

For his work at OLP developing regulations implementing the Prison Rape Elimination Act (the largest and most complex rulemaking initiative ever undertaken in the Department of Justice), Frank was awarded in 2012 the Attorney General's Award for Distinguished Service, the second highest award conferred by the Department of Justice. In September 2020, Frank received the EOUSA Director's Award for Superior Performance as an Assistant United States Attorney (Civil) for his work on financial fraud and public policy cases, as well as several immigration policy class actions. In 2018, Frank received the Henry L. Stimson Medal, an award given annually by the New York City Bar Association to honor outstanding Assistant U.S. Attorneys in the EDNY and SDNY for their integrity, fairness, courage, and superior commitment to the public good.



Greg Ascioffa

Partner

EMAIL

gasciola@dicellolevitt.com

EDUCATION

Catholic University of America, J.D.

Boston College, A.B., *cum laude*

Gregory Ascioffa is a Partner in DiCello Levitt's New York office, where he serves as Chair of the Firm's Antitrust and Competition Litigation Practice. Greg focuses on representing businesses, public pension funds, and health and welfare funds in complex antitrust and commodities class actions. Greg currently represents clients in antitrust matters involving price-fixing, monopolization, benchmark and commodities manipulation, pay-for-delay agreements, and other anticompetitive practices. He also has represented, pro bono, three Ugandan LGBTQ clients seeking asylum in the U.S.

Greg has recovered billions on behalf of his clients and leads extensive investigations into potential anticompetitive conduct, often resulting in first-to-file cases. Prior to joining DiCello Levitt, Greg chaired a nationally-recognized antitrust practice group as a partner and oversaw significant growth in group size, leadership appointments, cases filed, investigations, and reputation. He also litigated and managed civil and criminal antitrust matters involving price-fixing, merger, and monopolization and conducted internal investigations and managed responses to government investigations on behalf of corporate targets as a partner at Morgan Lewis & Bockius LLP. Greg began his career as an attorney at the U.S. Department of Justice's Antitrust Division, where he focused on anticompetitive conduct in the healthcare industry.

Greg is regularly appointed to leadership positions in major antitrust cases in federal courts throughout the U.S., including Generic Drugs, Eurozone Government Bonds, Platinum and Palladium, Surescripts, Crop Inputs, Opana, and Exforge.

Named a "Titan of the Plaintiffs Bar" by Law360 as well as a leading plaintiffs' competition lawyer by Global Competition Review and Chambers & Partners USA, Greg is often recognized for his experience and involvement in high-profile cases. He has been named one of the "Leading Plaintiff Financial Lawyers in America" by Lawdragon, a "Litigation Star" by Benchmark Litigation, and a "Leading Lawyer" and a "Next Generation Lawyer" by The Legal 500, with sources describing him as "very effective plaintiffs' counsel" and "always act[ing] with a good degree of professionalism."

Greg is frequently sought after by the media, including The Wall Street Journal, The New York Times, Financial Times, CNN Business, and Global Competition Review, for commentary on global antitrust developments. Greg regularly organizes and sits on panels and lectures discussing the latest developments and trends in antitrust law and frequently publishes work in national publications such as The National Law Journal, New York Law Journal, and Law360. He also served on Law360's Competition Editorial Advisory Board.

Greg makes substantial contributions to the antitrust bar. In 2016, he was elected to the Executive Committee of the New York State Bar Association Antitrust Law Section, where he formerly served as the Chairman of the Horizontal Restraints Committee. He also currently serves as Co-Chairman of the Antitrust and Trade Regulation Committee of the New York County Lawyers' Association and Membership Chair of the Committee to Support the Antitrust Laws. Greg is an annual invitee of the exclusive Antitrust Forum, serves as the U.S. Representative to the Banking Litigation Network, and is on the Advisory Board of the American Antitrust Institute.



Bruce D. Bernstein

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EDUCATION

The George Washington University
Law School, J.D.

University of Vermont, B.S., *cum
laude*

Bruce Bernstein has successfully handled a wide range of commercial litigation including suits against large banks, mortgage lenders, automobile manufacturers, pharmaceutical manufacturers, insurers, and healthcare systems. He has successfully litigated these matters at all levels, including before the U.S. Supreme Court.

As a Trial Attorney in the Civil Fraud Section of the U.S. Department of Justice, Bruce investigated, litigated, and resolved complex *qui tam* actions asserting claims under the False Claims Act. In addition, on behalf of the United States, he oversaw the litigation of a large action, pending in Germany, asserting securities fraud-type claims against a multinational automobile manufacturer, which was brought to recover losses incurred by the Federal Thrift Savings Plan, one of the largest defined contribution plans in the world. In private practice, he successfully litigated some of the largest securities fraud actions ever filed. Bruce was a pivotal member of the team that secured significant decisions from the Third Circuit and U.S. Supreme Court in the securities class action against *Merck & Co., Inc.*, which arose out of Merck's alleged misrepresentations about the cardiovascular safety of its painkiller drug Vioxx. That action was ultimately resolved for more than \$1 billion, which at the time of its resolution, was the largest securities recovery ever achieved on behalf of investors against a pharmaceutical company.

Bruce has also served as an adjunct professor at The George Washington University Law School and taught written and oral advocacy. Separately, he has authored and co-authored a number of articles on developments in the federal securities laws, including co-authoring, along with several former colleagues, the first chapter of Lexis/Nexis's seminal industry guide *Litigating Securities Class Actions* (2010 and 2012).



**Diandra “Fu” Debrosse
Zimmerman**
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EDUCATION

Case Western Reserve University
School of Law, J.D.

City College of the City University of
New York, B.A., *summa cum laude*

Diandra “Fu” Debrosse Zimmermann is managing partner of DiCello Levitt’s Birmingham office, co-managing partner of the Washington, D.C. office, and co-chair of the firm’s Mass Tort division. Fu is also a member of the firm’s Public Client, Environmental, Personal Injury, Civil Rights, and Trial practice groups. Widely known for her relentless client advocacy, Fu represents individuals and public entities injured by wrongful conduct, whether from defective medical devices or drugs, environmental contamination, corporate misconduct, or civil rights abuse. She is nationally recognized as a powerhouse in mass torts, class actions, products liability, discrimination, and sexual assault claims. Hundreds of millions of dollars in client damages were secured by Fu’s advocacy.

Fu holds prominent leadership positions for several multidistrict litigations. These include:

- Co-Lead Counsel of the *In re: Abbott Laboratories, et al., Preterm Infant Nutrition Products Liability Litigation* (MDL No. 3026),
- The Plaintiffs’ Executive Committee for *In re: Paraquat Products Liability Litigation* (MDL 3004)
- The Plaintiffs’ Steering Committee for *In re: Smith & Nephew Birmingham Hip Resurfacing Hip Implant Liability Litigation* (MDL 2775)
- Representing dozens of municipalities in *In re: National Prescription Opiate Litigation* (MDL 2804)
- Representing municipalities in *In re: McKinsey & Company Inc., National Prescription Opiate Consultant Litigation* (MDL 2996)
- Counsel in *In re: Proton Pump Inhibitor Litigation* (MDL 2789)

Fu also held a seat on the Plaintiffs’ Steering Committee for *In re: Higher One Account Marketing and Sales Practices Litigation* (MDL 2407) and has represented plaintiffs in multiple additional multidistrict litigations.

In addition, Fu leads many of the firm’s systematic civil rights and sexual assault cases and actively represents states and municipalities in consumer litigation.

Fu was recognized in 2022 as one of the 500 Leading Consumer Lawyers by *Lawdragon*. *Chambers USA 2022* ranked the firm’s Litigation: Mainly Plaintiffs team among the top five in Alabama. The *Birmingham Business Journal* honored Fu with a Best of the Bar Award and Who’s Who in the Law recognitions in 2021. She is repeatedly named as an *Alabama Super Lawyer*, among other recognitions and awards.

Fu is a founding member of Shades of Mass, an organization dedicated to encouraging the appointment of black and brown attorneys in national mass tort actions. She is a board member of the Southern Trial Lawyers Association, a hearing officer for the Alabama State Bar, and a member of the Birmingham Bar Foundation. Fu has previously held leadership roles as a revitalizing Board of Governor member of the American Association for Justice, a member of the



Alabama Access to Justice Commission, and an Alabama State Bar vice president and commissioner. Fu also served as the president of the Magic City Bar Association, the legislative liaison to the Alabama Lawyers Association, and is a former member of the Birmingham Bar Association Executive Committee.

Fu is fluent in French and Haitian Creole and functional in Spanish. Her steadfast pursuit of justice is motivated in large part by her experience as a mother of two young girls.



Bobby DiCello
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EDUCATION

Cleveland-Marshall College of Law,
J.D.

Northwestern University, M.A.

University of Dayton, B.A.

Bobby DiCello's practice encompasses locally and nationally significant cases across a broad range of topics with a focus on restoring the human dignity stolen by civil rights abuses, catastrophic injuries, defective products, and corporate misconduct.

The trial of Officer Derek Chauvin for George Floyd's murder was the most anticipated civil rights trial in recent history. When ABC News Live decided to cover the trial and produce the series "The Death of George Floyd – Derek Chauvin on Trial," they realized that they needed an authority on high-profile trials to analyze and comment on the Floyd trial. Anticipating a national and international audience, ABC called on Bobby to give his opinions on the case. Between focus group preparation for a major pharmaceutical trial and research into the psychology of modern jurors, Bobby made himself available for weeks of real-time commentary and insight into the decisions of the lawyers and presiding judge.

Bobby is a force in the trial bar. He has obtained record verdicts in cases thought unwinnable, while, at the same time, leading cutting-edge research into juror decision-making in the politically polarized jury system. Bobby has successfully tried, as a first-chair trial lawyer, catastrophic injury and death cases, civil rights cases, medical malpractice cases, mass tort bellwether cases, *qui tam* cases, and financial services, as well as major felony prosecutions, major criminal defense actions, and a variety of other cases that have branded him as one of the nation's best modern day trial lawyers.

In 2021, Public Justice awarded Bobby its prestigious Trial Lawyer of the Year award for his work in the landmark *Black v. Hicks* police brutality and corruption case in the City of East Cleveland, Ohio. Public Justice presents this annual award to attorneys who promote the public interest by trying a precedent setting, socially significant case. Bobby tried the *Black* case to a jury that awarded Mr. Black a record \$50 million—a verdict that has since been sustained up to the United States Supreme Court. Bobby has also been recognized twice as an "agent of change" by *The National Law Journal* in its annual list of Plaintiffs' Lawyers Trailblazers, an honor rarely bestowed even once in a lawyer's career.

Having taught trial lawyers across the country, Bobby is also known for his dedication to improving the art of trial practice. Bobby is routinely asked to assist lawyers from across the U.S. on cases. He consults on all aspects of trial preparation and motion practice, including theme building, case framing, case messaging, and the creation of visuals for courtroom presentation and exhibits. He develops his approach through DiCello Levitt's Trial Center, where he leads focus groups, mock trials, and jury decision-making research. Bobby's work sets DiCello Levitt apart as a truly rare law firm: a plaintiffs' firm with an in-house focus group and mock trial practice that creates powerful presentations and—most importantly for our clients—meaningful verdicts.

Throughout his work, Bobby maintains a singular focus: to teach juries about the value of each of his clients and to encourage a verdict that publicly recognizes their dignity.



Daniel R. Ferri

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EDUCATION

University of Illinois College of Law,
J.D., *magna cum laude*

New York University, B.A., *cum laude*

Dan Ferri’s litigation practice focuses on fraud, breach of contract, intellectual property theft, and antitrust claims. He has achieved tens of millions of dollars in recoveries on behalf of his individual, small business, and public clients. He works to balance the scales and prevent unscrupulous business practices from going unchecked.

Dan’s recent work includes successfully representing the State of New Mexico in cases arising from Volkswagen’s use of “defeat devices” to cheat emissions standards and other automakers’ sales of vehicles containing dangerous Takata airbag inflators. He currently represents New Mexico in asserting consumer fraud claims for deceptive “Low T” advertising and antitrust claims involving broiler chicken price fixing.

Dan was also recently instrumental in achieving a substantial settlement for a class of consumers who purchased Toyota minivans with defective sliding doors and in obtaining certification of multiple statewide classes in a case involving an oil consumption defect in popular GM trucks and SUVs. In addition to his products liability work, Dan represents individual and small business insureds in numerous class-wide coverage disputes against their insurers.

**Daniel R. Flynn**

Partner

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EDUCATIONIndiana University Maurer School of Law, J.D., *cum laude*

Illinois Wesleyan University, B.A.

Dan Flynn represents governmental entities, individual consumers, and corporate clients—all with one primary goal in mind: ensuring the protection of human health and the environment. His stewardship ensures not only that polluters be held responsible for contamination and clean-up, but that corporate entities understand their responsibilities under state and federal environmental laws. As a result of his advocacy in advising corporations on compliance, Dan's clients lead their respective industries in environmental stewardship efforts under a number of rules and regulations including the Clean Water Act, the Clean Air Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Emergency Planning and Community Right-to-Know Act, and the Resource Conservation and Recovery Act.

Dan assists corporate entities, governmental agencies, and the public by ensuring that companies that have contaminated the environment and violated regulations take responsibility for their actions. Through contribution and cost recovery actions, common law claims, citizen suits, enforcement actions, and proper due diligence and contract negotiation, he ensures polluters and bad actors remediate the harm they have caused.

Dan is part of the DiCello Levitt team working with several states in investigating and addressing poly- and perfluoroalkyl substance ("PFAS") contamination. DiCello Levitt's PFAS team, along with other Special Assistant Attorneys General and the Illinois Attorney General, most recently filed a lawsuit against 3M for PFAS contamination from its facility in Cordova, IL. Cases involving these "forever chemicals" will have wide-reaching implications for state governments and their residents.

Dan also works with communities that have been impacted by years of exposure to polluted air, water, and soil. Recently, Dan and DiCello Levitt's environmental team joined with co-counsel in representing several residents and former residents of Union, Illinois in filing suit against companies responsible for polluting the groundwater with carcinogenic chlorinated solvents. Dan also serves as interim co-lead counsel in a class action on behalf of the residents of Rockton, Illinois and surrounding communities for property damages they sustained following a catastrophic fire at a local chemical factory.

In addition to his environmental work, Dan frequently counsels clients on developing and maintaining state-of-the-art safety and health programs that ensure all employees enjoy safe and healthful workplaces. He works closely with both his clients and the Occupational Safety and Health Administration ("OSHA") to enhance employee safety and health well beyond OSHA's minimum requirements.



Karin Garvey

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EDUCATION

Northwestern University Pritzker
School of Law, J.D.

Harvard University, A.B.

Karin E. Garvey is a partner in the New York office of DiCello Levitt and a member of the Antitrust and Competition practice group. With more than two decades of litigation experience, Karin focuses on representing businesses and public pension funds in complex antitrust class actions.

Prior to joining DiCello Levitt, Karin was a partner of a firm focusing on securities and antitrust litigation. She brings significant experience to managing complex, multi-jurisdictional cases from initial case development through resolution and appeal. In addition to deposing top executives, Karin has also prepared and defended company executives for deposition, hearing, and trial. Karin has significant experience working with experts—including economists, regulatory experts, patent experts, medical experts, toxicologists, materials scientists, valuation experts, foreign law experts, and appraisers—developing reports and testimony, preparing for and defending depositions, and taking depositions of opponents' experts. In addition, Karin has engaged in all phases of trial preparation and trial and has briefed and argued appeals. Karin also has significant experience with arbitration and mediation.

For the first two decades of her career, Karin gained significant experience in antitrust, commercial litigation, and products liability litigation at a prominent defense firm representing and counseling clients from a wide array of industries including pharmaceuticals, cosmetics, building materials, film, finance, and private equity.

Karin is recommended by *Chambers & Partners USA* and *The Legal 500* for excellence in antitrust practice. She has also been recognized by *Lawdragon* as one of the "Leading Plaintiff Financial Lawyers in America."



Amy Keller

Partner

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EDUCATION

John Marshall Law School, J.D.

University of Michigan, B.A.

Amy Keller has held leadership positions in a variety of complex litigations across the U.S., where she has successfully litigated high-profile and costly data security and consumer privacy cases. As the firm's Privacy, Technology, and Cybersecurity practice chair, she is the youngest woman ever appointed to serve as co-lead class counsel in a nationwide class action. In the multidistrict litigation against Equifax related to its 2017 data breach, Amy represented nearly 150 million class members and helped to secure a \$1.5 billion settlement, working alongside federal and state regulators to impose important security practice changes to protect consumer data.

Amy has represented consumers against industry titans like Apple, Marriott, Electrolux, and BMW, securing victories against each. Her numerous other leadership positions have required sophistication in not only understanding complex legal theories, but also in presenting multifaceted strategies and damages modeling to ensure favorable results. For example, in leading a nationwide class action related to a data breach that exposed the confidential information of nearly 300 million individuals, Amy worked with her team to develop an argument recognized by the trial court that the loss of someone's personal information, alone, could trigger financial liability. In another matter, Amy defended her team's victory all the way to the U.S. Supreme Court, ensuring that consumers would be able to band together as a class when a company defrauds them for small amounts individually that are worth millions of dollars in the aggregate.

Amy is an elected member of the American Law Institute and a two-time chair of the Chicago Bar Association Class Action Committee, where she gave a number of presentations on topics impacting large-scale consumer class actions, including presentations on emerging legal issues in privacy cases. Ms. Keller is recognized by Illinois Super Lawyers as a "Rising Star," and is a board member and Executive Committee member of Public Justice, a not-for-profit legal advocacy organization. She is also a member of the Sedona Conference's Working Group 11, which focuses on advancing the law on issues surrounding technology, privacy, artificial intelligence, and data security, and she is also on drafting teams for both Model Data Breach Notification Principles and Statutory Remedies and the California Consumer Privacy Act. Amy is the Data Breach and Cybersecurity Practice Group Committee Chair for the American Association for Justice and previously served on the Cybersecurity & Privacy Editorial Advisory Board for Law360, where she brought plaintiff counsel's perspective to the publication's analysis of technology lawsuits.

Amy recognizes that her civic responsibilities extend beyond her profession and is active in not-for-profit organizations in her community. She is on the production team and is a writer and dancer for the Chicago Bar Association's annual Bar Show, now in its 97th year. She is a past president and now Preservation Committee Chair of the Chicago Art Deco Society, where she has been recognized by the City of Chicago and Landmarks Illinois for her leadership in landmark preservation efforts and grassroots community advocacy.



Matthew Perez

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EDUCATION

Cardozo School of Law, J.D.

Swarthmore College, B.A.

Matt represents, individuals, businesses, public pension funds, and insurers in complex antitrust class actions. His practice spans a wide range of industries but with particular focus on pharmaceuticals and financial services. He currently litigates several pay-for-delay antitrust actions on behalf of consumers and insurers alleging delayed generic entry for Opana ER, Bystolic, Sensipar, Xyrem, and Zetia.

Matt previously worked for a nationally-recognized class action law firm and the New York State Office of the Attorney General Antitrust Bureau. He received the Louis J. Lefkowitz Memorial Award for his work investigating bid rigging and other illegal conduct in the municipal bond derivatives market, resulting in more than \$260 million in restitution to municipalities and nonprofit entities. He also investigated pay-for-delay matters involving multinational pharmaceutical companies.

Matt has been named a "Rising Star" by *The Legal 500*. In law school, he received the Jacob Burns Medal for Outstanding Contribution to the Law School. He was an intern for Judge Richard B. Lowe, III, in the New York Supreme Court Commercial Division.





Corban Rhodes

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EDUCATION

Fordham University School of Law,
J.D., *cum laude*

Boston College, B.A., History, *magna cum laude*

Corban Rhodes litigates cybersecurity and data privacy matters on behalf of consumers. Working at the intersection of law and technology, Corban focuses on cases that involve the intentional misuse or misappropriation of consumer data and data breaches caused by negligence or malfeasance. He has served on the litigation teams of some of the country's most historic and groundbreaking data privacy cases. These include the historic \$650 million settlement in the *Facebook Biometric Information Privacy Litigation* matter; the largest consumer data privacy settlement ever in the U.S.; and the first case to claim biometric privacy rights of consumers under the Illinois Biometric Information Privacy Act. Corban also represented consumers in the *Yahoo! Inc. Customer Data Breach Security Litigation*, which stemmed from the largest known data breach in history. He currently represents consumers in pivotal web browser privacy cases, including *Calhoun v. Google* and the *Google RTB Consumer Privacy Litigation*.

Corban also prosecutes complex securities fraud cases on behalf of institutional investors. He successfully resolved dozens of cases against some of the largest Wall Street banks in the wake of the mortgage-backed securities financial crisis, as well as some of the largest securities class actions of the last decade.



Christopher Stombaugh
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EDUCATION

Drake University School of Law, J.D.,
with honors

The University of Wisconsin –
Platteville, B.A.

For more than 30 years, Chris Stombaugh has been devoted to his true passion, advancing the art and science of trial advocacy. Chris focuses on trial. He has successfully tried to verdict cases for people around the country injured by hospitals, aircraft manufacturers, insurance companies, agribusiness, construction companies, and truck companies and many other industries. His approach empowers people to tell their stories in a way that resonates with juries and has led to several record-setting, seven- and eight-figure jury verdicts.

Chris speaks regularly to state bar and trial lawyer associations nationwide on modern and effective trial advocacy and is a key member of DiCello Levitt's Trial Practice Team. In addition to his own successful practice, Chris teaches trial lawyers cognitive neuroscience to benefit their clients.

Chris is the past president of the Wisconsin Association for Justice (WAJ), having served as president of the WAJ 2014 term. He has been chosen as a Wisconsin Super Lawyer every year since 2010. He is an active member in a number of other trial lawyer associations.



David A. Straite, CIPP/US
Partner

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EDUCATION

Villanova University School of Law,
J.D., *magna cum laude*, Managing
Editor, Law Review and Order of the
Coif

Tulane University, Murphy Institute
of Political Economy, B.A.

David is the nation's leading voice for the recognition of property rights in personal data, a 10-year effort culminating in the Ninth Circuit's landmark April 2020 decision in *In re: Facebook Internet Tracking Litigation* and the Northern District of California's March 2021 decision in *Calhoun v. Google*, both of which he argued. David also successfully argued for the extraterritorial application of the Computer Fraud and Abuse Act in 2019 in *In re: Apple Device Performance Litigation*, and filed the first-ever data privacy class action under seal to address a dangerous website vulnerability under Court supervision in *Rodriguez v. Universal Prop. & Cas. Ins. Co.* As M.I.T. Technology Review magazine put it in 2012, David is "something of a pioneer" in the field. He also protects investors in securities, corporate governance, and hedge fund litigation in federal court and in the Delaware Court of Chancery, admitted to practice in both New York and Delaware.

David is an adjunct professor at Yeshiva University's Sy Syms School of Business, teaching Business Law and Ethics every fall semester since 2015. He has co-authored *Google and the Digital Privacy Perfect Storm* in E-Commerce Law Reports (UK) (2013), authored *Netherlands: Amsterdam Court of Appeal Approves Groundbreaking Global Settlements Under the Dutch Act on the Collective Settlement of Mass Claims*, in The International Lawyer's annual "International Legal Developments in Review" (2009), and was a contributing author for Maher M. Dabbah & K.P.E. Lasok, QC, *Merger Control Worldwide* (2005). He speaks frequently on topics related to both privacy and investor protection.

Prior to joining the firm, David was a partner with Kaplan Fox & Kilsheimer LLP, and helped launch the US offices of London-based Stewarts Law LLP before that, where he was the global head of investor protection litigation. Prior to joining the plaintiffs' bar, David was an associate with the New York office of Skadden Arps Slate Meagher & Flom LLP.



John E. Tangren

Partner

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EDUCATION

University of Chicago Law School, J.D.
with honors

University of Chicago, B.A. with
honors

John Tangren has exclusively represented plaintiffs for the past decade in multistate automotive defect class actions. In addition to the hundreds of millions of dollars he's recovered for his clients, he also obtained nearly half a million dollars in sanctions for discovery misconduct in a class action involving unintended acceleration in Ford vehicles.

John's professional accomplishments are among the most impressive in the country. He has recovered hundreds of millions of dollars in product defect cases, including \$600 million for property damage caused by an herbicide, \$135 million for defective heavy truck engines, and \$45 million and \$40 million in cases involving defective SUV parts, all while setting himself apart as an expert legal writer and tactician.

John has been recognized as an Illinois Super Lawyer, in the National Trial Lawyers Top 40 Under 40, and as an Emerging Lawyer by the Law Bulletin Publishing Company.

He frequently lectures on class action litigation and has presented "CAFA: 12 Years Later" to the Chicago Bar Association Class Action Committee and Strafford CLE "Class Action Litigation: Avoiding Legal Ethics Violations and Malpractice Liability."



Robin A. van der Meulen
Partner

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EDUCATION

Brooklyn Law School, J.D.

Columbia College, Columbia
University, A.B.

Robin A. van der Meulen is a partner in DiCello Levitt's New York, where she represents clients in complex antitrust litigation. Prior to joining DiCello Levitt, Robin was a partner in a nationally-recognized antitrust practice group, where she gained more than a decade of experience litigating a wide variety of antitrust matters, including price-fixing, monopolization, benchmark and commodities manipulation, pay-for-delay agreements, and other anticompetitive practices.

Robin was appointed co-lead class counsel for end-payor plaintiffs in the *Bystolic Antitrust Litigation*, a pay-for-delay case pending in the Southern District of New York. She is also leading *Novartis and Par Antitrust Litigation*, another pay-for-delay case seeking to recover millions of dollars in overcharges relating to the hypertension drug Exforge on behalf of end-payor plaintiffs. Robin also represents end-payor plaintiffs in the *Generic Pharmaceuticals Pricing Antitrust Litigation*, a massive case against some of the biggest drug companies in the world alleging price-fixing and anticompetitive conspiracies.

Robin was previously an associate at Willkie Farr & Gallagher LLP, where she practiced antitrust and commercial litigation. She also served as a judicial intern in the United States Bankruptcy Court for the Eastern District of New York for Judge Elizabeth S. Stong.

Euromoney's Women in Business Law Awards selected Robin as a finalist for Antitrust and Competition Lawyer of the Year. *The Legal 500* recommends Robin for excellence in the field of Antitrust Civil Litigation and Class Actions, describing her as "persistent, persuasive, and well-respected by peers and opponents alike" and naming her a "Next Generation Partner." She has been recognized as "Up and Coming" by *Chambers & Partners USA* and as a "Future Star" by *Benchmark Litigation*. She has also been selected to *Benchmark's* "40 & Under Hot List" as one of "the best and brightest law firm partners" and someone who is "ready to take the reins." Additionally, Robin was recognized by *The Best Lawyers in America®* in the Antitrust Law category.

Robin is an active member of the antitrust bar. She is the secretary and a member of the Executive Committee of the Antitrust Law Section of the New York State Bar Association (NYSBA), and a member of NYSBA House of Delegates. Robin is also a Vice Chair of the Insurance and Financial Services Committee of the Antitrust Section of the American Bar Association (ABA). Robin was previously a Vice Chair of the Antitrust Section's Health Care & Pharmaceutical Committee of the ABA and the Executive Editor of that Committee's Antitrust Health Care Chronicle. From 2012 to 2021, Robin was an editor of the Health Care Antitrust Week-In-Review, a weekly publication that summarizes antitrust news in the health care industry.



Chuck Dender
Senior Counsel

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EDUCATION

Cornell Law School, J.D.

NYU Stern School of Business, MBA

Temple University, B.A.

Chuck Dender is an experienced litigator who has practiced at two of the country's largest law firms. With a demonstrable record of excellence and a track record of success for his clients, the foundation of Chuck's broad litigation experience was formed while defending some of the most significant commercial litigation matters in the U.S. over the last two-plus decades. While Chuck began his litigation career on the defense side of the table, he is a plaintiffs' attorney at heart. He now represents plaintiffs exclusively. With a background that includes membership in the International Brotherhood of Teamsters, Chuck has personally experienced what it's like to be a plaintiff in need of outstanding legal representation.

Chuck's legal expertise is enhanced by his MBA, with a specialization in finance and quantitative finance from the New York University Stern School of Business. This additional accreditation and education gives Chuck a unique advantage when it comes to identifying issues related to financial crimes and damages issues, including working with economists and other expert witnesses. As proof of this point, Chuck played a key role in presenting the damages model of one of the largest financial institutions in the world after the collapse of Lehman Brothers Holding, Inc.

Chuck represents aggrieved investors (both individuals and entities) in all aspects of complex litigation against players in the financial services industry, as well as other public and private companies. He also represents whistleblowers who cooperate with government agencies in their efforts to shine the light on corporate malfeasance.

In whistleblower matters, Chuck has a keen understanding of both the types of information that government agencies are looking for and the best methods for presenting that information to the agencies so they can act and wield justice from corporate wrongdoers. Chuck has authored compelling whistleblower submissions on behalf of both corporate insiders and interested outsiders. He has the good fortune of learning this complicated dance under the tutelage of the principal architect of the Security and Exchange Commission's Whistleblower Program. Chuck has also presented whistleblowers and supporting witnesses in front of the highest-ranking members of the SEC's Whistleblower Program during multiple-day interviews.

Chuck is experienced in a wide range of legal disciplines, with a specific focus representing clients in litigation involving the financial services industry or any matter where the calculation and presentation of damages is anything but a run-of-the-mill issue.



Nada Djordjevic
Senior Counsel

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EDUCATION

University of Illinois College of Law,
J.D., *summa cum laude*, Order of the
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Grinnell College, B.A.

Nada Djordjevic brings justice for those who are harmed by consumer fraud, unfair business practices, data privacy breaches, deceptive insurance sales practices, and other egregious acts. With more than two decades of experience representing plaintiffs in class actions and complex commercial litigations, Nada zealously protects the interests of aggrieved clients throughout the United States.

From individuals or groups of consumers to businesses of all sizes, including national and multinational corporations, Nada's clients benefit from her skilled and varied litigation practice. In addition to consumer protection and class actions, she represents clients in issues related to securities fraud, ERISA violations, deceptive insurance sales practices, and *qui tam* cases under the False Claims Act.

Nada's litigation successes include a \$25 million settlement on behalf of 800,000 people in a class action lawsuit. The action involved claims of violations of state consumer protection and deceptive practices laws against a major athletics event organizer. She also represented a multi-state plaintiff class in a data breach case that resulted in one of the largest breach-related settlements in healthcare. Nada was also part of the litigation team that negotiated settlements worth more than \$275 million for universal life insurance policy holders in two nationwide class actions alleging improper monthly policy charges.



Robert J. DiCello
Of Counsel

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EDUCATION

Cleveland-Marshall College of Law, J.D.

John Carroll University, B.A., *magna cum laude*

A co-founder of one of DiCello Levitt's predecessor firms, Robert J. DiCello has amassed more than 45 years of professional experience and an extensive list of seven- and eight-figure recoveries for victims of injustice. He has deep experience in a wide range of class actions, personal injury cases, complex mass torts, and probate matters. Over his long and successful career, he has won multiple appeals before the Ohio Supreme Court.

Robert put himself through Cleveland-Marshall College of Law while working as a safety director at U.S. Steel Corp. While in law school, he was selected to join the *Cleveland-Marshall Law Review*. He began his legal career as an assistant prosecutor in the Lake County Prosecutor's Office and later become President of the Lake County Bar Association. He formed his own firm in 1978, managing it with great success over nearly 40 years until its members founded DiCello Levitt.



Mark S. Hamill
Senior Counsel

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EDUCATION

Northwestern University Pritzker
School of Law, J.D., *cum laude*

Washington & Jefferson College, B.A.

Mark Hamill concentrates his practice on commercial, antitrust, securities, and consumer cases, often taking a lead role with expert witnesses on finance, accounting, and economic topics. He also serves as eDiscovery counsel in many of his cases, leveraging his depth of experience in this area as an attorney and as an eDiscovery project manager having served Fortune 500 and major accounting firm clients in large-scale, high-intensity projects.

Mark represents companies, investors, and consumers in a variety of industries as they grapple with the financial and business impacts of unfair trade practices, business torts, oppression, securities fraud, and consumer fraud. He has worked with highly-regarded business valuation experts and economists to develop and present compelling business and damages models in emerging industries.

Mark brings an interdisciplinary perspective to his cases, based on his experience as a CPA and consultant, which allows him to develop a “no surprises” record for trial. Mark is also a U.S. Army veteran, where he served on a multinational peacekeeping force in Sinai, Egypt.



Laura Reasons
Senior Counsel

EMAIL

lreasons@dicellolevitt.com

EDUCATION

Chicago-Kent College of Law, J.D.,
Highest Honors

Washington University, St. Louis,
MO, B.A.

Laura Reasons leads the firm’s labor and employment law practice group where she focuses on wage and hour class and collective actions across the country. She also serves as DiCello Levitt’s Associate General Counsel for Employment Matters. Over the past decade, Laura has litigated the spectrum of employment law claims, including in class, collective, and systemic litigation. She previously counseled clients—from small businesses through Fortune 100 companies—on wage and hour compliance, discrimination claim avoidance, and day-to-day employment issues.

Laura’s passion for representing individuals has also translated into a strong *pro bono* resume. Her *pro bono* clients include an incarcerated individual, asylum seekers, transgender individuals seeking to change their legal names and gender markers, and Deferred Action for Childhood Arrivals (“DACA”) applicants. Laura was a Public Interest Law Initiative Fellow at the Domestic Violence Legal Clinic in Cook County, Illinois, working for more than ten years to represent clients seeking protective orders.

Prior to joining DiCello Levitt, Laura was part of the labor and employment practice group of an international, management-side law firm, where she defended some of the largest companies in the United States in employment law cases, including in high-stakes class and collective litigation. She brings that experience, combined with her passion for service and representing individuals, to the firm. While in law school, Laura served as a judicial extern to the Honorable George W. Lindberg of the United States District Court for the Northern District of Illinois.



Justin S. Abbarno
Associate

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EDUCATION

The Ohio State University Moritz
College of Law, J.D.

The University of Dayton, B.A.,
summa cum laude

Justin Abbarno is an aggressive, creative, results-oriented trial lawyer whose practice focuses primarily on medical negligence, personal injury, and sexual assault cases. He is steadfast in his devotion to seeking justice and works to hold individuals and businesses accountable for the harms that his clients have suffered.

During law school, Justin was a key member of The Ohio State University's award-winning Moritz College of Law's Mock Trial Team. He also received the Michael F. Colley Award, as a top mock trial performer in the 2020 graduating class and was named "Best Attorney" during the 2019 Ohio Attorney General's Mock Trial Competition. Prior to law school, Justin graduated from the University of Dayton, *summa cum laude*, where he was elected to serve the undergraduate student body as a Representative for the UD Student Government Association. Justin was also a member of UD's NCAA Division 1 FCS Football program and was named to the Pioneer Football League's All-Academic Team.



Veronica Bosco

Associate

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EDUCATION

Fordham University School of Law,
J.D.

Fordham University, B.A.

Veronica Bosco is an associate in DiCello Levitt’s New York office. She is a member of the firm’s Antitrust and Competition practice group and focuses on litigating complex antitrust class actions on behalf of institutional investors, businesses, and consumers.

Prior to joining DiCello Levitt, Veronica was an associate in a nationally- recognized competition and antitrust litigation group, where she represented a wide variety of plaintiffs in various federal jurisdictions, including both indirect and direct purchasers, public benefit funds, and individuals. She represented institutional investors in an international antitrust litigation filed against financial institutions for collusion and price-fixing, direct purchasers in national antitrust class actions filed against large corporations, and employees in national no-poach actions.

Veronica has also previously represented businesses in opt-out litigation proceedings alleging restraint of trade in violation of antitrust laws, institutional investors in federal securities law matters, and consumers in product liability matters. She also served as a Judicial Law Clerk for Judge Claire C. Cecchi in the U.S. District Court for the District of New Jersey, where she drafted judicial opinions in several types of cases, including antitrust and ERISA cases.



Jonathan Crevier

Associate

EMAIL

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EDUCATION

Benjamin N. Cardozo School of Law,
J.D., *cum laude*

New York University, B.A., *magna cum
laude*

Jonathan Crevier is an associate in DiCello Levitt's New York office. Jonathan prosecutes complex antitrust class actions on behalf of institutional investors, businesses, and consumers. He actively litigates cases against a number of the world's largest companies in antitrust matters involving alleged price-fixing, benchmark and commodities manipulation, pay-for-delay, and other anticompetitive practices.

Prior to joining the firm, Jonathan was an associate in a nationally-recognized competition and antitrust litigation group, where he represented plaintiffs in complex antitrust matters. He also previously served as a Judicial Intern for the Honorable Henry Pitman, U.S.M.J., in the District Court for the Southern District of New York.



Sharon Cruz
Associate

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EDUCATION

Indiana University Robert H.
McKinney School of Law, J.D.

Indiana University-Purdue
University at Indianapolis, B.A.

Sharon Cruz is a seasoned criminal prosecutor and investigator specializing in privacy compliance, data management, and cybercrimes. She has issued and enforced hundreds of subpoenas to Facebook, Google, and other major corporations in her cybercriminal investigations. Her expertise in prosecuting Internet crimes is buttressed by years of experience in the tech field, helping her educate stakeholders, law enforcement officers, and healthcare providers on cyber safety, blockchain technology, and the dark web.

In her previous position as Assistant Attorney General for the State of Illinois's High Tech Crimes Bureau, Sharon played a pivotal role in task forces aimed at combatting human trafficking. She has prosecuted numerous child sexual exploitation cases and argued precedent-setting points of tech privacy law as it intersects with criminal activity. As a Cook County Assistant State's Attorney, she tried hundreds of assault, sexual assault, theft, and DUI trials to verdict as first chair.

Sharon's portfolio of expertise also includes prosecuting environmental crimes. As Lead Counsel for Illinois in two state environmental investigations, she secured substantial fines for the State and Illinois citizens.

Sharon has delivered multiple presentations on cybersecurity and technology, including CCPA and Why You Care About It (2017 & 2018) and Legal Issues in Internet Crimes Against Children: ICAC Investigative Techniques (2017-2019).



Joseph Frate
Associate

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EDUCATION

Case Western Reserve University
School of Law, J.D.

Ohio University, B.A., *cum laude*

Joe Frate's compassion, diligence, and effective communication result in successful case outcomes for his clients.

Joe received his J.D. from Case Western Reserve University School of Law. During his time at Case Western, he was a member of the Milton Kramer Health and Human Trafficking Law Clinic, where he represented and assisted disenfranchised citizens in receiving Social Security benefits and criminal record expungements. Joe was also named to the Dean's list during his time at Case Western.

Prior to law school, Joe graduated from Ohio University, *cum laude*, where he was elected to serve as Commissioner for off-campus students for the University's Student Senate.



Allison Griffith

Associate

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agriffith@dicellolevitt.com

EDUCATION

The University of Alabama School of Law, J.D.

The University of Alabama, B.A.

Allison represents individuals and public entities who have suffered significant financial or personal harm due to wrongful conduct. Before joining DiCello Levitt, Allison worked for a regional defense firm, representing individuals and businesses in diverse civil litigation matters, including premises liability, construction, transportation, products liability, and insurance coverage. In her previous role, she gained experience and proficiency at eliciting favorable testimony from friendly and adverse parties.

Allison obtained her law degree from the University of Alabama School of Law and holds a Bachelor of Arts in Political Science from The University of Alabama. While attending the University of Alabama School of Law, she served as a Senior Editor of *The Journal of the Legal Profession* and was a valued member of the John A. Campbell Moot Court Board. She also took part in the Public Interest Student Board, preparing tax returns for low-income families through the AmeriCorps SaveFirst program and mentoring children through Raise the Bar. For her efforts throughout law school, she received the Order of the Samaritan Award, the Dean's Community Service Award, and the Student Pro Bono Award.

Allison was also a member of the University of Alabama School of Law's Mediation Clinic. In that role, she served as the lead mediator on an array of family court matters, including divorce, child support, visitation, alimony, and property distribution. She is now a registered mediator with the Alabama Center for Dispute Resolution. Allison also serves on the Birmingham Bar Association Young Lawyers Executive Committee.



Cassandra Hadwen
Associate

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EDUCATION

Chicago-Kent College of Law, Illinois
Institute of Technology, J.D.

University of Illinois at Chicago, B.A.

Cassandra represents governmental entities, individual consumers, and corporate clients with a focus on protecting human health and the environment. She is a lifelong environmentalist with a passion for ensuring the protection of natural resources and access to a safe environment for all. Cassandra has experience with numerous environmental statutes and regulations, including the Clean Water Act; the Clean Air Act; the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); the Endangered Species Act; and the Resource Conservation and Recovery Act.

As a law student, Cassandra was an Executive Board member of Chicago-Kent's Student Humanitarian Network and The Women in Law Society, received the Alvin H. Baum Family Fund Environmental and Energy Law Fellow Scholarship, and was Managing Editor of the *Chicago-Kent Journal of Environmental and Energy Law*. Cassandra also participated in the environmental and energy law clinic, where she assisted on cases concerning urban environmental issues, including coal-fired power plant retirement and remediation and coal ash contamination in Chicago. Cassandra additionally received CALI Awards for achieving the highest grade in Environmental Law and Policy I, Environmental Law and Policy II, and Legal Writing for Environmental Law.

Prior to joining DiCello Levitt, Cassandra completed a fellowship representing Chicago-area environmental justice nonprofit organizations in complex equity, sustainability, and environmental and energy regulatory matters, including coal ash, PFAS, and the Climate and Equitable Jobs Act. Her focus at DiCello Levitt remains the same: ensuring that people of all backgrounds are afforded appropriate environmental protections and access to a safe and healthful environment.



Eli Hare
Associate

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ehare@dicellolevitt.com

EDUCATION

Tulane University School of Law

University of Alabama, University
Honors College, *cum laude*

Eli Hare is a trial lawyer with experience litigating complex commercial, environmental, and white-collar criminal cases, Jones Act admiralty claims, and financial services matters in state and federal courts across the southeast. Eli represents individuals, businesses, and municipalities and has represented public entities in complex litigation involving multi-billion dollar contractual disputes.

Prior to joining DiCello Levitt, Eli worked with a prominent national plaintiff's firm where he represented individuals injured by wrongful conduct, environmental contamination, and civil right abuses. He also previously worked at a large regional defense firm where he represented businesses, municipalities, and nonprofit organizations through all stages of litigation. Prior to commencing his legal practice, Eli served as a judicial extern to a federal judge in the Northern District of Alabama.



Justin J. Hawal
Associate

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EDUCATION

Cleveland Marshall College of Law, J.D.,
cum laude

Saint Louis University, B.A., *cum laude*

Justin Hawal's work spans a broad range of practice areas, with special expertise in complex catastrophic injury, civil rights abuse, mass tort, and class action litigation.

Justin's practice also encompasses police misconduct, human trafficking, and sex abuse. He currently represents dozens of women in the largest international sex trafficking lawsuit in U.S. history against Peter Nygard and his companies. Justin was integral to the consumer plaintiffs' success in the Equifax data breach multidistrict litigation, the largest consumer data breach settlement in U.S. history.

Justin was recently one of only 40 attorneys nationwide to be named a 2021 *National Law Journal* "Elite Trial Lawyers: Rising Star." Justin was also awarded *Public Justice's* 2021 "Trial Lawyer of the Year" for his work on the trial team in *Black v. Hicks*, a groundbreaking civil rights case involving shocking police misconduct and resulting in a \$50 million jury award. During law school, Justin was selected as a member of the Cleveland State Law Review and published a scholarly article regarding independent tort actions for spoliation of evidence under Ohio law. He was also an active member of the civil litigation clinic, through which he represented an asylum-seeking immigrant from Honduras fleeing gang violence.



Joshua J. Lax
Associate

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jlax@dicellolevitt.com

EDUCATION

Benjamin N. Cardozo School of Law,
J.D.

Syracuse University, B.A., *phi beta
kappa*

Growing up, Joshua Lax had a strong sense of fairness and justice that he carried into his legal career. From a young age, he heard stories about his family's experience with persecution. Learning that terrible history fueled his commitment to fighting abuse by those who take advantage of fellow human beings.

Prior to joining DiCello Levitt, Joshua served as a senior counsel and trial specialist to the Special Federal Litigation Division of the New York City Law Department. The *New York Times* described the Division as an elite group of attorneys defending the City of New York and its employees. Joshua handled some of the most high-profile federal civil rights cases involving the City, including highly publicized trials where his words of advocacy before juries were quoted in the media. His cases stemmed from fatal shootings, wrongful death claims, reversed convictions, mental illness treatment, First Amendment claims, unlawful wiretapping, and proposed class actions. Department leaders called on Joshua to serve as an instructor for trial advocacy, deposition and mediation trainings, and continuing legal education programs because of his extensive experience.

Joshua began his career as a criminal defense attorney at a prominent firm in northern New Jersey.

In total, Joshua has completed 31 civil trials, in addition to five criminal trials in private practice. These experiences taught Joshua what it takes to develop cases that achieve the results clients seek. He has prepared hundreds of clients for testimony and holds rare and unique insights that help clients through the litigation process.

Joshua is an adjunct professor at Fordham Law School, where he teaches Fundamental Lawyering Skills, a course educating the next generation of America's lawyers in interviewing and counseling clients and negotiation. He is a member of the Federal Bar Council Inn of Court, where he helps present continuing legal education programs. He is also a member of the Federal Bar Counsel Civil Rights Committee. While earning his law degree at the Benjamin N. Cardozo School of Law, Joshua was a member of the *Cardozo Journal of International and Comparative Law*, the recipient of the Squadron Fellowship in Law, Media, and Society, and a member of the Prosecutor Practicum.



Michelle Locascio

Associate

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EDUCATION

Chicago-Kent College of Law, J.D.

University of Wisconsin-Madison, B.A.

Michelle diligently works to protect consumers and individuals wronged by the malfeasance of big businesses and corporations. With her background in psychology, she is uniquely equipped to understand the needs of her clients because of her ability to actively listen, effectively communicate, and design creative legal strategies in the pursuit of justice.

Prior to joining DiCello Levitt, Michelle served as a Judicial Extern in the Circuit Court of Cook County, where she worked on a wide array of commercial matters. During law school, Michelle served as Executive Articles Editor for the *Chicago-Kent Law Review* and as a Legal Writing Teaching Assistant for first-year students. Michelle was also a member of Chicago-Kent's top-ranked Moot Court Honor Society, where she finished as a finalist in the 2020 National Health Law Moot Court Competition. Michelle additionally received a CALI Award for achieving the highest grade in Constitutional Torts and was named to the Dean's List during her time at Chicago-Kent.

Prior to law school, Michelle graduated from the University of Wisconsin-Madison with a degree in Psychology and a minor in Criminal Justice.



Adam Prom
Associate

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aprom@dicellolevitt.com

EDUCATION

The University of Texas School of Law,
J.D.

Marquette University, B.A., *magna cum laude*

Adam Prom is an experienced litigator who represents clients in federal and state litigations and arbitrations across the United States. He has litigated a wide variety of class action and other complex litigation cases, including product liability, consumer protection, privacy, False Claims Act *qui tam*, Employee Retirement Income Security Act, securities, and other statutory claims.

He has represented individuals, small and large businesses, and public entities that have been harmed by others' unscrupulous business practices, routinely taking cases from inception through trial and settlement. Beyond his class action work and trial experience, Adam has successfully recovered settlements for individual consumers in arbitration, and he led and won a multi-day arbitration on behalf of a Chicago business against a multi-billion dollar group of trusts.

Adam has demonstrated a commitment to serving underrepresented communities, having volunteered as a mentor for high school students at the Legal Prep Charter Academy, an open-enrollment public high school in Chicago. Adam also works with Justice Defenders, a registered UK charity and U.S. nonprofit, working to provide legal education, training, and practice to African prisoners denied due process. Teaching prisoners the art of storytelling in legal advocacy helps them advance their cases within the criminal justice systems of several African nations.



William J. Sinor
Associate

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EDUCATION

Florida State University College of Law, J.D.

Auburn University, B.A.

William J. Sinor represents individuals who have been hurt or wronged by the misconduct of others and has a strong dedication to achieving justice for his clients. Prior to joining DiCello Levitt Gutzler, Wil worked for a plaintiff's firm in the Birmingham area where he gained substantial litigation and trial experience representing clients in personal injury matters. He also has experience in matters involving insurance bad faith, breach of contract, wrongful death, and wrongful termination.

As a plaintiff's attorney for the majority of his career, Wil is committed to working closely with clients through every step of the litigation process, from intake to trial. Wil provides legal representation that is tailored to each client's unique situation.

While attending Florida State University College of Law, Wil served as a student attorney in the Public Interest Law Center, representing indigent clients in an array of matters. He was also a recipient of the school's Distinguished Pro Bono Award and served as a Student Ambassador for the College of Law.

Wil was born in Alabama, but raised in Costa Rica and the suburbs of Atlanta and Chicago. In his free time enjoys spending time with his wife and two daughters, exercising, and traveling.



Anna Claire Skinner
Associate

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askinner@dicellolevitt.com

EDUCATION

Vanderbilt University Law School, J.D.,
Order of the Coif

Washington and Lee University,
B.A., *cum laude*

Anna Claire represents governmental entities, individual consumers, and corporate clients with the primary purpose of the protection of human health and the environment. She has litigated cases in both administrative tribunals and state and federal court from inception through settlement and trial. She has experience with numerous environmental statutes and regulations, including the Clean Water Act, the Clean Air Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Emergency Planning and Community Right-to-Know Act, and the Resource Conservation and Recovery Act.

Anna Claire is part of the DiCello Levitt team working with several states in investigating and addressing poly- and perfluoroalkyl substance (PFAS) contamination. DiCello Levitt's PFAS team, along with other Special Assistant Attorneys General and the Illinois Attorney General, most recently filed a lawsuit against 3M for PFAS contamination from its facility in Cordova, IL. Cases involving these "forever chemicals" will have wide-reaching implications for state governments and their residents.

Anna Claire also works with communities that have been impacted by years of exposure to polluted air, water, and soil. Recently, Anna Claire and DiCello Levitt's environmental team joined with co-counsel in representing several residents and former residents of Union, Illinois in filing suit against companies responsible for polluting the groundwater with carcinogenic chlorinated solvents. Anna Claire is also part of the team leading a class action on behalf of the residents of Rockton, Illinois and surrounding communities for property damages they sustained following a catastrophic fire at a local chemical factory.

In addition to her environmental work, Anna Claire also helps clients develop and maintain safety and health programs that meet all of the Occupational Safety and Health Administration's regulatory requirements and ensure all employees enjoy safe and healthful workplaces. She regularly counsels clients when compliance and litigation questions arise under the Occupational Safety and Health Act.

Outside of the office, Anna Claire continues her work on environmental-related issues by serving as co-chair of the Kentucky Bar Association's Environment, Energy, and Natural Resources section. She also focuses on giving back to her community through her participation on the executive committee of the Living Arts and Science Center Board of Directors.



Peter Soldato

Associate

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EDUCATION

University of Chicago Law School, J.D.

Butler University, B.A.

A steadfast trial lawyer, Peter has extensive experience advocating for clients in high-stakes courtroom settings. He began his career in the public sector, prosecuting cases on behalf of the government, and then representing individuals against the government. He leverages this experience—having tried more than 35 cases to a jury—in order to protect the interests of individuals, businesses, and public entities in a wide range of disputes.

Peter prides himself on applying the most advanced methods of trial advocacy in arguing a client's case to judge or jury. As a graduate of the Trial Lawyer's College, Peter employs focus group analysis and an in-depth understanding of cognitive neuroscience in advocating effectively on behalf of clients.

Outside of the office, Peter dedicates his time teaching the art of trial advocacy and communication to future generations of trial lawyers, working previously with the Indiana Bar Foundation, and now the Ohio Center for Law-Related Education.



James Ulwick

Associate

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Julwick@dicellolevitt.com

EDUCATION

Loyola University Chicago, J.D., *cum laude*

Kenyon College, B.A.

James Ulwick is an associate in DiCello Levitt’s Chicago office with experience litigating complex commercial cases and actions involving serious injuries. He represents individuals, businesses, and public entities in a wide range of disputes, protecting their interests in state and federal courts across the country.

Prior to joining the firm, James was an insurance defense attorney, representing individuals, corporations, and local municipalities through all stages of litigation.

He has successfully argued for the dismissal of several suits, including their subsequent appeals in multiple state courts of appeal, and has successfully obtained favorable resolutions for his clients through dispositive motions, mediation, and settlement. While this experience was valuable, James joined the firm because he wanted to pivot his focus from defending insurance companies to protecting consumers and those injured by corporate malfeasance.

Outside of the office, James has focused on assisting in the development of the next generation of trial and appellate litigators by coaching the Loyola University Chicago National Health Law Moot Court Team.



Elizabeth Paige White
Associate

EMAIL

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EDUCATION

University of Florida, Levin College of Law, J.D.

Temple University, B.A.

Paige White’s practice currently focuses on civil rights, police brutality, and wrongful death cases. Paige began her career in public service, working as a public defender at the Neighborhood Defender Services of Harlem in New York City where she handled hundreds of charges from felony narcotics to violent crimes. She later joined the Public Defender Service for the District of Columbia, defending adults and juveniles on serious felony cases including violent sexual assault and homicide. While working for the Public Defender, she successfully argued a series of writs of habeas corpus over the conditions at the D.C. Central Detention Facility, which subsequently lead to a number of individuals being immediately released.

Paige is the current President of the Young Lawyer’s Division of the Bar Association for D.C., and is a proud member of Alpha Kappa Alpha Sorority Incorporated, Trial Lawyers for the District of Columbia, and the National Bar Association. She earned her J.D. from the University of Florida’s Frederic C. Levin College of Law, where she was the only woman that year to be included in the UF Trial team’s “Final Four.” During law school, she interned for Congresswoman Frederica Wilson, for whom she created a national campaign to support the kidnapped Nigerian schoolgirls. Paige holds a Bachelor’s degree from Temple University in political science and sociology with a Spanish minor.

Paige is also honored to serve as Of Counsel to attorney Ben Crump and his law firm Ben Crump Law PLLC.

Exhibit 2

Declaration of Michael Reese, Esq.
Reese LLP
Co-Lead Class Counsel

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**DECLARATION OF MICHAEL REESE IN SUPPORT OF PLAINTIFFS' PETITION
FOR AN AWARD OF ATTORNEYS' FEES AND COSTS, AND SERVICE AWARDS**

I, MICHAEL REESE, declare and state as follows:

1. I am the founder and managing partner at the law firm of REESE LLP, which was founded in 2008 to represent consumers in class action litigation. REESE LLP's resume is attached hereto as **Exhibit C**. I have been appointed by the Court as Co-Lead Counsel for Plaintiffs in this matter, and I have personal knowledge of the facts stated herein. I submit this Declaration in support of Plaintiffs' Petition for an Award of Attorneys' Fees and Costs and Service Awards, and in connection with services rendered and expenses incurred by my firm in connection with this litigation.

2. My firm has acted as counsel to Plaintiffs and the Class in this action. Specifically, my firm was retained by plaintiff Eliana Salzhauer, after which my firm filed along with my co-counsel the case of *Salzhauer v. The Coca-Cola Co., and Fairlife, LLC*, No. 1:19-cv-02709 (N.D. Ga.), which was consolidated into this multidistrict litigation ("MDL"). My firm individually

represents class representatives Carol Cantwell; Henry Henderson; Michelle Ingrodi; David Rothberg; and Eliana Salzhauer.

3. This declaration generally summarizes the work performed by REESE LLP for Plaintiffs and the Settlement Class Members in this litigation. As demonstrated below, REESE LLP has worked diligently to perform tasks throughout the entire course of this litigation.

4. During the period from case inception through October 2, 2019, my firm, in collaboration with co-counsel Amy E. Keller of DiCello Levitt Gutzler and Melissa S. Weiner of Pearson, Simon & Warshaw LLP (hereinafter “Class Counsel”), conducted the following activities for the common benefit of Plaintiffs:

- a. Initiated the first investigation into Defendants’ deceptive marketing and animal welfare scheme several years well before the filing of the first class action complaint in this matter, expending substantial time and effort to (i) scrutinize and catalog Defendants’ public advertising claims for fa!rlife products; (ii) comprehensively research the company’s supply chain through public records, digital maps, social media, and news articles; and (iii) thoroughly review and inspect undercover investigation videos and reports documented by Animal Recovery Mission (“ARM”) that depicted abuse of Defendants’ dairy cows at their “flagship farm” Fair Oaks;
- b. Gained both substantial insight and a firm understanding into the products Defendants sold, their target consumer demographics, and the representations Defendants generally made about Milk Products through the above investigation;

- c. Researched consumer fraud cases and potential claims to assert against Defendants in connection with the factual findings from Class Counsel's investigation;
- d. Vetted potential plaintiffs to serve as class representatives for the forthcoming class action complaint;
- e. Using the enhanced knowledge obtained as a result of Class Counsel's efforts to investigate Defendants' deceptive marketing scheme, drafted and filed a class action complaint on June 13, 2019 against The Coca-Cola Company and fairlife, denoted as *Salzhauer v. The Coca-Cola Co., and Fairlife, LLC*, No. 1:19-cv-02709 (N.D. Ga.) (the "*Salzhauer Action*"); and
- f. Drafted and filed, on June 21, 2019, a motion before the Judicial Panel on Multidistrict Litigation ("JMPL") to transfer the *Salzhauer Action* and subsequent tag-along actions to a single federal court for coordinated and consolidated pretrial proceedings, to which the JMPL granted and ordered transfer on October 2, 2019. *See* ECF No. 35-001.

5. The total number of common benefit hours expended on this litigation by my firm from case inception through October 2, 2019, is 61.3 hours. The total common benefit lodestar for my firm in this time period is \$68,645.00.

6. For the time period of October 3, 2019 through June 30, 2022, my firm, in collaboration with Class Counsel, conducted the following activities for the common benefit of Plaintiffs:

- a. Oversaw the action as one of Co-Lead Counsel;

- b. Continued researching, strategizing, and drafting the consolidated amended complaint;
- c. Vetted and secured additional Plaintiffs to represent the Class in the forthcoming consolidated complaint;
- d. On June 25, 2020, filed a Consolidated Class Action Complaint on behalf of all actions transferred into the MDL; and (ii) a Class Action Complaint, on behalf of certain new Plaintiffs, denominated as a related case to the Litigation, and captioned *Cantwell et al. v. The Coca-Cola Company et al.*, 1:20-cv-03739 (ECF No. 107);
- e. Negotiated a Stipulated Protective Order and Order Regarding Discovery of Electronically Stored Information (“ESI Order”), which the Court entered on July 8, 2020 (ECF. No. 105);
- f. With the Court’s support in the Parties’ shared interest in early settlement discussions, engaged in intense, arms-length settlement negotiations over the course of two years under the expert guidance of skilled, class-action mediator, the Honorable Wayne R. Andersen (Ret.), which involved:
 - i. Participating in four, day-long mediation sessions that took place on October 28, 2020; November 20, 2020; June 3, 2021; and July 8, 2021, respectively;
 - ii. Exchanging various written discovery requests;
 - iii. Receiving and reviewing, on multiple occasions, voluminous documents produced by Defendants in response thereto;

- iv. Submitting multiple rounds of mediation briefs to Judge Andersen in advance of each mediation session, which, in totality, addressed the full scope of continued litigation, including the merits of the case on its face, the possibility of class certification, success on summary judgment, and all aspects of settlement, including monetary and injunctive relief;
 - v. Exchanging multiple rounds of settlement positions, proposals, counterproposals, demands, and correspondence with Defendants, including numerous rounds of letters and emails;
 - vi. Reviewing, analyzing, and accepting Judge Andersen’s settlement recommendation on November 23, 2021 (the “Mediator’s Settlement Recommendation”); and
 - vii. Exchanging many additional rounds of correspondence to finalize the Settlement, following acceptance of the Mediator’s Settlement Recommendation.
- g. Solicited and evaluated proposals from several different notice and claims administration companies, conducted video interviews of the same, and ultimately selected Epiq Class Action & Claims Solutions, Inc. (“Epiq”) to administer the Settlement;
- h. Collaborated with Epiq to create a robust Notice Plan that aimed to reach as many members of the Settlement Class as possible, encompassing (i) direct notice via email for members of the Settlement Class with whom Defendant fairlife had direct correspondence; (ii) digital publication notice based upon

a specific, targeted, advertising campaign, aimed to provide notice to Defendant fairlife's customers; (iv) a Settlement Website; and (v) a dedicated email address and toll-free number;

- i. Designed and accepted a "claims stimulation" plan that Epiq would activate during the claims-filing period, if needed, to maximize the filing of Approved Claims by Settlement Class Members to ensure the exhaustion of the Net Settlement Fund;
- j. Drafted and filed Plaintiffs Motion for Preliminary Approval of Class Action Settlement, Preliminary Certification, and Approval of Notice Plan Pursuant to Federal Rule of Civil Procedure 23(e)(1) (ECF No. 152), which this Court granted on April 27, 2022 (ECF No. 163);
- k. Worked closely with Epiq to monitor the notice and claims process, evaluating weekly claim submissions and opt-outs; and
- l. Engaged in extensive strategy and correspondence with co-counsel regarding all the above activities.

7. The total number of hours expended on this litigation by my firm from for the time period October 3, 2019, through June 30, 2022, for the common benefit of Plaintiff and Class Members, is 738 hours. The total lodestar for my firm in this time period is \$817,585.00.

8. The total number of common benefit hours expended on this litigation by my firm from case inception through June 30, 2022, is 799.3 hours. The total number of hours was determined by the examination of daily time records regularly prepared and maintained by my firm. The total lodestar for my firm is \$886,230. My firm's lodestar figures are based on the firm's current hourly billing rates. The hourly rates for the partners, attorneys, and professional

support staff in my firm are the same as the usual and customary hourly rates charged for their services in contingent billable matters. Class Counsel will likely expend dozens of additional hours bringing the Settlement through completion.

9. The attorneys of REESE LLP billed this case at their usual and customary hourly billing rates, which have been approved by courts presiding over similar complex class action lawsuits, and which are commensurate with the prevailing market rates attorneys of comparable experience and skill handling complex litigation, including: *Holve v. McCormick & Co., Inc.*, 6:16-cv-06702-FPG-MJP (W.D.N.Y. Jan. 11, 2022) (order granting fee request); *Puckett v. Trinity Management Services, Inc.*, Case No: CGC-17-558960 (San Francisco Superior Court March 12, 2021) (order granting fee request); and, *In re Hill's Pet Nutrition, Inc. Dog Food Products Liability Litig.*, case no. 2:19-md-02887-JAR-TJJ (D. Kansas July 30, 2021) (order granting fee request).

10. Attached hereto as **Exhibit A** is a detailed summary indicating the amount of time spent by the partners, attorneys, and other professional support staff of my firm who have been involved in this litigation, and the lodestar calculation is based on my firm's current hourly billing rates from case inception through June 30, 2022.

11. As detailed in **Exhibit B**, my firm has incurred a total of \$21,611.58 in unreimbursed expenses during the period from case inception through June 30, 2022.

12. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

13. Class Counsel necessarily must continue to work with the Settlement Administrator, review and respond to objections, if any, move for final approval, handle appeals,

if any, and oversee the final administration of benefits to Class Members. Based upon experience, this could amount to dozens of additional hours of attorney time.

REESE LLP HAS EXTENSIVE EXPERIENCE LITIGATING CLASS ACTIONS AND HAS ACHIEVED SIGNIFICANT RECOVERIES ON BEHALF OF CONSUMERS

14. REESE LLP has the experience, resources and ability to adequately represent the class members in this class action lawsuit.

15. REESE LLP's firm resume reflects that the attorneys in this case have successfully adjudicated some of the largest and most important food related class action lawsuits in the United States.

16. For example, victories by Mr. Reese and his firm include a \$12.5 million dollar settlement in *In re Hill's Pet Nutrition, Inc. Dog Food Products Liability Litig.*, case no. 19-md-2887-JAR-TT (D. Kansas); a \$6.1 million class action settlement in *Howerton v. Cargill, Inc.* (D. Hawaii) for consumers of Truvia branded sweetener; and, a \$6.4 million class action settlement in the matter of *Wong v. Alacer Corp.* (S.F. Superior Court) for consumers of Emergen-C branded dietary supplement.

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 21st of July 2022 at New York, New York.

/s/ Michael R. Reese
Michael R. Reese
Co-Lead Counsel

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit A

Lodestar Summary

Firm: **REESE LLP**
Reporting Period: **Inception through June 30, 2022**

| Professional | Title | Hourly Rate | Total Hours | Total Lodestar |
|---------------------|--------------|--------------------|--------------------|-----------------------|
| Reese, Michael | MP | \$1,150 | 681.8 | \$784,070.00 |
| Granade, George | P | \$1000 | 38.2 | \$38,200.00 |
| Hudson, Maurice | OC | \$800 | 68.9 | \$55,120.00 |
| Moore, Charles | OC | \$850 | 10.4 | \$8,840.00 |
| | | | | |
| | | | | |
| Totals | | | 799.3 | \$886,230.00 |

Title:
 Managing Partner (MP)
 Partner (P)
 Associate (A)
 Paralegal (PL)
 Of Counsel (OC)
 Law Clerk (LC)
 Legal Assistant (LA)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit B

Expense Summary

Firm: **REESE LLP**
Reporting Period: **Inception through June 30, 2022**

| Expense | Amount |
|--|--------------------|
| Court Costs (<i>i.e.</i> , Filing Fees) | \$400.00 |
| Investigation | \$6,500.00 |
| Litigation Fund | \$13,500.00 |
| Travel – Transportation | \$991.47 |
| Travel – Meals | \$105.11 |
| Travel – Hotels | \$115.00 |
| Miscellaneous | |
| Mediation | |
| Total | \$21,611.58 |

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit C

Firm Resume

On following pages

REESE LLP

Reese LLP represents consumers in a wide array of class action litigation throughout the nation. The attorneys of Reese LLP are skilled litigators with years of experience in federal and state courts. Reese LLP is based in New York, New York with offices also in California and Minnesota.

Recent and current cases litigated by the attorneys of Reese LLP on behalf of consumers include the following:

In re Fairlife Milk Products Marketing and Sales Practices Litig., case no. 1:19-cv-03924 (N.D. Illinois)(case involving milk products allegedly mislabeled); *In re Hill's Pet Nutrition, Inc. Dog Food Products Liability Litig.*, case no. 19-md-2887-JAR-TT (D. Kansas)(case involving contaminated pet food); *Hasemann v. Gerber Products Co.*, case no. 15-cv-02995-MKB-RER (E.D.N.Y.)(case involving misrepresentation of health benefits of baby formula in violation of New York consumer protection laws); *Worth v. CVS Pharmacy, Inc.*, case no. 16-cv-00498 (E.D.N.Y.)(class action for alleged misrepresentations regarding health benefits of dietary supplement); *Roper v. Big Heart Pet Brands, Inc.*, case no. 19-cv-00406-DAD (E.D. Cal.)(class action regarding pet food); *Ackerman v. The Coca-Cola Co.*, 09-CV-0395 (JG) (RML) (E.D.N.Y.)(class action for violation of California and New York's consumer protection laws pertaining to health beverages); *Rapaport-Hecht v. Seventh Generation, Inc.*, 14-cv-9087-KMK (S.D.N.Y.)(class action for violation of California and New York's consumer protection laws pertaining to personal care products); *Berkson v. GoGo, LLC*, 14-cv-1199-JWB-LW (E.D.N.Y.)(class action regarding improper automatic renewal clauses); *Chin v. RCN Corporation*, 08-cv-7349 RJS (S.D.N.Y.)(class action for violation of Virginia's consumer protection law by I.S.P. throttling consumers' use of internet); *Bodoin v. Impeccable L.L.C.*, Index No. 601801/08 (N.Y. Sup. Ct.)(individual action for conspiracy and fraud); *Huyer v. Wells Fargo & Co.*, 08-CV-507 (S.D. Iowa)(class action for violation of the RICO Act pertaining to mortgage related fees); *Murphy v. DirecTV, Inc.*, 07-CV-06545 FMC (C.D. Cal.)(class action for violation of California's consumer protection laws); *Bain v. Silver Point Capital Partnership LLP*, Index No. 114284/06 (N.Y. Sup. Ct.)(individual action for breach of contract and fraud); *Siemers v. Wells Fargo & Co.*, C-05-4518 WHA (N.D. Cal.)(class action for violation of § 10(b) of the Securities Exchange Act of 1934 pertaining to improper mutual fund fees); *Dover Capital Ltd. v. Galvex Estonia OU*, Index No. 113485/06 (N.Y. Sup. Ct.)(individual action for breach of contract involving an Eastern European steel company); *All-Star Carts and Vehicles Inc. v. BFI Canada Income Fund*, 08-CV-1816 LDW (E.D.N.Y.)(class action for violation of the Sherman Antitrust Act pertaining to waste hauling services for small businesses on Long Island); *Petlack v. S.C. Johnson & Son, Inc.*, 08-CV-00820 CNC (E.D. Wisconsin)(class action for violation of Wisconsin consumer protection law pertaining to environmental benefits of household cleaning products); *Wong v. Alacer Corp.*, (San Francisco Superior Court)(class action for violation of California's consumer protection laws pertaining to deceptive representations regarding health benefits of dietary supplement's ability to improve immune system); *Howerton v. Cargill, Inc.* (D. Hawaii)(class action for violation of various consumer protection laws regarding sugar substitute); *Yoo v. Wendy's International, Inc.*, 07-CV-04515 FMC (C.D. Cal.)(class action for violation of California's consumer protection laws pertaining to adverse health effects of partially hydrogenated oils in popular food products).

The Attorneys of Reese LLP

Michael R. Reese

Mr. Reese is the founding partner of Reese LLP where he litigates consumer protection and antitrust cases as class actions and on behalf of individual clients. Prior to entering private practice, Mr. Reese served as an assistant district attorney at the Manhattan District Attorney's Office where he served as a trial attorney prosecuting violent and white-collar crime.

Achievements by Mr. Reese on behalf of consumers span a wide array of actions. For example, in *Yoo v. Wendy's International Inc.*, Mr. Reese was appointed class counsel by the court and commended on achieving a settlement that eliminated trans-fat from a popular food source. *See Yoo v. Wendy's Int'l Inc.*, No. 07-CV-04515-FMC (JCx) (C.D. Cal. 2007) (stating that counsel "**has conducted the litigation and achieved the Settlement with skill, perseverance and diligent advocacy**").

Victories by Mr. Reese and his firm include a \$12.5 million dollar settlement in *In re Hill's Pet Nutrition, Inc. Dog Food Products Liability Litig.*, case no. 19-md-2887-JAR-TT (D. Kansas) for pet owners who bought contaminated pet food; a \$6.1 million class action settlement in *Howerton v. Cargill, Inc.* (D. Hawaii) for consumers of Truvia branded sweetener; a \$6.4 million class action settlement in the matter of *Wong v. Alacer Corp.* (S.F. Superior Court) for consumers of Emergen-C branded dietary supplement; and, a \$25 million dollar settlement for mortgagees in *Huyer v. Wells Fargo & Co.* (S.D. Iowa).

Mr. Reese and his firm are frequently appointed as co-lead counsel in food related multi-district litigations, including, but not limited to *In re Fairlife Milk Products Marketing and Sales Practices Litig.*, case no. 1:19-cv-03924-RMD (N.D. Illinois); *In re Hill's Pet Nutrition, Inc. Dog Food Products Liability Litig.*, case no. 19-md-2887-JAR-TT (D. Kansas); *In re Vitaminwater Sales and Marketing Practices Litig.*, case no. 11-md-2215-DLI-RML (E.D.N.Y.); and, *In re Frito-Lay N.A. "All-Natural" Sales & Marketing Litig.*, case no. 12-md-02413-RRM-RLM (E.D.N.Y.).

Mr. Reese is a frequent lecturer and author on issues of food related class actions. Mr. Reese co-hosts an annual two day conference with Professor Michael Roberts of UCLA that includes panels on food related class action litigation; presents on class action litigation at the annual conference of the Consumer Brands Association; and, presents regularly at the Union Internationale des Advocats Annual Congress.

Recent articles on food law class actions appear in publications by the American Bar Association; the Union Internationale des Advocats; and the Illinois State Bar Association.

Mr. Reese is also the chairperson of the Cambridge Annual Forum on Food Fraud. Mr. Reese is also an executive committee member of the Plaintiffs' Class Action Roundtable, where he lectures on an annual basis on issues related to class actions.

Mr. Reese is also an adjunct professor at Brooklyn Law School where he teaches on class actions and food law.

Mr. Reese is a member of the state bars of New York and California as well as numerous federal district and appellate courts. Mr. Reese received his juris doctorate from the University of Virginia in 1996 and his bachelor's degree from New College in 1993.

Sue J. Nam

Ms. Nam is based in New York where she focuses on consumer class actions. Ms. Nam also runs the appellate practice at the firm and has represented clients before the Second and Ninth Circuits, as well as The Court of Appeals in New York. Ms. Nam also specialized in copyright law and represents photographers and other visual artists who have had their copyright protected works infringed.

Prior to joining the firm, Ms. Nam was the General Counsel for NexCen Brands, Inc., a publicly traded company that owned a portfolio of consumer brands in food, fashion and homeware.

Previously, Ms. Nam was Intellectual Property Counsel and Assistant Corporate Secretary at Prudential Financial, Inc., and she was an associate specializing in intellectual property and litigation at the law firms of Brobeck Phleger & Harrison LLP in San Francisco, California and Gibson Dunn & Crutcher LLP in New York, New York.

Ms. Nam clerked for the Second Circuit prior to joining private practice.

Ms. Nam received her juris doctorate from Yale Law School in 1994. She received a bachelor's degree with distinction from Northwestern University in 1991.

Carlos F. Ramirez

Mr. Ramirez is an accomplished trial attorney based in New York, where he focuses his practice on the litigation of consumer class actions. Prior to entering private practice in 2001, Mr. Ramirez served as an Assistant District Attorney at the Manhattan District Attorney's Office where he served as a trial attorney prosecuting both violent and white-collar crimes.

Previous and current consumer fraud class actions litigated by Mr. Ramirez include *Hasemann v. Gerber Products Co.*, case no. 15-cv-02995-MKB-RER (E.D.N.Y.)(case involving misrepresentation of health benefits of baby formula in violation of New York consumer protection laws); *Coe v. General Mills, Inc.*, No. 15-cv-5112-TEH (N.D. Cal.) (involving false advertisement claims relating to the Cheerios Protein breakfast cereal); *In re Santa Fe Natural Tobacco Company Marketing & Sales Practices Litigation*, 16-md-2695-JB/LF (D.N.M.)(involving the deceptive marketing of cigarettes as "natural" and "additive free"); and, *Lamar v. The Coca-Cola Company, et al.*, No. 17-CA-4801 (D.C. Superior Ct.) (involving the deceptive marketing of sugar drinks as safe for health).

Mr. Ramirez is a member of the state bars of New York and New Jersey. He is also a member of the bars of the U.S. District Courts for the Eastern District of New York and Southern District of New York. Mr. Ramirez received his juris doctorate from the Fordham University School of Law in 1997 and his bachelor's degree from CUNY-Joh Jay College in 1994.

George V. Granade II

Mr. Granade is a partner at Reese LLP based in Los Angeles, California, where he focuses on consumer class actions. Cases Mr. Granade has worked on include: *Barron v. Snyder's-Lance*,

Case: 1:19-cv-03924 Document #: 173-2 Filed: 07/21/22 Page 16 of 16 PageID #:2054
Inc., No. 0:13-cv-62496-JAL (S.D. Fla.); *In re: Frito-Lay North America, Inc. "All Natural" Litigation*, No. 1:12-md-02413-RRM-RLM (E.D.N.Y.) (involving "SunChips," "Tostitos," and "Bean Dip" products labeled as "natural" and allegedly containing genetically-modified organisms); and *Martin v. Cargill, Inc.*, No. 0:13-cv-02563-RHK-JJG (D. Minn.) (involving "Truvia" sweetener product labeled as "natural" and allegedly containing highly processed ingredients).

Mr. Granade received his juris doctorate from New York University School of Law in 2011. He received a master's degree from the University of Georgia at Athens in 2005 with distinction and a bachelor's degree from the University of Georgia at Athens in 2003, *magna cum laude* and with High Honors.

Mr. Granade is a member of the state bars of Georgia, New York, and California. He is also a member of the bar of the U.S. Courts of Appeals for the Second Circuit and Ninth Circuit, as well as the bars of the U.S. District Courts for the Eastern District of New York, Southern District of New York, Western District of New York, Northern District of New York, Southern District of Illinois, Northern District of Illinois, Northern District of California, Southern District of California, Central District of California, and Eastern District of California.

Charles D. Moore

Mr. Moore is based in Minneapolis, Minnesota where he focuses on both consumer as well as employment class actions.

Mr. Moore has worked on a number of high profile class actions at Reese LLP as well as his prior firm where he worked as co-counsel with Reese LLP on numerous matters. His notable cases include *Marino v. Coach, Inc.*, Case No. 1:16-cv-01122-VEC (OTW) (Lead) (S.D.N.Y.) (involving deceptive reference pricing in the sale of outlet merchandise); *Raporport-Hecht v. Seventh Generation, Inc.*, Case No. 7:14-cv-09087-KMK (S.D.N.Y.) (involving the deceptive advertising of household products as "natural"); *Gay v. Tom's of Maine, Inc.*, Case No. 0:14-cv-60604-KMM (S.D. Fla.) (involving deceptive advertising of personal care products as "natural"); *Frohberg v. Cumberland Packing Corp.*, Case No. 1:14-cv-00748-KAM-RLM (E.D.N.Y.) (involving deceptive advertising of food products as "natural"); *Baharenstan v. Venus Laboratories, Inc. d/b/a Earth Friendly Products, Inc.*, Case No. 3:15-cv-03578-EDL (N.D. Cal.) (involving deceptive advertising of household products as "natural"); *Sienkaniec v. Uber Technologies, Inc.*, Case No. 17-cv-04489-PJS-FLN (D. Minn.) (involving the misclassification of Uber drivers as independent contractors); *Dang v. Samsung Electronics Co.*, 673 F. App'x 779 (9th Cir. 2017) (*cert denied* 138 S. Ct. 203) (rejecting shrink-wrap terms in California for purposes of arbitration).

Mr. Moore is a member of the state bar of Minnesota. He is also a member of the bar of the U.S. District Court for the District of Minnesota. Mr. Moore received his juris doctorate from Hamline University School of Law in 2013, and his bachelor's degree from the University of North Dakota in 2007.

Exhibit 3

Declaration of Melissa S. Weiner, Esq.
Pearson, Simon & Warshaw, LLP
Co-Lead Class Counsel

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**DECLARATION OF MELISSA S. WEINER IN SUPPORT OF PLAINTIFFS' PETITION
FOR AN AWARD OF ATTORNEYS' FEES AND COSTS, AND SERVICE AWARDS**

I, MELISSA S. WEINER, declare and state as follows:

1. I am a partner at the law firm of Pearson, Simon & Warshaw, LLP ("PSW"). PSW's resume is attached hereto as **Exhibit C**. I have been appointed by the Court as Co-Lead Counsel for Plaintiffs in this matter, and I have personal knowledge of the facts stated herein. I submit this Declaration in support of Plaintiffs' Petition for an Award of Attorneys' Fees and Costs, and Service Awards, and in connection with services rendered and expenses incurred by my firm in connection with this litigation.

2. My firm has acted as counsel to Plaintiffs and the Class in this action. Specifically, my firm filed *Salzhauer v. The Coca-Cola Co., and Fairlife, LLC*, No. 1:19-cv-02709 (N.D. Ga.), which was consolidated into this multidistrict litigation ("MDL"), and individually represents class representatives Jae Jones, Jenny Rossano, Connie Sandler, Karai Hamilton and Arnetta Velez.

3. This declaration generally summarizes the work performed by PSW for Plaintiffs and the Settlement Class Members in this litigation. As demonstrated below, PSW has worked diligently to perform tasks throughout the entire course of this litigation.

4. During the period from case inception through October 2, 2019, my firm, in collaboration with co-counsel Amy E. Keller of DiCello Levitt Gutzler and Michael R. Reese of Reese LLP (hereinafter “Class Counsel”), conducted the following activities for the common benefit of Plaintiffs:

- a. Initiated the first investigation into Defendants’ deceptive marketing and animal welfare scheme several years before the filing in 2019, and well before the filing of the first class action complaint in this matter, expending substantial time and effort to (i) scrutinize and catalog Defendants’ public advertising claims for fairlife products; (ii) comprehensively research the company’s supply chain through public records, digital maps, social media, and news articles; and (iii) thoroughly review and inspect undercover investigation videos and reports documented by Animal Recovery Mission (“ARM”) that depicted abuse of Defendants’ dairy cows at their “flagship farm” Fair Oaks;
- b. Gained both substantial insight and a firm understanding into the products Defendants sold, their target consumer demographics, and the representations Defendants generally made about Milk Products through the above investigation;

- c. Researched consumer fraud cases and potential claims to assert against Defendants in connection with the factual findings from Class Counsel's investigation;
- d. Vetted potential plaintiffs to serve as class representatives for the forthcoming class action complaint;
- e. Using the enhanced knowledge obtained as a result of Class Counsel's efforts to investigate Defendants' deceptive marketing scheme, drafted and filed a class action complaint on June 13, 2019 against The Coca-Cola Company and fairlife, denoted as *Salzhauer v. The Coca-Cola Co., and Fairlife, LLC*, No. 1:19-cv-02709 (N.D. Ga.) (the "*Salzhauer Action*"); and
- f. Drafted and filed, on June 21, 2019, a motion before the Judicial Panel on Multidistrict Litigation ("JMPL") to transfer the *Salzhauer Action* and subsequent tag-along actions to a single federal court for coordinated and consolidated pretrial proceedings, to which the JMPL granted and ordered transfer on October 2, 2019. *See* ECF No. 35-001.

5. The total number of common benefit hours expended on this litigation by my firm from case inception through October 2, 2019, is 97.8 hours. The total common benefit lodestar for my firm in this time period is \$75,504.00.

6. For the time period of October 3, 2019 through June 30, 2022, my firm, in collaboration with Class Counsel, conducted the following activities for the common benefit of Plaintiffs:

- a. Oversaw the action as one of Co-Lead Counsel;

- b. Continued researching, strategizing, and drafting the consolidated amended complaint;
- c. Vetted and secured five additional Plaintiffs to represent the Class in the forthcoming consolidated complaint;
- d. On June 25, 2020, filed a Consolidated Class Action Complaint on behalf of all actions transferred into the MDL; and (ii) a Class Action Complaint, on behalf of certain new Plaintiffs, denominated as a related case to the Litigation, and captioned *Cantwell et al. v. The Coca-Cola Company et al.*, 1:20-cv-03739 (ECF No. 107);
- e. Negotiated a Stipulated Protective Order and Order Regarding Discovery of Electronically Stored Information (“ESI Order”), which the Court entered on July 8, 2020 (ECF. No. 105);
- f. With the Court’s support in the Parties’ shared interest in early settlement discussions, engaged in intense, arms-length settlement negotiations over the course of two years under the expert guidance of skilled, class-action mediator, the Honorable Wayne R. Andersen (Ret.), which involved:
 - i. Participating in four, day-long mediation sessions that took place on October 28, 2020; November 20, 2020; June 3, 2021; and July 8, 2021, respectively;
 - ii. Exchanging various written discovery requests;
 - iii. Receiving and reviewing, on multiple occasions, voluminous documents produced by Defendants in response thereto;

- iv. Submitting multiple rounds of mediation briefs to Judge Andersen in advance of each mediation session, which, in totality, addressed the full scope of continued litigation, including the merits of the case on its face, the possibility of class certification, success on summary judgment, and all aspects of settlement, including monetary and injunctive relief;
 - v. Exchanging multiple rounds of settlement positions, proposals, counterproposals, demands, and correspondence with Defendants, including numerous rounds of letters and emails;
 - vi. Reviewing, analyzing, and accepting Judge Andersen's settlement recommendation on November 23, 2021 (the "Mediator's Settlement Recommendation"); and
 - vii. Exchanging many additional rounds of correspondence to finalize the Settlement, following acceptance of the Mediator's Settlement Recommendation.
- g. Solicited and evaluated proposals from several different notice and claims administration companies, conducted video interviews of the same, and ultimately selected Epiq Class Action & Claims Solutions, Inc. ("Epiq") to administer the Settlement;
 - h. Collaborated with Epiq to create a robust Notice Plan that aimed to reach as many members of the Settlement Class as possible, encompassing (i) direct notice via email for members of the Settlement Class with whom Defendant fairlife had direct correspondence; (ii) digital publication notice based upon

a specific, targeted, advertising campaign, aimed to provide notice to Defendant fairlife's customers; (iv) a Settlement Website; and (v) a dedicated email address and toll-free number;

- i. Designed and accepted a "claims stimulation" plan that Epiq would activate during the claims-filing period, if needed, to maximize the filing of Approved Claims by Settlement Class Members to ensure the exhaustion of the Net Settlement Fund;
- j. Drafted and filed Plaintiffs Motion for Preliminary Approval of Class Action Settlement, Preliminary Certification, and Approval of Notice Plan Pursuant to Federal Rule of Civil Procedure 23(e)(1) (ECF No. 152), which this Court granted on April 27, 2022 (ECF No. 163);
- k. Worked closely with Epiq to monitor the notice and claims process, evaluating weekly claim submissions and opt-outs; and
- l. Engaged in extensive strategy and correspondence with co-counsel regarding all the above activities.

7. The total number of hours expended on this litigation by my firm from for the time period October 3, 2019, through June 30, 2022, for the common benefit of Plaintiff and Class Members, is 730.9 hours. The total lodestar for my firm in this time period is \$628,690.00.

8. The total number of common benefit hours expended on this litigation by my firm from case inception through June 30, 2022, is 828.7 hours. The total number of hours was determined by the examination of daily time records regularly prepared and maintained by my firm. The total lodestar for my firm is \$704,194.00. My firm's lodestar figures are based on the firm's current hourly billing rates. The hourly rates for the partners, attorneys, and professional

support staff in my firm are the same as the usual and customary hourly rates charged for their services in contingent billable matters. Class Counsel will likely expend dozens of additional hours bringing the Settlement through completion.

9. The attorneys of PSW billed this case at their usual and customary hourly billing rates, which have been approved by courts presiding over similar complex class action lawsuits, and which are commensurate with the prevailing market rates attorneys of comparable experience and skill handling complex litigation, including:

- a. *In re Pork Antitrust Litig.*, Case No. 18-cv-01776 (JRT-HB) (D. Minn.). In 2022, Judge John R. Tunheim ruled from the bench (formal order forthcoming) on a motion for interim payment of attorneys' fees finding that the following PSW rates were reasonable: \$1,190 for Clifford H. Pearson, and Daniel L. Warshaw, \$820 for Melissa S. Weiner (and approving other Minnesota-based partners between \$925 and \$1,150), \$800 for Michael H. Pearson, and \$400 for Naveed Abaie.
- b. *In Re Broiler Chicken Antitrust Litig.*, Case No. 16 C 8637 (N.D. Ill.). In 2021, Judge Thomas M. Durkin issued an attorneys' fees award finding that the following PSW rates were reasonable: \$1,190 for Clifford H. Pearson, and Daniel L. Warshaw, \$625 for Michael H. Pearson, and \$400 for Naveed Abaie.
- c. *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litig.*, Case No. 1:14-cv-04391-VSB (S.D.N.Y.). In 2021, Judge Vernon S. Broderick issued an attorneys' fees award finding that the following PSW rates were reasonable: \$1,190 for Clifford H. Pearson, and Daniel L. Warshaw, \$750

for Melissa S. Weiner, \$690 for Joseph C. Bourne, and \$560 for Matthew A. Pearson.

- d. *In re National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litig.*, Case No. 4:14-md-2541-CW (N.D. Cal.). In 2019, Magistrate Judge Cousins issued an attorneys' fees award finding that the following PSW rates were reasonable: \$985 (2016) and \$1,035 (2017) for Clifford H. Pearson and Bruce L. Simon and, \$1,050 (2018) and \$1,150 (2019) for Clifford H. Pearson, Bruce L. Simon and Daniel L. Warshaw, \$520 (2017), \$720 (2015) and \$825 (2016) for Aaron M. Sheanin, \$650 (2018) and \$900 (2019) for Benjamin E. Shiftan, \$350 (2017) for Alexander L. Simon, \$400 (2018) and \$450 (2019) for Alexander L. Simon and Matthew A. Pearson, \$225 (2017) for Amanda C. Lunzer, and \$225 (2019) for Bradd J. Kopp and Elloleen J. Grant. This award was adopted in whole by Judge Claudia Wilken.
- e. *In re Credit Default Swaps Antitrust Litig.*, Case No. 1:13-md-02476-DLC (S.D.N.Y.). In 2016, the court issued an attorneys' fee award which included PSW at weighted average rates of \$958.07 for Clifford H. Pearson, \$935 Bruce L. Simon, \$827 for Daniel L. Warshaw, \$472.75 for Veronica W. Glaze, and \$385 for Matthew A. Pearson.
- f. *In re: Cathode Ray Tube (CRT) Antitrust Litig.*, Case No. 3:07-cv-05944-JST (N.D. Cal.). In 2016, the court issued an attorneys' fee award which included PSW at rates of \$985 (2016) for Clifford H. Pearson, Bruce L. Simon and Daniel L. Warshaw.

- g. *James Eashoo v. Iovate Health Sciences U.S.A., Inc.*, Case No. 2:15-cv-01726-BRO-PJW (C.D. Cal.). In 2016, the court issued an attorneys' fee award which included PSW at rates of \$985 (2016) for Clifford H. Pearson and Daniel L. Warshaw, \$385 (2016) for Matthew A. Pearson.
- h. *Patricia Weckwerth et al. v. Nissan North America, Inc.*, Case No. 3:18-cv-00588 (M.D. Tenn.). In 2020, the court issued an attorneys' fee award which included PSW at the rate of \$1,150 (2010) for Daniel L. Warshaw, \$750 for Melissa S. Weiner (2020) and \$670 (2020) for a senior level associate.
- i. *Susan Swetz, et al. v. GSK Consumer Health, Inc.*, Case No. 7:20-cv-04731-NSR (S.D.N.Y.). In 2021, Judge Nelson S. Roman issued an attorneys' fee award which included PSW at the rate of \$820 for Melissa S. Weiner and \$720 for a senior level associate.

10. Attached hereto as **Exhibit A** is a detailed summary indicating the amount of time spent by the partners, attorneys, and other professional support staff of my firm who have been involved in this litigation, and the lodestar calculation is based on my firm's current hourly billing rates from case inception through June 30, 2022.

11. As detailed in **Exhibit B**, my firm has incurred a total of \$22,434.66 in unreimbursed expenses during the period from case inception through June 30, 2022.

12. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

13. Class Counsel necessarily must continue to work with the Settlement Administrator, review and respond to objections, if any, move for final approval, handle appeals, if any, and oversee the final administration of benefits to Class Members. Based upon experience, this could amount to dozens of additional hours of attorney time.

PSW HAS EXTENSIVE EXPERIENCE LITIGATING COMPLEX ACTIONS AND HAS ACHIEVED SIGNIFICANT RECOVERIES ON BEHALF OF CONSUMERS

14. PSW has the experience, resources and ability to adequately represent the class members in this class action lawsuit.

15. PSW's firm resume reflects that the attorneys in this case have successfully adjudicated some of the largest and most important class action lawsuits in the United States and have obtained approximately three billion dollars in settlements and verdicts in a wide range of cases.

16. For example, PSW served as Co-Lead Counsel in *In re Credit Default Swaps Antitrust Litigation*, MDL No. 2476 (S.D.N.Y.), an antitrust class action alleging an anticompetitive conspiracy by the largest international banks and financial institutions in the world to fix the price of credit default swaps. That case resulted in \$1.86 billion in settlements, making it one of the largest civil lawsuit recoveries in history.

17. PSW also served as Co-Lead Counsel on behalf of the Direct Purchaser Plaintiffs in *In re TFT-LCD (Flat Panel) Antitrust Litigation*, MDL No. 1827 (N.D. Cal.). In that case, we helped secure a settlement of over \$400 million for the Class and obtained an \$87 million verdict, before trebling, following a five-week trial against the only remaining defendant in the case, Toshiba Corporation and its related entities.

18. PSW attorneys served as class counsel in *James v. UMG Recordings, Inc.*, Case No. 11-cv-01613-SI (N.D. Cal.) and *In re Warner Music Group Corp. Digital Downloads*

Litigation, Case No. 12-cv-0559-RS (N.D. Cal.), nationwide class actions brought on behalf of recording artists and producers who alleged that they were systematically underpaid royalties by the record companies UMG Recordings and Warner Music Group. In groundbreaking class action settlements, PSW helped secure both past relief and future relief in perpetuity for eligible class members who receive royalties from the defendant record companies.

19. PSW also served as counsel in a series of related class action lawsuits arising from the failure of major movie studios to adequately account for and pay home video revenue to profit participants, which resulted in class action settlements in the following cases:

- a. *Colin Higgins Productions, Ltd. v. Universal City Studios, LLC* (L.A. Super. Ct. Case No. BC499180);
- b. *Colin Higgins Productions, LTD. v. Paramount Pictures Corporation* (L.A. Super. Ct. Case No. BC499179);
- c. *Martindale, et al. v. Sony Pictures Entertainment, Inc.* (L.A. Super. Ct. Case No. BC499182); and
- d. *Stanley Donen Films, Inc. v. Twentieth Century Fox Film Corporation* (L.A. Super. Ct. Case No. BC499181).

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20. In addition to those listed above, PSW has served as lead or co-lead counsel in some of the most advanced and cutting-edge class actions in the country, including: *In re Lithium Ion Batteries Antitrust Litigation*, MDL No. 2420 (N.D. Cal.); *In re Potash Antitrust Litigation (II)*, MDL No. 1996 (N.D. Ill.); and *In re Carrier IQ Consumer Privacy Litigation*, MDL No. 2330 (N.D. Cal.).

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 21st of July 2022 at Greenwood, Minnesota.

/s/ Melissa S. Weiner

Melissa S. Weiner

Class Counsel

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit A

Lodestar Summary

Firm: **Pearson, Simon & Warshaw, LLP**
Reporting Period: **Inception through June 30, 2022**

| Professional | Title | Hourly Rate | Total Hours | Total Lodestar |
|---------------------|--------------|--------------------|--------------------|-----------------------|
| Weiner, Melissa | P | \$920.00 | 549.9 | \$505,908.00 |
| Bourne, Joseph | A | \$720.00 | 87.5 | \$63,000.00 |
| Pearson, Michael | P | \$800.00 | 46.6 | \$37,280.00 |
| Oh, Christina | A | \$350.00 | 44.2 | \$15,470.00 |
| Warshaw, Daniel | P | \$1,190.00 | 40.7 | \$48,433.00 |
| Mont, Eric | A | \$350.00 | 16.9 | \$5,915.00 |
| Arenson, Gregory | A | \$575.00 | 14.4 | \$8,280.00 |
| Abaie, Naveed | A | \$400.00 | 12.6 | \$5,040.00 |
| Pearson, Clifford | P | \$1,190.00 | 11.7 | \$13,923.00 |
| Grant, Ellowene | PL | \$225.00 | 4.2 | \$945.00 |
| Totals | | | 828.7 | \$704,194.00 |

Title:

- Partner (P)
- Associate (A)
- Paralegal (PL)
- Of Counsel (OC)
- Law Clerk (LC)
- Legal Assistant (LA)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit B

Expense Summary

Firm: **Pearson, Simon & Warshaw, LLP**
Reporting Period: **Inception through June 30, 2022**

| Expense | Amount |
|--|--------------------|
| Court Costs (<i>i.e.</i> , Filing Fees) | \$600.00 |
| Experts / Consultants | |
| Federal Express / UPS | |
| Postage / U.S. Mail | |
| Service of Process | |
| Messenger / Delivery | |
| Hearing Transcripts | |
| Investigation | |
| Westlaw / Lexis | \$771.71 |
| Photocopies (in House) | |
| Photocopies (Outside) | |
| Telephone / Telecopier | \$176.75 |
| Travel – Transportation* | \$441.84 |
| Travel – Meals | \$202.51 |
| Travel – Hotels | \$241.85 |
| Miscellaneous | |
| Mediation | \$1,583.33 |
| Litigation Fund Contribution | \$18,416.67 |
| Total | \$22,434.66 |

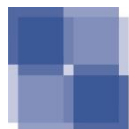
* Air travel is billed at coach fare.

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit C

Firm Resume

On following pages



PEARSON | SIMON • WARSHAW LLP

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350 SANSOME STREET
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WWW.PSWLAW.COM

Pearson, Simon & Warshaw, LLP (“PSW”) is an AV-rated civil litigation firm with offices in Los Angeles, San Francisco and Minneapolis. The firm specializes in complex litigation, including state coordination cases and federal multi-district litigation. Its attorneys have extensive experience in antitrust, securities, consumer protection, and unlawful employment practices. The firm handles national and multi-national class actions that present cutting-edge issues in both substantive and procedural areas. PSW attorneys understand how to litigate difficult and large cases in an efficient and cost-effective manner, and they have used these skills to obtain outstanding results for their clients, both through trial and negotiated settlement. They are recognized in their field for excellence and integrity, and are committed to seeking justice for their clients.

CASE PROFILES

PSW attorneys currently hold, or have held, a leadership role in the following representative cases:

- *In re National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation*, Northern District of California, MDL No. 2451. PSW attorneys currently serve as co-lead counsel in this multidistrict litigation that alleges the NCAA and its member conferences violate the antitrust laws by restricting the value of grant-in-aid athletic scholarships and other benefits that college students who are football and basketball players can receive. PSW settled the damages case, recently obtaining final approval of a \$208 million dollar settlement. PSW attorneys with co-counsel have completed a bench trial for the injunctive portion of the case. A verdict for Plaintiffs was awarded, and the United States Supreme Court recently issued an Opinion affirming the verdict 9-0. *See NCAA v. Alston*, 141 S.Ct. 2141 (2021).
- *In re Credit Default Swaps Antitrust Litigation*, Southern District of New York, MDL No. 2476. PSW attorneys served as co-lead counsel and represented the Los Angeles County Employees Retirement Association (“LACERA”) in a class action on behalf of all purchasers and sellers of Credit Default Swaps (“CDS”) against twelve of the world’s largest banks. The lawsuit alleged that the banks, along with other defendants who controlled the market infrastructure for CDS trading, conspired for years to restrain the efficient trading of CDS, thereby inflating the cost to trade CDS. The alleged antitrust

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conspiracy resulted in billions of dollars in economic harm to institutional investors such as pension funds, mutual funds, and insurance companies who used CDS to hedge credit risks on their fixed income portfolios. After nearly three years of litigation and many months of intensive settlement negotiations, PSW helped reach a settlement with the defendants totaling \$1.86 *billion* plus injunctive relief. On April 15, 2016, the Honorable Denise L. Cote granted final approval to the settlement, which is one of the largest civil antitrust settlements in history.

- *In re TFT-LCD (Flat Panel) Antitrust Litigation*, Northern District of California, MDL No. 1827. PSW served as co-lead counsel for the direct purchaser plaintiffs in this multidistrict litigation arising from the price-fixing of thin film transistor liquid crystal display (“TFT-LCD”) panels. Worldwide, the TFT-LCD industry is a multi-billion dollar industry, and many believe that this was one of the largest price-fixing cases in the United States. PSW helped collect over \$405 million in settlements before the case proceeded to trial against the last remaining defendant, Toshiba Corporation and its related entities. PSW partner Bruce L. Simon served as co-lead trial counsel, successfully marshaled numerous witnesses, and presented the opening argument. On July 3, 2012, PSW obtained a jury verdict of \$87 million (before trebling) against Toshiba. PSW later settled with Toshiba and AU Optronics to bring the total to \$473 million in settlements. In 2013, California Lawyer Magazine awarded Mr. Simon a California Lawyer of the Year Award for his work in the *TFT-LCD* case.
- *In re Potash Antitrust Litigation (No. II)*, Northern District of Illinois, MDL No. 1996. PSW partner Bruce L. Simon served as co-lead counsel for the direct purchaser plaintiffs in this multidistrict litigation arising from the price-fixing of potash sold in the United States. After the plaintiffs defeated a motion to dismiss, the defendants appealed, and the Seventh Circuit Court of Appeals agreed to hear the case *en banc*. Mr. Simon presented oral argument to the *en banc* panel and achieved a unanimous 8-0 decision in his favor. The case resulted in \$90 million in settlements for the direct purchaser plaintiffs, and the Court’s opinion is one of the most significant regarding the scope of international antitrust conspiracies. *See Minn-Chem, Inc. v. Agrium Inc.*, 683 F. 3d 845 (7th Cir. 2012).
- *Vakilzadeh v. The Trustees of The California State University*, Los Angeles County Superior Court, Case No. 20STCV23134. PSW partner Daniel L. Warshaw serves as co-lead counsel for a putative class of California State University students who were not provided refunds of tuition and fees from the closing all campuses and ending in-person learning and activities.
- *North American Soccer League, LLC v. United States Soccer Federation, Inc., and Major League Soccer, L.L.C.*, Eastern District of New York, Case No. 1:17-cv-05495-MKB-ST. PSW, along with co-counsel, represents the North American Soccer League in a matter against the United States Soccer Federation and Major League Soccer alleging antitrust violations. The complaint alleges that U.S. Soccer and MLS have driven NASL out of business and have prevented NASL from competing against MLS (the sole Division I

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league) and the United Soccer League (the sole Division II league), which is affiliated with MLS.

- *In re Broiler Chicken Antitrust Litigation*, Northern District of Illinois, Case No. 1:16-cv-08637. PSW attorneys currently serve as interim co-lead counsel on behalf of direct purchaser plaintiffs. The complaint alleges that the nation’s largest broiler chicken producers violated antitrust laws by limiting production and manipulating the price indices. Thus far, PSW and co-counsel have secured final approval of over \$169 million in settlements for the direct purchaser plaintiffs with numerous defendants remaining in the litigation.
- *In re Pork Antitrust Litigation*, District of Minnesota, Case No. 0:18-cv-01776. PSW attorneys currently serve as interim co-lead counsel on behalf of direct purchaser plaintiffs. The complaint alleges that the nation’s largest pork producers violated antitrust laws by limiting production and manipulating the price indices. Thus far, PSW and co-counsel have secured over \$100 million in settlements for the direct purchaser plaintiffs with numerous defendants remaining in the litigation.
- *Grace v. Apple, Inc.*, Northern District of California, 5:17-CV-00551. PSW partners Daniel L. Warshaw and Jill M. Manning currently serve as class counsel in this California certified class action on behalf of consumers who allege Apple intentionally broke its “FaceTime” video conferencing feature for Apple iPhone 4 or iPhone 4S users operating on iOS 6 or earlier.
- *In re Santa Fe Natural Tobacco Company Marketing, Sales Practices, and Products Liability Litigation*, District of New Mexico, Case No. 1:16-md-02695-JB-LF. PSW partner Melissa S. Weiner chairs the Executive Committee and PSW partner Daniel L. Warshaw serves on the executive committee. This class action alleges that defendants’ “natural” and “additive free” claims on their tobacco products were false and misleading to consumers.
- *In re Keurig Green Mountain Single-Serving Coffee Antitrust Litigation*, Southern District of New York, MDL No. 2542. In June 2014, Judge Vernon S. Broderick appointed PSW to serve as interim co-lead counsel on behalf of indirect purchaser plaintiffs in this multidistrict class action litigation. The case arises from the alleged unlawful monopolization of the United States market for single-serve coffee packs by Keurig Green Mountain, Inc. Keurig’s alleged anticompetitive conduct includes acquiring competitors, entering into exclusionary agreements with suppliers and distributors to prevent competitors from entering the market, engaging in sham patent infringement litigation, and redesigning the single-serve coffee pack products in the next version of its brewing system to lock out competitors’ products. PSW and co-counsel recently obtained final approval of a \$31 million settlement.

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- *Senne, et al. v. Office of the Commissioner of Baseball, et al.*, Northern District of California, Case No. 14-cv-0608. PSW attorneys currently serve as co-lead counsel in this certified class action and FLSA collective action on behalf of minor league baseball players who allege that Major League Baseball and its member franchises violate the FLSA and state wage and hour laws by failing to pay minor league baseball players minimum wage and overtime.
- *In re KIND LLC “Healthy and All Natural” Litigation*, Southern District of New York, MDL No. 2645. PSW partner Daniel L. Warshaw currently serves as interim co-lead counsel in this multistate certified class action on behalf of consumers who allege that they purchased KIND snack bars that were falsely advertised as “all natural,” “non-GMO,” and/or “healthy.”
- *Trepte v. Bionaire, Inc.*, Los Angeles County Superior Court, Case No. BC540110. PSW attorneys served as Class Counsel in this certified class action alleging that the defendant sold defective space heaters. The complaint alleged that defendant breached the warranty and falsely advertised the safety of the heaters due to design defects that cause the heaters to fail – and, as a result of the failure, the heaters could spark, smoke and catch fire. Final approval of the class settlement was recently granted.
- *In re Carrier IQ Consumer Privacy Litigation*, Northern District of California, MDL No. 2330. PSW attorneys served as interim co-lead counsel in this putative nationwide class action on behalf of consumers who alleged privacy violations arising from software installed on their mobile devices that was logging text messages and other sensitive information.
- *Sciortino, et al. v. PepsiCo, Inc.*, Northern District of California, Case No. 14-cv-0478. PSW attorneys served as interim co-lead counsel in this putative California class action on behalf of consumers who alleged that PepsiCo failed to warn them that certain of its sodas contain excess levels of a chemical called 4-Methylimidazole in violation of Proposition 65 and California consumer protection statutes.
- *James v. UMG Recordings, Inc.*, Northern District of California, Case No. 11-cv-01613. PSW partner Daniel L. Warshaw served as interim co-lead counsel in this putative nationwide class action on behalf of recording artists and music producers who alleged that they had been systematically underpaid royalties by the record company UMG.
- *In re Warner Music Group Corp. Digital Downloads Litigation*, Northern District of California, Case No. 12-cv-00559. PSW attorneys served as interim co-lead counsel, with partner Bruce L. Simon serving as chairman of a five-firm executive committee, in this putative nationwide class action on behalf of recording artists and music producers who alleged that they had been systematically underpaid royalties by the record company Warner Music Group.

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- *In re Dynamic Random Access Memory (DRAM) Antitrust Litigation*, Northern District of California, MDL No. 1486. PSW partner Bruce L. Simon served as co-chair of discovery and as a member of the trial preparation team in this multidistrict litigation arising from the price-fixing of DRAM, a form of computer memory. Mr. Simon was responsible for supervising and coordinating the review of almost a terabyte of electronic documents, setting and taking depositions, establishing and implementing protocols for cooperation between the direct and indirect plaintiffs as well as the Department of Justice, presenting oral arguments on discovery matters, working with defendants on evidentiary issues in preparation for trial, and preparation of a comprehensive pretrial statement. Shortly before the scheduled trial, class counsel reached settlements with the last remaining defendants, bringing the total value of the class settlements to over \$325 million.
- *In re Methionine Antitrust Litigation*, Northern District of California, MDL No. 1311. PSW partner Bruce L. Simon served as co-lead counsel in this nationwide antitrust class action involving a conspiracy to fix prices of, and allocate the markets for, methionine. Mr. Simon was personally responsible for many of the discovery aspects of the case including electronic document productions, coordination of document review teams, and depositions. Mr. Simon argued pretrial motions, prepared experts, and assisted in the preparation of most pleadings presented to the Court. This action resulted in over \$100 million in settlement recovery for the Class.
- *In re Sodium Gluconate Antitrust Litigation*, Northern District of California, MDL No. 1226. PSW partner Bruce L. Simon served as class counsel in this consolidated antitrust class action arising from the price-fixing of sodium gluconate. Mr. Simon was selected by Judge Claudia Wilken to serve as lead counsel amongst many other candidates for that position, and successfully led the case to class certification and settlement.
- *In re Citric Acid Antitrust Litigation*, Northern District of California, MDL No. 1092. PSW partner Bruce L. Simon served as class counsel in antitrust class actions against Archer-Daniels Midland Co. and others for their conspiracy to fix the prices of citric acid, a food additive product. Mr. Simon was one of the principal attorneys involved in discovery in this matter. This proceeding resulted in over \$80 million settlements for the direct purchasers.
- *Olson v. Volkswagen of America, Inc.*, Central District of California, Case No. CV07-05334. PSW attorneys brought this class action lawsuit against Volkswagen alleging that the service manual incorrectly stated the inspection and replacement intervals for timing belts on Audi and Volkswagen branded vehicles equipped with a 1.8 liter turbo-charged engine. This case resulted in a nationwide class settlement.
- *Swain et al. v. Eel River Sawmills, Inc. et al.*, California Superior Court, DR-01-0216. Bruce L. Simon served as lead trial counsel for a class of former employees of a timber company whose retirement plan was lost through management's investment of plan assets in an Employee Stock Ownership Plan. Mr. Simon negotiated a substantial settlement on

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the eve of trial resulting in a recovery of approximately 40% to 50% of plaintiffs' damages after attorneys' fees and costs.

- *In re Homestore Litigation*, Central District of California, Master File No. 01-11115. PSW attorneys served as liaison counsel and class counsel for plaintiff CalSTRS in this securities class action. The case resulted in over \$100 million in settlements to the Class.
- *In re MP3.Com, Inc., Securities Litigation*, Southern District of California, Master File No. 00-CV-1873. PSW attorneys served as defense counsel in this class action involving alleged securities violations under Rule 10b-5.
- *In re Automotive Refinishing Paint Cases*, Alameda County Superior Court, Judicial Council Coordination Proceeding No. 4199. PSW attorneys served as class counsel with other law firms in this coordinated antitrust class action alleging a conspiracy by defendants to fix the price of automotive refinishing products.
- *In re Beer Antitrust Litigation*, Northern District of California, Case No. 97-20644 SW. PSW partner Bruce L. Simon served as primary counsel in this antitrust class action brought on behalf of independent micro-breweries against Anheuser-Busch, Inc., for its attempt to monopolize the beer industry in the United States by denying access to distribution channels.
- *In re Commercial Tissue Products Public Entity Indirect Purchaser Antitrust Litigation*, San Francisco Superior Court, Judicial Council Coordination Proceeding No. 4027. PSW partner Bruce L. Simon served as co-lead counsel for the public entity purchaser class in this antitrust action arising from the price-fixing of commercial sanitary paper products.
- *Hart v. Central Sprinkler Corporation*, Los Angeles County Superior Court, Case No. BC176727. PSW attorneys served as class counsel in this consumer class action arising from the sale of nine million defective fire sprinkler heads. This case resulted in a nationwide class settlement valued at approximately \$37.5 million.
- *Rueda v. Schlumberger Resources Management Services, Inc.*, Los Angeles County Superior Court, Case No. BC235471. PSW attorneys served as class counsel with other law firms representing customers of the Los Angeles Department of Water & Power ("LADWP") who had lead-leaching water meters installed on their properties. The Court granted final approval of the settlement whereby defendant would pay \$1.5 million to a *cy pres* fund to benefit the Class and to make grants to LADWP to assist in implementing a replacement program to the effected water meters.
- *In re Louisiana-Pacific Corp. Inner-Seal OSB Trade Practices Litigation*, Northern District of California, MDL No. 1114. PSW partner Bruce L. Simon worked on this nationwide product defect class action brought under the Lanham Act. The proposed class was certified, and a class settlement was finally approved by Chief Judge Vaughn Walker.

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- *In re iPod nano Cases*, Los Angeles County Superior Court, Judicial Council Coordination Proceeding No. 4469. PSW attorneys were appointed co-lead counsel for this class action brought on behalf of California consumers who own defective iPod nanos. The case resulted in a favorable settlement.
- *Unity Entertainment Corp. v. MP3.Com*, Central District of California, Case No. 00-11868. PSW attorneys served as defense counsel in this class action alleging copyright infringement.
- *Vallier v. Jet Propulsion Laboratory*, Central District of California, Case No. CV97-1171. PSW attorneys served as lead counsel in this toxic tort action involving 50 cancer victims and their families.
- *Nguyen v. First USA N.A.*, Los Angeles County Superior Court, Case No. BC222846. PSW attorneys served as class counsel on behalf of approximately four million First USA credit card holders whose information was sold to third party vendors without their consent. This case ultimately settled for an extremely valuable permanent injunction plus disgorgement of profits to worthy charities.
- *Morales v. Associates First Financial Capital Corporation*, San Francisco Superior Court, Judicial Council Coordination Proceeding No. 4197. PSW attorneys served as class counsel in this case arising from the wrongful sale of credit insurance in connection with personal and real estate-secured loans. This case resulted in an extraordinary \$240 million recovery for the Class.
- *In re AEFA Overtime Cases*, Los Angeles County Superior Court, Judicial Council Coordination Proceeding No. 4321. PSW attorneys served as class counsel in this overtime class action on behalf of American Express Financial Advisors, which resulted in an outstanding class-wide settlement.
- *Khan v. Denny's Holdings, Inc.*, Los Angeles County Superior Court, Case No. BC177254. PSW attorneys settled a class action lawsuit against Denny's for non-payment of overtime wages to its managers and general managers.
- *Kosnik v. Carrows Restaurants, Inc.*, Los Angeles County Superior Court, Case No. BC219809. PSW attorneys settled a class action lawsuit against Carrows Restaurants for non-payment of overtime wages to its assistant managers and managers.
- *Castillo v. Pizza Hut, Inc.*, Los Angeles County Superior Court, Case No. BC318765. PSW attorneys served as lead class counsel in this California class action brought by delivery drivers who claimed they were not adequately compensated for use of their personally owned vehicles. This case resulted in a statewide class settlement.

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- *Baker v. Charles Schwab & Co., Inc.*, Los Angeles County Superior Court, Case No. BC286131. PSW attorneys served as class counsel for investors who were charged a fee for transferring out assets between June 1, 2002 and May 31, 2003. This case resulted in a nationwide class settlement.
- *Eallonardo v. Metro-Goldwyn-Mayer, Inc.*, Los Angeles County Superior Court, Case No. BC286950. PSW attorneys served as class counsel on behalf a nationwide class of consumers who purchased DVDs manufactured by defendants. Plaintiffs alleged that defendants engaged in false and misleading advertising relating to the sale of its DVDs. This case resulted in a nationwide class settlement.
- *Gaeta v. Centinela Feed, Inc.*, Los Angeles County Superior Court, Case No. BC342524. PSW attorneys served as defense counsel in this class action involving alleged failures to pay wages, overtime, employee expenses, waiting time penalties, and failure to provide meal and rest periods and to furnish timely and accurate wage statements.
- *Leiber v. Consumer Empowerment Bv A/K/A Fasttrack*, Central District of California, Case No. CV 01-09923. PSW attorneys served as defense counsel in this class action involving copyrighted music that was made available through a computer file sharing service without the publishers' permission.
- *Higgs v. SUSA California, Inc.*, Los Angeles County Superior Court Case No. BC372745. PSW attorneys served as co-lead class counsel representing California consumers who entered into rental agreements for the use of self-storage facilities owned by defendants. In this certified class action, plaintiffs allege that defendants wrongfully denied access to the self-storage facility and/or charged excessive pre-foreclosure fees.
- *Fournier v. Lockheed Litigation*, Los Angeles County Superior Court. PSW attorneys served as counsel for 1,350 residents living at or near the Skunks-Works Facility in Burbank. The case resolved with a substantial confidential settlement for plaintiffs.
- *Nasseri v. CytoSport, Inc.*, Los Angeles County Superior Court, Case No. 439181. PSW attorneys served as class counsel on behalf of a nationwide class of consumers who purchased CytoSport's popular protein powders, ready to drink protein beverages, and other "supplement" products. Plaintiffs alleged that these supplements contain excessive amounts of lead, cadmium and arsenic in amounts that exceed Proposition 65 and negate CytoSport's health claims regarding the products. The case resulted in a nationwide class action settlement which provided monetary relief to the class members and required the reformulation of CytoSport supplement products.
- *In re Samsung Top-Load Washing Machine Marketing, Sales Practice and Products Liability Litigation*, Western District of Oklahoma, Case No. 5:17-ml-02792-D. Plaintiffs allege that the top-load washing machines contain defects that cause them to leak and

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explode. PSW Partner Melissa S. Weiner was appointed to the Plaintiffs' Steering Committee in this multi-district class action.

ATTORNEY PROFILES

FOUNDING PARTNERS

CLIFFORD H. PEARSON

Clifford H. Pearson is a civil litigator, business lawyer and mediator focusing on complex litigation, class actions, and business law. In 2013, 2016 and 2021 Mr. Pearson was named by the *Daily Journal* as one of the Top 100 lawyers in California. Additionally, Mr. Pearson was named as one of the Daily Journal's 2019 Top Plaintiff Lawyers. He was instrumental in negotiating a landmark settlement totaling \$1.86 billion in *In re Credit Default Swaps Antitrust Litigation*, a case alleging a conspiracy among the world's largest banks to maintain opacity of the credit default swaps market. Mr. Pearson also negotiated \$473 million in combined settlements in *In re TFT-LCD (Flat Panel) Antitrust Litigation*, an antitrust case in the Northern District of California that alleged a decade-long conspiracy to fix the prices of TFT-LCD panels and over \$90 million in *In re Potash Antitrust Litigation*, an antitrust case in the Northern District of Illinois that alleged price fixing by Russian, Belarusian and North American producers of potash, a main ingredient used in fertilizer. Mr. Pearson currently serves as co-lead counsel in both the *In re Broiler Chicken Antitrust Litigation* and *In re Pork Antitrust Litigation* antitrust class action cases alleging price fixing in the broiler and pork industries.

Before creating the firm in 2006, Mr. Pearson was a partner at one of the largest firms in the San Fernando Valley, where he worked for 22 years. There, he represented aggrieved individuals, investors and employees in a wide variety of contexts, including toxic torts, consumer protection and wage and hour cases. Over his career that spans nearly 40 years, Mr. Pearson has successfully negotiated substantial settlements on behalf of consumers, small businesses and companies. In recognition of his outstanding work on behalf of clients, Mr. Pearson has been regularly selected by his peers as a Super Lawyer (representing the top 5% of practicing lawyers in Southern California). He has also attained Martindale-Hubbell's highest rating (AV) for legal ability and ethical standards.

Mr. Pearson is an active member of the American Bar Association, Los Angeles County Bar Association, Consumer Attorneys of California, Consumer Attorneys Association of Los Angeles, and Association of Business Trial Lawyers.

Current Cases:

- *In re Broiler Chicken Antitrust Litigation* (N.D. Ill.)
- *In re Pork Antitrust Litigation* (D. Minn.)
- *North American Soccer League, LLC v. United States Soccer Federation, Inc., and Major League Soccer, L.L.C.* (E.D.N.Y.)
- *Senne, et al. v. Office of the Commissioner of Baseball, et al.* (N.D. Cal.)

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- *City of Oakland v. The Oakland Raiders, et al.* (Los Angeles County Superior Court)

Education:

- Whittier Law School, Los Angeles, California – J.D. – 1981
- University of Miami, Miami, Florida – M.B.A. – 1978
- Carleton University, Ontario, Canada – B.A. – 1976

Bar Admissions:

- California
- Ninth Circuit Court of Appeals
- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of California
- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California

Professional Associations and Memberships:

- American Bar Association
- Association of Business Trial Lawyers
- Consumer Attorneys Association of Los Angeles
- Consumer Attorneys of California
- Los Angeles County Bar Association

BRUCE L. SIMON

Bruce L. Simon is a partner emeritus at Pearson, Simon & Warshaw, LLP and has lead the firm to national prominence. Mr. Simon specializes in complex cases involving antitrust, consumer fraud and securities. He has served as lead counsel in many business cases with national and global impact.

In 2019, Mr. Simon was named as one of the Daily Journal’s Top Plaintiff Lawyers. In 2018, Mr. Simon was awarded “Antitrust Lawyer of the Year” by the California Lawyers Association. In 2013 and 2016, Mr. Simon was chosen by the Daily Journal as one of the Top 100 attorneys in California. In 2013, he received the California Lawyer of the Year award from California Lawyer Magazine and was selected as one of seven finalists for Consumer Attorney of the Year by Consumer Attorneys of California for his work in *In re TFT-LCD (Flat Panel) Antitrust Litigation*, MDL No. 1827 (N.D. Cal.). That year, Mr. Simon was included in the Top 100 of California’s “Super Lawyers” and has been named a “Super Lawyer” every year since 2003. He has attained Martindale-Hubbell's highest rating (AV) for legal ability and ethical standards.

Mr. Simon was co-lead class counsel in *In re TFT-LCD (Flat Panel) Antitrust Litigation*, a case that lasted over five years and resulted in \$473 million recovered for the direct purchaser plaintiffs. Mr. Simon served as co-lead trial counsel and was instrumental in obtaining an \$87 million jury verdict (before trebling). He presented the opening argument and marshalled numerous witnesses during the six-week trial.

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Also, Mr. Simon was co-lead class counsel in *In re Credit Default Swaps Antitrust Litigation*, a case alleging a conspiracy among the world's largest banks to maintain opacity of the credit default swaps market as a means of maintaining supracompetitive prices of bid/ask spreads. After three years of litigation and many months of intensive settlement negotiations, the parties in CDS reached a landmark settlement amounting to \$1.86 billion. It is one of the largest civil antitrust settlements in history.

Mr. Simon was also co-lead class counsel in *In re Potash Antitrust Litigation (II)*, MDL No. 1996 (N.D. Ill.), where he successfully argued an appeal of the district court's order denying the defendants' motions to dismiss to the United States Court of Appeals for the Seventh Circuit. Mr. Simon presented oral argument during an en banc hearing before the Court and achieved a unanimous 8-0 decision in his favor. The case resulted in \$90 million in settlements for the direct purchaser plaintiffs, and the Court's opinion is one of the most significant regarding the scope of international antitrust conspiracies.

More recently, Mr. Simon completed the trial seeking injunctive relief in the *In re National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation*. The plaintiffs allege that the NCAA and its member conferences violate the antitrust laws by restricting the value of grant-in-aid athletic scholarships and other benefits that college football and basketball players can receive.

Current Cases:

- *In re Broiler Chicken Antitrust Litigation* (N.D. Ill.)
- *In re Pork Antitrust Litigation* (D. Minn.)
- *North American Soccer League, LLC v. United States Soccer Federation, Inc., and Major League Soccer, L.L.C.* (E.D.N.Y.)

Reported Cases:

- *Minn-Chem, Inc. et al. v. Agrium Inc., et al.*, 683 F.3d 845 (7th Cir. 2012)
- *In re National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation*, 594 U.S. ____ (2021).

Education:

- University of California, Hastings College of the Law, San Francisco, California – J.D. – 1980
- University of California, Berkeley, California – A.B. – 1977

Bar Admissions:

- California
- Supreme Court of the United States
- Ninth Circuit Court of Appeals
- Seventh Circuit Court of Appeals
- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of California

PEARSON, SIMON & WARSHAW, LLP

- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California

Recent Publications:

- Class Certification Procedure, Ch. V, ABA Antitrust Class Actions Handbook (3d ed.), (forthcoming)
- Reverse Engineering Your Antitrust Case: Plan for Trial Even Before You File Your Case, Antitrust, Vol. 28, No. 2, Spring 2014
- *The Ownership/Control Exception to Illinois Brick in Hi-Tech Component Cases: A Rule That Recognizes the Realities of Corporate Price Fixing*, ABA International Cartel Workshop February 2014
- *Matthew Bender Practice Guide: California Unfair Competition and Business Torts*, LexisNexis, with Justice Conrad L. Rushing and Judge Elia Weinbach (Updated 2013)
- *The Questionable Use of Rule 11 Motions to Limit Discovery and Eliminate Allegations in Civil Antitrust Complaints in the United States*, ABA International Cartel Workshop February 2012

Professional Associations and Memberships:

- California State Bar Antitrust and Unfair Competition Section, Advisor and Past Chair
- ABA Global Private Litigation Committee, Co-Chair
- ABA International Cartel Workshop, Steering Committee
- American Association for Justice, Business Torts Section, Past Chair
- Business Torts Section of the American Trial Lawyers Association, Past Chair
- Hastings College of the Law, Board of Directors (2003-2015), Past Chair (2009-2011)

DANIEL L. WARSHAW

Daniel L. Warshaw is a civil litigator and trial lawyer who focuses on antitrust, complex litigation, class actions, and consumer protection. Mr. Warshaw has held leadership roles in numerous state, federal and multidistrict class actions, and obtained significant recoveries for class members in many cases. These cases have included, among other things, antitrust violations, high-technology products, automotive parts, entertainment royalties, intellectual property and false and misleading advertising. Mr. Warshaw has also represented employees in a variety of class actions, including wage and hour, misclassification and other Labor Code violations.

Mr. Warshaw played an integral role in several of the firm's groundbreaking cases. In the *In re TFT-LCD (Flat Panel) Antitrust Litigation*, he assisted in leading this multidistrict to trial and securing \$473 million in recoveries to the direct purchaser plaintiff class. After the firm was appointed as interim co-lead counsel in *In re Credit Default Swaps Antitrust Litigation*, Mr. Warshaw along with his partners and co-counsel successfully secured a \$1.86 billion settlement on behalf of the class.

Currently he serves in a lead or co-lead position in the following cases: *Vakilzadeh v. The Trustees of The California State University*, Los Angeles County Superior Court, Case No. 20STCV23134,

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a putative class action alleging the students were not refunded for tuition and fees when the California State University System closed its campuses and provided remote learning in lieu of in person education; *Grace v. Apple, Inc.*, 5:17-CV-00551-YGR (N.D. Cal.), a certified class action on behalf of consumers who allege that Apple intentionally broke its “FaceTime” video conferencing feature for iPhones with older operating systems that recently settled for \$18 million on behalf of a California class; *In re KIND LLC “Healthy and All Natural” Litigation*, MDL No. 2645, (S.D.N.Y.), a multistate certified class action on behalf of consumers who allege that they purchased KIND snack bars that were falsely advertised as “all natural,” and/or “non-GMO”; *Seene v. The Office of the Commissioner of Baseball*, 3:14-cv-00608-JCS (N.D. Cal.), a certified multistate class action alleging that Major League Baseball and its teams violate state and federal wage and hour laws relating to minor league players.

Mr. Warsaw’s cases have received significant attention in the press, and Mr. Warsaw has been profiled by the *Daily Journal* for his work in the digital download music cases. In 2019 and 2020, Mr. Warsaw was named as one of the Daily Journal’s Top Plaintiff Lawyers. And in 2020 he was also named one of the Daily Journal’s Top Antitrust Lawyers. Additionally, Mr. Warsaw has been selected by his peers as a Super Lawyer (representing the top 5% of practicing lawyers in Southern California) every year since 2005. He has also attained Martindale-Hubbell’s highest rating (AV) for legal ability and ethical standards.

Mr. Warsaw has assisted in the preparation of two Rutter Group practice guides: *Federal Civil Trials & Evidence* and *Civil Claims and Defenses*. Mr. Warsaw is the founder and Chair of the Class Action Roundtable. The purpose of the Roundtable is to facilitate a high-level exchange of ideas and in-depth dialogue on class action litigation.

Current Cases:

- *Vakilzadeh v. The Trustees of The California State University*, (Cal. Super. Ct.)
- *Grace v. Apple, Inc.* (N.D. Cal.)
- *In re KIND LLC “Healthy and All Natural” Litigation* (S.D.N.Y.)
- *In re Pork Antitrust Litigation* (D. Minn.)
- *In re. Santa Fe Natural Tobacco Company Marketing, Sales Practices, and Products Liability Litigation* (D. N.M.)
- *Senne, et al. v. Office of the Commissioner of Baseball, et al.* (N.D. Cal.)

Education:

- Whittier Law School, Los Angeles, California – J.D. – 1996
- University of Southern California – B.S. – 1992

Bar Admissions:

- California
- Ninth Circuit Court of Appeals
- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of California

PEARSON, SIMON & WARSHAW, LLP

- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California
- U.S. District Court, District of Colorado
- U.S. District Court, Western District of Texas

Professional Associations and Memberships:

- American Bar Association
- Association of Business Trial Lawyers, Board Member
- Consumer Attorneys of California
- Los Angeles County Bar Association, Complex Court Committee, Member
- Plaintiffs' Class Action Roundtable, Chair

PARTNERS

MELISSA S. WEINER

Melissa S. Weiner is a partner and civil litigator whose work is squarely focused on combating consumer deception. Her experience is expansive, including class actions related to consumer protection, product defect, intellectual property, automotive, false advertising and the Fair Credit Reporting Act. Ms. Weiner has taken a leadership role in numerous large class actions and MDLs in cases across the country.

A contributor to her professional community, Ms. Weiner serves as Chair of the Development Committee for Public Justice and serves on the Minnesota Bar Association Food & Drug Law Council. Additionally, she teaches Food Law as an adjunct professor at Mitchell Hamline School of Law and sits on the Food Law Center Advisory Board for Mitchell Hamline School of Law. In recognition of her outstanding efforts in the legal community, each year since 2012, Ms. Weiner has been named a Super Lawyers *Rising Star* by Minnesota Law & Politics.

Ms. Weiner has been appointed to leadership positions in the following MDLs and consolidated cases:

- *In Re: Luxottica of America, Inc. Data Security Breach Litigation* (S.D. Ohio) (Appointed Interim Executive Committee Member);
- *Culbertson v. Deloitte Consulting LLP* (S.D.N.Y.) (Appointed to Plaintiffs' Executive Committee), a nationwide data breach class action
- *In Re: Fairlife Milk Products Marketing and Sales Practices Litigation* (N.D. Ill.) (Appointed Interim Co-Lead Counsel);
- *In Re Santa Fe Natural Tobacco Company Marketing & Sales Practices and Products Liability Litigation* (D.N.M.) (chair of the Plaintiffs' Steering Committee and member of the Plaintiffs' Oversight Committee);
- *In Re Samsung Top-Load Washing Machine Marketing, Sales Practices & Product Liability Litigation* (W.D. Okla.), (appointed to Plaintiffs' Executive Committee), a

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nationwide class action regarding a design defect in 2.8 million top loading washing machines, which resulted in a nationwide settlement;

- *In Re Windsor Wood Clad Window Product Liability Litigation* (E.D. Wis.), a nationwide class action regarding allegedly defective windows, which resulted in a nationwide settlement.
- *In Re: Blackbaud, Inc. Customer Data Security Breach Litigation* (D.S.C.), nationwide data breach class action, (appointed to Plaintiffs' Steering Committee).
- *Dusko v. Delta Airlines, Inc.* (N.D. Ga.), a nationwide breach of contract class action (appointed as Co-Lead Class Counsel).
- *In re Apple Inc. App Store Simulated Casino Style Games Litigation* (N.D. Cal.), a multi-state statutory class action (appointed to Plaintiffs' Steering Committee).

Current Cases:

- *Anurag Gupta v. Aeries Software, Inc.* (C.D. CA) (data breach)
- *Ashour v. Arizona Beverages USA LLC et al.* (S.D. NY) (false advertising/mislabeling)
- *Benson et al v. Newell Brands Inc., et al.* (N.D. IL) (false advertising/mislabeling)
- *Connor Burns v. Mammoth Media, Inc.* (C.D. CA) (data breach)
- *Daniels v. Delta Air Lines, Inc.* (N.D. Ga.). (COVID-19 pandemic relief)
- *In re Fairlife Milk Products Marketing and Sales Practices Litigation* (N.D. IL) (false advertising)
- *In Re Pork Antitrust Litigation* (D. Minn.)
- *In Re Samsung Top-Load Washing Machine Marketing, Sales Practices, and Products Liability Litigation* (W.D. Okla.)
- *In Re Santa Fe Natural Tobacco Company Marketing, Sales Practices, and Products Liability Litigation* (D. N.M.) (false advertising/mislabeling)
- *Dusko v. Delta Airlines, Inc.*, (N.D. Ga.) (breach of contract)
- *Bombin v. Southwest Airlines Co.*, (E.D. Pa.) (breach of contract)
- *Freeman v. MAM USA Corp.* (N.D. Ill.) (false advertising/mislabeling)
- *In re: Apple Inc. App Store Simulated Casino-Style Games Litig.; In re: Facebook, Inc. App Center Simulated Casino-Style Games Litig.; and In re: Google Play Store Simulated Casino-Style Games Litig.* (N.D. Cal).

Education:

- William Mitchell College of Law - J.D. – 2007
- University of Michigan – Ann Arbor - B.A. – 2004

Bar Admissions:

- New York
- Minnesota
- Ninth Circuit Court of Appeals
- U.S. District Court, District of Minnesota
- U.S. District Court, Colorado
- U.S. District Court, Northern District of Illinois

PEARSON, SIMON & WARSHAW, LLP

- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York

Professional Associations and Memberships:

- Minnesota State Bar Association
- Federal Bar Association
- Public Justice

BOBBY POUYA

Bobby Pouya is a partner in the firm's Los Angeles office, focusing on complex litigation, class actions, and consumer protection. Mr. Pouya has been an attorney with Pearson, Simon & Warshaw, LLP since 2007, and has extensive experience in representing clients in a variety of contexts. He has served as a primary member of the litigation team in multiple cases that resulted in class certification or a class-wide settlement, including cases that involved high-technology products, price fixing, consumer safety and false and misleading advertising. The cases that Mr. Pouya has worked on have resulted in hundreds of millions of dollars in judgments and settlements on behalf of effected plaintiffs and class members.

Mr. Pouya has served as one of the attorneys representing direct purchaser plaintiffs in several complex antitrust cases, including *In re Polyurethane Foam Antitrust Litigation* (N.D. Ohio) and *In re Fresh and Processed Potatoes Antitrust Litigation* (D. Idaho). Mr. Pouya is currently actively involved in the prosecution of *In re Broiler Chicken Antitrust Litigation* (N.D. Ill), *In re Pork Antitrust Litigation* (D. Minn.), *Senne, et al. v. Office of the Commissioner of Baseball, et al.* (N.D. Cal.), as well as several prominent consumer class action lawsuits.

Mr. Pouya's success has earned him recognition by his peers as a Super Lawyers Rising Star (representing the top 2.5% of lawyers in Southern California age 40 or younger or in practice for 10 years or less) every year since 2008. Mr. Pouya earned his Juris Doctorate from Pepperdine University School of Law in 2006, where he received a certificate in dispute resolution from the prestigious Straus Institute for Dispute Resolution and participated on the interschool trial and mediation advocacy teams, the Dispute Resolution Law Journal and the Moot Court Board.

Current Cases:

- *In re Broiler Chicken Antitrust Litigation* (N.D. Ill)
- *In re Pork Antitrust Litigation* (D. Minn.)
- *In re Cattle Antitrust Litigation* (D. Minn.)
- *Senne, et al. v. Office of the Commissioner of Baseball, et al.* (N.D. Cal.)

Education:

- Pepperdine University School of Law, Malibu, California – J.D. – 2006
- University of California, Santa Barbara, California – B.A., with honors – 2003

Publications:

PEARSON, SIMON & WARSHAW, LLP

- *Should Offers Moot Claims?*, Daily Journal, Oct. 10, 2014
- *Central District Local Rules Hinder Class Certification*, Daily Journal, April 9, 2013

Bar Admissions:

- California
- Ninth Circuit Court of Appeals
- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of California
- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California

Professional Associations and Memberships:

- American Bar Association
- Consumer Attorneys Association of Los Angeles
- Consumer Attorneys of California
- Los Angeles County Bar Association

Professional Associations and Memberships:

- California State Bar Antitrust and Unfair Competition Section, Advisor and Past Chair
- ABA Global Private Litigation Committee, Co-Chair
- ABA International Cartel Workshop, Steering Committee
- American Association for Justice, Business Torts Section, Past Chair
- Business Torts Section of the American Trial Lawyers Association, Past Chair
- Hastings College of the Law, Board of Directors (2003-2015), Past Chair (2009-2011)

MICHAEL H. PEARSON

Michael H. Pearson is a Partner and civil litigator in the firm's Los Angeles office, focusing on complex litigation, class actions, and consumer protection. Mr. Pearson has extensive experience in representing clients in a variety of contexts. He has served as a member of the litigation team in multiple cases that resulted in class certification or a class-wide settlement, including cases that involved antitrust, business litigation, complex financial products, high-technology products, consumer safety, and false and misleading advertising. Specifically, he was instrumental in managing the review of tens of millions of documents and drafting pleadings in *In Re Credit Default Swaps Antitrust Litigation*, which was settled for \$1.86 billion, plus injunctive relief.

Mr. Pearson received his Bachelor of Science degree from Tulane University in 2008, majoring in Finance with an Energy Specialization. He received his Juris Doctorate from Loyola Law School Los Angeles in 2011. Mr. Pearson is an active member in a number of legal organizations, including the American, Los Angeles County and San Fernando Valley Bar Associations, Consumer Attorneys of California, the Consumer Attorneys Association of Los Angeles and the Association of Business Trial Lawyers.

PEARSON, SIMON & WARSHAW, LLP

Mr. Pearson's success has earned him recognition by his peers as a Super Lawyers Rising Star (representing the top 2.5% of lawyers in Southern California age 40 or younger or in practice for 10 years or less) in 2017, 2018, 2019, 2020, 2021, and 2022.

Current Casesw:

- *City of Oakland v. The Oakland Raiders, et al.* (N.D. Cal.)
- *In re Broiler Chicken Antitrust Litigation* (N.D. Ill.)
- *In re Pork Antitrust Litigation* (D. Minn.)
- *Senne, et al. v. Office of the Commissioner of Baseball, et al.* (N.D. Cal.)

Education:

- Loyola Law School Los Angeles, Los Angeles, California – J.D. – 2011
- Tulane University, New Orleans, Louisiana – B.S., *magna cum laude* – 2008

Bar Admissions:

- California
- Ninth Circuit Court of Appeals
- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of California
- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California

Professional Associations and Memberships:

- American Bar Association
- Association of Business Trial Lawyers
- Consumer Attorneys Association of Los Angeles
- Consumer Attorneys of California
- Los Angeles County Bar Association
- San Fernando Valley Bar Association

BENJAMIN E. SHIFTAN

Benjamin E. Shiftan is a Partner in the firm's San Francisco office. Since joining the firm in 2014, Mr. Shiftan has focused on complex class action litigation, including antitrust, insurance, wage and hour, product defect, and consumer protection cases. In 2019, Mr. Shiftan received an award from the American Antitrust Institute for "Outstanding Antitrust Litigation Achievement in Private Law Practice" in connection with his and PSW's work on the groundbreaking *In re: NCAA Athletic Grant-in-Aid Cap Antitrust Litigation* (N.D. Cal. Case No. 14-md-2541-CW). The damages portion of the case settled for \$208 million dollars, while the injunctive relief phase of the case ended with a 9-0 victory in front of the Supreme Court of the United States.

Prior to joining the firm, Mr. Shiftan litigated complex bad faith insurance cases for a national law firm. Before that, Mr. Shiftan served as a law clerk to the Honorable Peter G. Sheridan, United States District Court for the District of New Jersey, and worked for a mid-sized firm in San Diego.

PEARSON, SIMON & WARSHAW, LLP

Mr. Shiftan graduated from the University of San Diego School of Law in 2009. While in law school, he served as Lead Articles Editor of the San Diego International Law Journal and competed as a National Team Member on the Moot Court Board. Mr. Shiftan won the school's Paul A. McLennon, Sr. Honors Moot Court Competition. At graduation, he was one of ten students inducted into the Order of the Barristers. Mr. Shiftan graduated from the University of Virginia in 2006.

Current Cases:

- *In re Pork Antitrust Litigation* (D. Minn.)
- *Senne, et al. v. Office of the Commissioner of Baseball, et al.* (N.D. Cal.)
- *North American Soccer League, LLC v. United States Soccer Federation, Inc., and Major League Soccer, L.L.C.* (E.D.N.Y.)

Education:

- University of San Diego School of Law, San Diego, CA – J.D. – 2009
- University of Virginia, Charlottesville, VA – B.A. – 2006

Bar Admissions:

- California
- Ninth Circuit Court of Appeals
- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of California
- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California

Professional Associations and Memberships:

- San Francisco County Bar Association
- American Bar Association

JILL M. MANNING

Jill M. Manning is a Partner in the firm's San Francisco Office. Ms. Manning has over twenty years of experience representing businesses and consumers in complex and class action litigation, with a focus on antitrust, unfair competition and consumer protection cases. She has successfully represented plaintiffs in some of the leading cases brought under federal and state antitrust and consumer protection. She has sued price-fixing cartels, high tech companies, electronics manufacturers, agribusinesses, healthcare companies and the NCAA, and achieved recoveries exceeding \$1.5 billion.

In the antitrust area, Ms. Manning is Co-Counsel for direct purchaser plaintiffs in an antitrust case against the leading suppliers of broiler chickens sold in the United States. *In re: Broiler Chicken Antitrust Litig.* (N.D. Ill). She represented direct purchasers in an antitrust class action involving a conspiracy to raise the price of potatoes and secured an \$18.5 million settlement and injunctive relief valued at over \$1 billion. *In re: Fresh and Process Potatoes Antitrust Litig.* (D. Idaho). She

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played an integral role in prosecuting one of the nation's largest indirect purchaser antitrust class actions and was recognized by Special Master Martin Quinn as "one of the leaders in structuring and managing the overall document retrieval effort." *In re TFT-LCD (Flat Panel) Antitrust Litig.* (N.D. Cal) (\$1.082 billion all-cash settlement).

In the consumer protection field, Ms. Manning was appointed by Judge Koh as Co-Lead Counsel for the certified class in *Grace v. Apple Inc.* (N.D. Cal.), a case alleging that Apple caused the popular FaceTime feature to stop working on certain iPhone devices. Ms. Manning was appointed by Judge Lee on Plaintiffs' Steering Committee in cases against the NCAA on behalf of Division I football players who suffered concussion-related personal injuries. *In re: NCAA Student/Athlete Concussion Injury Litig.* (N.D. Ill.). She was appointed by Judge Davila to Plaintiffs' Steering Committee in cases challenging the conduct of Apple, Google, and Facebook in supporting and profiting from illegal social casinos on their platforms. *In re: Apple Inc. App Store Simulated Casino-Style Games Litig.; In re Facebook Inc. App Center Simulated Casino-Style Games Litig.; In re Google Play Store Simulated Casino-Style Games Litig.* (N.D. Cal).

Ms. Manning represented Eduardo Saverin in *Facebook v. Saverin* (Santa Clara Sup. Ct.), one of the cases featured in the Academy Award-winning movie, *The Social Network*, and achieved a confidential settlement.

In addition to her legal practice, Ms. Manning has demonstrated leadership in her professional life and community. She served as Chair of the Executive Committee of the Antitrust and Unfair Competition Law Section of the California Bar Association during the 2017-2018 term and presently serves as an Advisor. During her tenure, she implemented numerous live and on-line educational opportunities for section members and created "Celebrating Women in Competition Law in California," an annual panel presentation and networking event now in its fifth year. She is a court-appointed neutral for the Northern District of California's Early Neutral Evaluation Program and a trained private mediator. She is an elected official, serving on the Board of Trustees of Shoreline Unified School District since 2010, and as President of the Board since 2016.

Current Cases:

- *Grace v. Apple Inc.* (N.D. Cal.)
- *In re: Apple Inc. App Store Simulated Casino-Style Games Litig.; In re: Facebook, Inc. App Center Simulated Casino-Style Games Litig.; and In re: Google Play Store Simulated Casino-Style Games Litig.* (N.D. Cal).
- *In re: Broiler Chicken Antitrust Litig.* (N.D. Ill)
- *In re: NCAA Student/Athlete Concussion Injury Litig.* (N.D. Ill)
- *In re: Pork Antitrust Litig.* (D. Minn)
- *Senne, et al. v. Office of the Commissioner of Baseball, et al.* (N.D. Cal.)

Education:

- Cambridge University, Pembroke College (summer 1990)
- B.A., University of California at Davis (1991)
- J.D., University of San Francisco School of Law (1995)

PEARSON, SIMON & WARSHAW, LLP

Bar Admissions:

- United States Supreme Court
- United States Court of Appeals for the Second Circuit
- United States Court of Appeals for the Ninth Circuit
- United States District Court for the Northern District of California
- United States District Court for the Central District of California
- United States District Court for the Southern District of California
- State of California

Professional Associations and Memberships:

- American Bar Association, Antitrust Section\
- Bar Association of San Francisco, Antitrust Section
- California Lawyers Association, Antitrust and Unfair Competition Law Section
- Marin County Bar Association

Recent Events / Speaking Engagements:

- Panelist, Teatime with Angeion: Work-Life Balance in the COVID Era, March 4, 2021
- Creator and Co-Chair, Fourth Annual “Celebrating Women in Competition Law in California,” moderated by the Honorable Yvonne Gonzalez Rogers, March 5, 2020
- Moderator, “Big Stakes Antitrust Trial: *In re Korean Ramen Antitrust Litigation*,” 29th Annual Golden State Antitrust Law Institute, Panel Presentation, November 14, 2019
- Moderator, “Managing Antitrust and Complex Business Trials,” featuring the Honorable William Alsup, Laurel Beeler, and Edward Chen, 28th Annual Golden State Antitrust, UCL and Privacy Law Institute, Panel Presentation, November 8, 2018

PEARSON, SIMON & WARSHAW, LLP

OF COUNSEL

NEIL SWARTZBERG

Neil Swartzberg, Of Counsel to Pearson, Simon & Warshaw, LLP, has significant litigation and counseling experience, with a track record of providing advice and representation to individuals and companies. He has expertise in complex and commercial litigation, focusing on consumer protection, antitrust and securities laws, primarily in the class action context. Practicing in both federal and state courts, he has litigated price-fixing class actions, securities fraud suits and other consumer protection cases, as well as patent infringement, trade secret misappropriation and related intellectual property matters.

Mr. Swartzberg was a leading attorney in the direct purchaser plaintiff class action *In re Static Random Access Memory (SRAM) Antitrust Litigation* (N.D. Cal.). He was also actively involved in several other antitrust class actions, such as *In re International Air Transportation Surcharge Antitrust Litigation* (N.D. Cal.), *Air Cargo Shipping Services Antitrust Litigation* (E.D.N.Y.), *In re Cathode Ray Tube (CRT) Antitrust Litigation* (N.D. Cal.), and *In re Optical Disk Drive (ODD) Antitrust Litigation* (N.D. Cal.). In addition, he has represented patent owners and companies in infringement cases for patents covering video game controllers, Internet search functionality, secure mobile banking transactions and telecommunications switches.

His current cases include: direct purchaser antitrust class actions against the leading domestic producers of poultry (broiler chickens) and pork; several class actions on behalf students against colleges and universities seeking partial refunds of tuition and fees because of the schools closing their campuses and transitioning to online-only classes in the wake of COVID-19; an antitrust suit challenging the conduct of Major League Soccer and the United States Soccer Federation to exclude competition in men's professional soccer; and, two consumer class actions against airlines who failed to provide proper refunds when they canceled passengers' flights following COVID-19.

Current Cases:

- *In re Broiler Chicken Antitrust Litigation* (N.D. Ill.)
- *In re Pork Antitrust Litigation* (D. Minn.)
- *Vakilzadeh v. The Trustees of California State University* (Cal. Sup. Ct., Los Angeles)
- *North American Soccer League, LLC v. United States Soccer Federation, Inc.* (E.D.N.Y.)
- *Bombin v. Southwest Airlines Co.* (E.D. Pa.)
- *Dusko v. Delta Air Lines, Inc.* (N.D. Ga.)

Education:

- University of California, Davis, School of Law– J.D. – 2001
- State University of New York, Buffalo – M.A. – 1994
- Duke University – A.B. – 1991

PEARSON, SIMON & WARSHAW, LLP

Bar Admissions:

- California
- Ninth Circuit Court of Appeals
- Federal Circuit Court of Appeals
- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of California
- U.S. District Court, Eastern District of Missouri
- U.S. District Court, Western District of Pennsylvania

Publications and Presentations:

- *The Hard Cell, Mobile banking and the Federal Circuit's "divided infringement" decisions*, Feb. 2013, Intellectual Property magazine, with Robert D. Becker.

Professional Associations and Memberships:

- American Bar Association

Languages:

- German (proficient)

PEARSON, SIMON & WARSHAW, LLP

ASSOCIATES

NAVEED ABAIE

Naveed Abaie is an associate in the firm's Los Angeles office focusing on consumer protection, antitrust, and business litigation.

He graduated from the University of San Diego, School of Law in 2017. While at the University of San Diego, Mr. Abaie earned his J.D. with a concentration in Business and Corporate Law. Mr. Abaie received his Bachelor's degree from the University of California, Berkeley Haas School of Business in 2012.

Current Cases:

- *In re Broiler Chicken Antitrust Litigation* (N.D. Ill)
- *In re Pork Antitrust Litigation* (D. Minn.)

Education:

- University of San Diego, California – J.D. – 2017
- University of California, Berkeley, California – B.A.– 2012

Bar Admissions:

- California

Professional Associations and Memberships:

- Iranian American Bar Association

MATTHEW A. PEARSON

Matthew A. Pearson is an associate in the firm's Los Angeles office focusing on antitrust, consumer protection, copyright, and business litigation. Mr. Pearson has represented clients in a variety of different matters and works closely with clients, co-counsel, and opposing counsel on all aspects of litigation.

In 2019, Mr. Pearson received the award for Outstanding Antitrust Litigation Achievement in Private Law Practice by the American Antitrust Institute for his work in the *In re National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation* (N.D. Cal.) trial, which took place in September of 2018 and resulted in a verdict in Plaintiffs' favor. Additionally, in 2019, Mr. Pearson was selected by his peers as a Super Lawyer (representing the top 5% of practicing lawyers in Southern California).

PEARSON, SIMON & WARSHAW, LLP

Mr. Pearson received his Bachelor of Science degree from the University of Arizona in 2010, majoring in Business Management. He received his Juris Doctorate from Whittier Law School in 2013. Mr. Pearson is an active member in a number of legal organizations, including the American Bar Association, American Association for Justice, Association of Business Trial Lawyers, Consumer Attorneys Association of Los Angeles, Consumer Attorneys of California, and the Los Angeles County Bar Association.

Current Cases:

- *In re Pork Antitrust Litigation* (D. Minn.)
- *Greg Kihn, et al. v. Bill Graham Archives, LLC, et al.* (N.D. Cal.)
- *In re KIND LLC “Healthy and All Natural” Litigation* (S.D.N.Y.)
- *In re National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation* (N.D. Cal.)
- *North American Soccer League, LLC v. United States Soccer Federation, Inc., and Major League Soccer, L.L.C.* (E.D.N.Y.)
- *In Re Cattle Antitrust Litigation* (D. Minn.)

Education:

- Whittier Law School, California – J.D. – 2013
- University of Arizona: Eller College of Management – B.S.– 2010

Bar Admissions:

- California
- Ninth Circuit Court of Appeals
- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of California
- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California

Professional Associations and Memberships:

- American Bar Association
- American Association for Justice
- Association of Business Trial Lawyers
- Consumer Attorneys Association of Los Angeles
- Consumer Attorneys of California
- Los Angeles County Bar Association

PEARSON, SIMON & WARSHAW, LLP

BRIAN S. PAFUNDI

Brian S. Pafundi is an associate in the firm's Minneapolis office focusing on antitrust and consumer class actions.

Mr. Pafundi graduated from University of Florida Levin College of Law in 2010. After law school he worked as an Assistant Public Defender for the State of Minnesota where he handled a full and diverse caseload including felony trials.

Mr. Pafundi received his B.A. in Political Science in 2005 and a Master of Arts degree in Mass Communications in 2009, both from the University of Florida.

Current Case:

- *In re Pork Antitrust Litigation* (D. Minn.)

Education:

- University of Florida Levin College of Law – J.D. – 2010
- University of Florida College of Journalism and Communications – M.A. – 2009
- University of Florida College of Liberal Arts and Science – B.A. – 2005

Bar Admission:

- Minnesota

ALEXANDER P. WINDING

Alexander P. Winding is an associate in the firm's San Francisco office focusing on consumer protection, antitrust, and business litigation.

Mr. Winding received his Bachelor of Arts degree from the University of California, Berkeley in 2015, majoring in the Japanese language and graduating with honors. He received his Juris Doctorate from the University of California, Hastings College of Law in 2020.

Current Case:

- *In re Pork Antitrust Litigation* (D. Minn.)

Education:

- University of California, Hastings College of Law – J.D. – 2020
- University of California, Berkeley, California – B.A.– 2015

Bar Admission:

- California

PEARSON, SIMON & WARSHAW, LLP

KYLE R. COSTELLO

Kyle R. Costello is an associate in the firm's Minneapolis office focusing on class actions, consumer protection, and complex litigation.

Mr. Costello, born and raised in New Jersey and graduated from Rutgers Law in 2010. He then began a career in contracts management for large corporations. In 2018, Kyle moved to Minnesota to transition into litigation. There he clerked for The Honorable Assistant Chief Judge Sarah Hennesy of the Seventh Judicial District of Minnesota. Subsequently he advocated for indigent clients as a Public Defender in Olmsted County, Minnesota. Kyle brings a wealth of corporate knowledge and trial experience to Pearson, Simon & Warshaw, LLP.

Current Case:

- *In re Pork Antitrust Litigation* (D. Minn.)

Education:

- Rutgers School of Law, New Jersey – 2010
- Manhattan College – 2007

Bar Admission:

- Minnesota

ADRIAN J. BUONANOCE

Adrian J. Buonanoce is an associate in the firm's Los Angeles office, focusing on antitrust litigation.

Mr. Buonanoce received a Bachelor's degree in Political Economy from the University of California, Berkeley in 2012. He earned his Juris Doctorate from the University of San Diego School of Law with a concentration in International Law in 2018.

Current Case:

- *In re Pork Antitrust Litigation* (D. Minn.)

Education:

- University of San Diego, California – J.D. – 2018
- University of California, Berkeley, California – B.A. – 2012

Bar Admissions:

- California

Exhibit 4

Declaration of Will Lowrey, Esq.
Animal Outlook

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**DECLARATION OF WILL LOWREY ON BEHALF OF ANIMAL OUTLOOK,
F/K/A COMPASSION OVER KILLING, IN SUPPORT OF PLAINTIFFS' PETITION
FOR AN AWARD OF ATTORNEYS' FEES AND COSTS, AND SERVICE AWARDS**

I, WILL LOWREY, declare and state as follows:

1. I am an attorney with Animal Outlook, formerly known as Compassion Over Killing ("AO"). I submit this Declaration in support of Plaintiffs' Petition for an Award of Attorneys' Fees and Costs, and Service Awards, and in connection with services rendered and expenses incurred by AO in connection with this litigation.

2. AO previously acted as counsel in this action. During the period from case inception through October 2, 2019, AO conducted the following activities for the common benefit of Plaintiffs:

- a. Analyzed and cataloged video evidence captured during third party investigation of Defendant's facilities into a memorandum; and
- b. Conducted research on Defendant's advertising claims, relevant law, and created a legal memorandum outlining potential false advertising litigation.

3. The total number of common benefit hours expended on this litigation by AO from case inception through October 2, 2019, is 47 hours. The total common benefit lodestar for AO in this time period is \$15,975.

4. For the time period October 3, 2019, through June 30, 2022, and at the request of Plaintiffs' Co-Lead Counsel, AO conducted the following activities for the common benefit of Plaintiffs:

- a. Reviewed and provided edits for the amended complaint;
- b. Drafted a memorandum on dairy industry standards to support settlement discussions; and
- c. Reviewed multiple rounds of settlement proposals, met with lead counsel on numerous occasions to discuss settlement terms, conducted research into various settlement terms, coordinated unified response to settlement terms with counsel from the Animal Legal Defense Fund, and drafted counter-proposals, and researched potential cy pres recipients.

5. The total number of hours expended on this litigation by AO from for the time period October 3, 2019, through June 30, 2022, for the common benefit of Plaintiff and class members, is 72.8 hours. The total common benefit lodestar for AO in this time period is \$25,037.50.

6. The total number of common benefit hours expended on this litigation by AO from case inception through June 30, 2022, is 119.8 hours. The total lodestar for AO is \$41,012.50. AO's lodestar figures are based on the firm's current hourly billing rates. The hourly rates for the partners, attorneys, and professional support staff in AO are the same as the usual and customary hourly rates charged for their services in contingent billable matters. The total number of hours

was determined by the examination of daily time records regularly prepared and maintained by AO and which have been provided to Co-Lead Counsel for their review.

7. Attached hereto as **Exhibit A** is a detailed summary indicating the amount of time spent by the partners, attorneys and other professional support staff of AO who have been involved in this litigation, and the lodestar calculation is based on AO's current hourly billing rates from case inception through June 30, 2022.

8. As detailed in **Exhibit B**, AO has incurred a total of \$0.00 in unreimbursed expenses during the period from case inception through June 30, 2022.

9. The expenses incurred in this action are reflected on the books and records of AO. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

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 19th of July 2022 at RICHMOND, VIRGINIA.



Will Lowrey
Former Counsel for Plaintiff Eliana Salzhauer

Exhibit A

Animal Outlook
Lodestar Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit A

Lodestar Summary

Firm: **Animal Outlook**
Reporting Period: **Inception through June 30, 2022**

| Professional | Title | Hourly Rate | Total Hours | Total Lodestar |
|---------------------|-----------------------------------|--------------------|--------------------|-----------------------|
| Hoffman, Piper | Senior Director of Legal Advocacy | \$475.00 | 9.5 | \$4,512.5 |
| Leahy, Cheryl | Executive Director | \$550.00 | 13.7 | \$7,535.00 |
| Lowrey, Will | Legal Counsel | \$300.00 | 60.6 | \$18,165.00 |
| Muren, Greg | Legal Fellow | \$300.00 | 36 | \$10,800.00 |
| Totals | | | 119.8 | \$41,012.50 |

Title:
 Partner (P)
 Associate (A)
 Paralegal (PL)
 Of Counsel (OC)
 Law Clerk (LC)
 Legal Assistant (LA)

Exhibit B

Animal Outlook Expense Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit B

Expense Summary

Firm: **Animal Outlook**
Reporting Period: **Inception through June 30, 2022**

| Expense | Amount |
|--|---------------|
| Court Costs (<i>i.e.</i> , Filing Fees) | |
| Experts / Consultants | |
| Federal Express / UPS | |
| Postage / U.S. Mail | |
| Service of Process | |
| Messenger / Delivery | |
| Hearing Transcripts | |
| Investigation | |
| Westlaw / Lexis | |
| Photocopies (in House) | |
| Photocopies (Outside) | |
| Telephone / Telecopier | |
| Travel – Transportation | |
| Travel – Meals | |
| Travel – Hotels | |
| Miscellaneous | |
| Total | \$0.00 |

Exhibit 5

Declaration of Kenneth S. Canfield, Esq.
Doffermyre Shields Canfield & Knowles, LLC

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**DECLARATION OF KENNETH S. CANFIELD ON BEHALF OF
DOFFERMYRE SHIELDS CANFIELD & KNOWLES, LLC IN
SUPPORT OF PLAINTIFFS' PETITION FOR AN AWARD OF
ATTORNEYS' FEES AND COSTS, AND SERVICE AWARDS**

I, Kenneth S. Canfield, declare and state as follows:

1. I am a partner at the law firm of Doffermeyre Shields Canfield & Knowles, LLC. I submit this Declaration in support of Plaintiffs' Petition for an Award of Attorneys' Fees and Costs, and Service Awards, and in connection with services rendered and expenses incurred by my firm in connection with this litigation.

2. My firm has acted as counsel in this action. Specifically, my firm was one of Plaintiffs' counsel in the *Salzhauer v. The Coca-Cola Company and Fairlife, LLC* action, which was consolidated in this MDL. During the period from case inception through October 2, 2019, my firm conducted the following activities for the common benefit of Plaintiffs:

- a. Research concerning the potential causes of action which Plaintiffs could bring in this litigation;
- b. Discussions with co-counsel concerning case strategy; and

c. Research regarding Defendants' liability for the allegations in this lawsuit.

3. The total number of common benefit hours expended on this litigation by my firm from case inception through October 2, 2019, is 10.0 hours. The total common benefit lodestar for my firm in this time period is \$10,000.00.

4. For the time period October 3, 2019, through June 30, 2022, and at the request of Plaintiffs' Co-Lead Counsel, my firm conducted the following activities for the common benefit of Plaintiffs:

a. Participating in strategy discussions with co-counsel related to the ongoing litigation of the case.

5. The total number of hours expended on this litigation by my firm from for the time period October 3, 2019, through June 30, 2022, for the common benefit of Plaintiff and class members, is 5.2 hours. The total lodestar for my firm in this time period is \$5,200.00.

6. The total number of common benefit hours expended on this litigation by my firm from case inception through June 30, 2022, is 15.2 hours. The total lodestar for my firm is \$15,200.00. My firm's lodestar figures are based on the firm's current hourly billing rates. The hourly rates for the partners, attorneys, and professional support staff in my firm are the same as the usual and customary hourly rates charged for their services in contingent billable matters. The total number of hours was determined by the examination of daily time records regularly prepared and maintained by my firm and which have been provided to Co-Lead Counsel for their review.

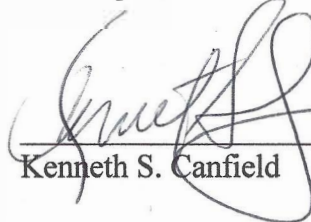
7. Attached hereto as **Exhibit A** is a detailed summary indicating the amount of time spent by the partners, attorneys and other professional support staff of my firm who have been involved in this litigation, and the lodestar calculation is based on my firm's current hourly billing rates from case inception through June 30, 2022.

8. As detailed in **Exhibit B**, my firm has incurred a total of \$1,031.00 in unreimbursed expenses during the period from case inception through June 30, 2022.

9. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

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 19th day of July, 2022 at Aspen, Colorado.



Kenneth S. Canfield

Counsel for Plaintiff Salzhauer

Exhibit A

Doffermyre Shields Canfield & Knowles, LLC
Lodestar Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

Exhibit B

Doffermyre Shields Canfield & Knowles, LLC
Expense Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit B

Expense Summary

Firm: **Doffermyre Shields Canfield & Knowles, LLC**
Reporting Period: **Inception through June 30, 2022**

| Expense | Amount |
|--|-------------------|
| Court Costs (<i>i.e.</i> , Filing Fees) | \$1,031.00 |
| Experts / Consultants | |
| Federal Express / UPS | |
| Postage / U.S. Mail | |
| Service of Process | |
| Messenger / Delivery | |
| Hearing Transcripts | |
| Investigation | |
| Westlaw / Lexis | |
| Photocopies (in House) | |
| Photocopies (Outside) | |
| Telephone / Telecopier | |
| Travel – Transportation | |
| Travel – Meals | |
| Travel – Hotels | |
| Miscellaneous | |
| Total | \$1,031.00 |

Exhibit 6

Declaration of Yeremey O. Krivoshey, Esq.
Bursor & Fisher, P.A.

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**DECLARATION OF YEREMEY O. KRIVOSHEY ON BEHALF OF BURSOR &
FISHER, P.A. IN SUPPORT OF PLAINTIFFS' PETITION FOR AN AWARD
OF ATTORNEYS' FEES AND COSTS, AND SERVICE AWARDS**

I, Yeremey O. Krivoshey, declare and state as follows:

1. I am a partner at the law firm of Bursor & Fisher, P.A. I submit this Declaration in support of Plaintiffs' Petition for an Award of Attorneys' Fees and Costs, and Service Awards, and in connection with services rendered and expenses incurred by my firm in connection with this litigation.

2. My firm has acted as counsel in this action. Specifically, my firm filed *Michael v. Fairlife, LLC, et al.*, No. 1:19-cv-03924 (N.D. Ill.) and *Honeycutt v. Fair Oaks Farms Food, LLC*, 2:20-cv-00099 (N.D. Ind.), which were consolidated in this MDL, and individually represents class representative Paula Honeycutt. During the period from case inception through October 2, 2019, my firm conducted the following activities for the common benefit of Plaintiffs:

- a. investigated potential legal claims arising from Defendants' misrepresentations as described in the complaint;

- b. analyzed Defendants' representations on their website and in their marketing materials;
- c. researched Defendants' corporate structure;
- d. investigated the potential damages model and injunctive relief for the claims in this action and discussed the case with a potential damages expert;
- e. evaluated the adequacy of the named plaintiffs;
- f. drafted and filed the first-filed complaints concerning both Fairlife milk (*Michael*) and Fair Oaks Farms milk (*Honeycutt*);
- g. reviewed public documentation, studies, reviews and articles about consumer preferences for animal-welfare related marketing and labeling;
- h. argued successfully before the JPML to transfer all related cases to the Northern District of Illinois; and
- i. worked closely with attorneys at the Animal Legal Defense Fund ("ALDF") since June 2019 in furtherance of their ongoing investigation and litigation of the claims at issue and was able to glean significant information from ALDF's investigations into these issues dating back to 2017.

3. The total number of common benefit hours by my firm from case inception through October 2, 2019, is 197.7 hours, as vetted by Plaintiffs' Co-Lead Counsel. The total common benefit lodestar for my firm in this time period is \$115,647.50.

4. For the time period October 3, 2019, through June 30, 2022, and at the request of Plaintiffs' Co-Lead Counsel, my firm conducted the following activities for the common benefit of Plaintiffs:

- a. investigated potential legal claims arising from Fair Oaks Farms' misrepresentations and ultimately filed the complaint in *Honeycutt v. Fair Oaks Farms Food, LLC*, 2:20-cv-00099 (N.D. Ind.);
- b. attended court proceedings in *In re Fairlife* and *Honeycutt*;
- c. participated in all aspects of the mediation process with Judge Andersen, including reviewing discovery produced, preparing and reviewing mediation briefs, evaluating all settlement offers and counteroffers, and attending all mediation sessions with Judge Andersen; and
- d. assisted with preparing the settlement agreement and preliminary approval motion.

5. The total number of hours expended on this litigation by my firm from for the time period October 3, 2019, through June 30, 2022, for the common benefit of Plaintiff and class members, is 144.9 hours, as vetted by Plaintiffs' Co-Lead Counsel. The total lodestar for my firm in this time period is \$105,667.50.

6. The total number of common benefit hours expended on this litigation by my firm from case inception through June 30, 2022, is 342.6 hours, as vetted by Plaintiffs' Co-Lead Counsel. The total lodestar for my firm is \$221,315.00. My firm's lodestar figures are based on the firm's current hourly billing rates. The hourly rates for the partners, attorneys, and professional support staff in my firm are the same as the usual and customary hourly rates charged for their services in contingent billable matters. The total number of hours was determined by the examination of daily time records regularly prepared and maintained by my firm and which have been provided to Co-Lead Counsel for their review.

7. Attached hereto as **Exhibit A** is a detailed summary indicating the amount of time spent by the partners, attorneys and other professional support staff of my firm who have been involved in this litigation, and the lodestar calculation is based on my firm's current hourly billing rates from case inception through June 30, 2022, as vetted by Plaintiffs' Co-Lead Counsel.

8. As detailed in **Exhibit B**, my firm has incurred a total of \$3,614.67 in unreimbursed expenses during the period from case inception through June 30, 2022.

9. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

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 20th of July 2022 at Louisville, Kentucky.



Yeremey O. Krivoshey

Counsel for Plaintiff Honeycutt

Exhibit A

Bursor & Fisher, P.A.
Lodestar Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

Exhibit B

Bursor & Fisher, P.A.
Expense Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit B

Expense Summary

Firm: **Bursor & Fisher, P.A.**
Reporting Period: **Inception through June 30, 2022**

| Expense | Amount |
|--|-------------------|
| Court Costs (<i>i.e.</i> , Filing Fees) | \$150.00 |
| Experts / Consultants | |
| Federal Express / UPS | |
| Postage / U.S. Mail | |
| Service of Process | |
| Messenger / Delivery | |
| Hearing Transcripts | |
| Investigation | |
| Westlaw / Lexis | |
| Photocopies (in House) | |
| Photocopies (Outside) | |
| Telephone / Telecopier | |
| Travel – Transportation | \$2,700.39 |
| Travel – Meals | \$201.35 |
| Travel – Hotels | \$562.93 |
| Miscellaneous | |
| Total | \$3,614.67 |

Exhibit 7

Declaration of Carl V. Malmstrom, Esq.
Wolf Haldenstein Adler Freeman & Herz LLC

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**DECLARATION OF CARL V. MALMSTROM ON BEHALF OF WOLF
HALDENSTEIN ADLER FREEMAN & HERZ LLC IN SUPPORT OF
PLAINTIFFS' PETITION FOR AN AWARD OF ATTORNEYS' FEES
AND COSTS, AND SERVICE AWARDS**

I, Carl V. Malmstrom, declare and state as follows:

1. I am Of Counsel at the law firm of Wolf Haldenstein Adler Freeman & Herz LLC.

I submit this Declaration in support of Plaintiffs' Petition for an Award of Attorneys' Fees and Costs, and Service Awards, and in connection with services rendered and expenses incurred by my firm in connection with this litigation.

2. My firm has acted as counsel in this action. Specifically, my firm filed *Honeycutt v. Fair Oaks Farms Food, LLC*, Case No. 1:20-cv-4647, N.D. Ill., which was consolidated in this MDL, and individually represents class representative Paula Honeycutt. During the period from case inception through October 2, 2019, my firm conducted the following activities for the common benefit of Plaintiffs:

a. We conducted preliminary research and were retained by two plaintiffs.

Four more potential plaintiffs reached out to our firm, and all six were vetted

by lead counsel following consolidation. We conducted initial research into the case, and we spoke with animal rights groups regarding potential involvement in the litigation.

3. The total number of common benefit hours expended on this litigation by my firm from case inception through October 2, 2019, is 65.5 hours. The total common benefit lodestar for my firm in this time period is \$41,251.50.

4. For the time period October 3, 2019, through June 30, 2022, and at the request of Plaintiffs' Co-Lead Counsel, my firm conducted the following activities for the common benefit of Plaintiffs:

- a. We were retained by Plaintiff Paula Honeycutt in the *Fair Oaks Farms Foods* matter. We researched the separate allegations, drafted the complaint, filed it; and assisted in the mediation and settlement efforts of lead counsel.

5. The total number of hours expended on this litigation by my firm from for the time period October 3, 2019, through June 30, 2022, for the common benefit of Plaintiff and class members, is 58.8 hours. The total lodestar for my firm in this time period is \$32,872.00.

6. The total number of common benefit hours expended on this litigation by my firm from case inception through June 30, 2022, is 124.3 hours. The total lodestar for my firm is \$74,123.50. My firm's lodestar figures are based on the firm's current hourly billing rates. The hourly rates for the partners, attorneys, and professional support staff in my firm are the same as the usual and customary hourly rates charged for their services in contingent billable matters. The total number of hours was determined by the examination of daily time records regularly prepared and maintained by my firm and which have been provided to Co-Lead Counsel for their review.

7. Attached hereto as **Exhibit A** is a detailed summary indicating the amount of time spent by the partners, attorneys and other professional support staff of my firm who have been involved in this litigation, and the lodestar calculation is based on my firm's current hourly billing rates from case inception through June 30, 2022.

8. As detailed in **Exhibit B**, my firm has incurred a total of \$2,959.04 in unreimbursed expenses during the period from case inception through June 30, 2022.

9. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

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 19th of July 2022 at Skokie, Illinois.



Carl V. Malmstrom

Counsel for Plaintiff Paula Honeycutt

Exhibit A

Wolf Haldenstein Adler Freeman & Herz LLC
Lodestar Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit A

Lodestar Summary

Firm: **Wolf Haldenstein Adler Freeman & Herz LLC**
Reporting Period: **Inception through June 30, 2022**

| Professional | Title | Hourly Rate | Total Hours | Total Lodestar |
|---------------------|--------------|--------------------|--------------------|-----------------------|
| Cirigliano, Jim | PL | \$330.00 | 1.5 | \$495.00 |
| Guiney, Matthew | P | \$615.00 | 27.9 | \$16,911.50 |
| Krasner, Daniel | P | \$980.00 | 0.5 | \$490.00 |
| Malmstrom, Carl | OC | \$560.00 | 84.2 | \$46,945.00 |
| Smith, Jeffrey | P | \$910.00 | 10.2 | \$9,282.00 |
| | | | | |
| | | | | |
| Totals | | | 124.3 | \$74,123.50 |

Title:

- Partner (P)
- Associate (A)
- Paralegal (PL)
- Of Counsel (OC)
- Law Clerk (LC)
- Legal Assistant (LA)

Exhibit B

Wolf Haldenstein Adler Freeman & Herz LLC
Expense Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit B

Expense Summary

Firm: **Wolf Haldenstein Adler Freeman & Herz LLC**
Reporting Period: **Inception through June 30, 2022**

| Expense | Amount |
|---|------------------|
| Court Costs (<i>i.e.</i> , Filing Fees) | \$1044.15 |
| Experts / Consultants | |
| Federal Express / UPS | \$52.95 |
| Postage / U.S. Mail | \$7.75 |
| Service of Process | |
| Messenger / Delivery | |
| Hearing Transcripts | \$72.25 |
| Investigation | |
| Westlaw / Lexis | \$1643.05 |
| Photocopies (in House) | |
| Photocopies (Outside) | |
| Telephone / Telecopier | \$11.87 |
| Travel – Transportation | \$120.20 |
| Travel – Meals | |
| Travel – Hotels | |
| Miscellaneous (binding for courtesy copy) | \$6.82 |
| Total | \$2959.04 |

Exhibit 8

Declaration of Hassan A. Zavareei, Esq.
Tycko & Zavareei LLP

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**DECLARATION OF HASSAN A. ZAVAREEI ON BEHALF OF
TYCKO & ZAVAREEI LLP IN SUPPORT OF PLAINTIFFS' PETITION FOR AN
AWARD OF ATTORNEYS' FEES AND COSTS, AND SERVICE AWARDS**

I, Hassan A. Zavareei, declare and state as follows:

1. I am a founding partner of the law firm of Tycko & Zavareei LLP. I submit this Declaration in support of Plaintiffs' Petition for an Award of Attorneys' Fees and Costs, and Service Awards, and in connection with services rendered and expenses incurred by my firm in connection with this litigation.

2. My firm has acted as counsel in this action. Specifically, my firm filed *Henderson v. The Coca-Cola Co. and Fairlife, LLC* (D. Mass.), which was consolidated in this MDL, and individually represents Henry Henderson. During the period from case inception through October 2, 2019, my firm conducted the following activities for the common benefit of Plaintiffs:

- a. Prepared and filed the complaint in *Henderson v. The Coca Cola Co.* (D. Mass.), and effected service of process;
- b. Prepared and sent a demand letter to Fairlife, LLC and the Coca Cola Company pursuant to Mass. Gen. Laws c. 93A;

- c. Reviewed and finalized transfer documents; and
- d. Conferred with opposing counsel regarding extension of time to answer.

3. The total number of common benefit hours expended on this litigation by my firm from case inception through October 2, 2019, is 14.3 hours. The total common benefit lodestar for my firm in this time period is \$6,877.70.

4. For the time period October 3, 2019, through June 30, 2022, and at the request of Plaintiffs' Co-Lead Counsel, my firm conducted the following activities for the common benefit of Plaintiffs:

- a. Reviewed the conditional transfer order;
- b. Appeared in the proceedings; and
- c. Coordinated with co-counsel and counsel in related cases regarding proceedings and scheduling in the consolidated cases.

5. The total number of hours expended on this litigation by my firm from for the time period October 3, 2019, through June 30, 2022, for the common benefit of Plaintiff and class members, is 2.7 hours. The total lodestar for my firm in this time period is \$1,294.30.

6. The total number of common benefit hours expended on this litigation by my firm from case inception through June 30, 2022, is 17.0 hours. The total lodestar for my firm is \$8,172.00. My firm's lodestar figures are based on the firm's current hourly billing rates. The hourly rates for the partners, attorneys, and professional support staff in my firm are the same as the usual and customary hourly rates charged for their services in contingent billable matters. The total number of hours was determined by the examination of daily time records regularly prepared and maintained by my firm and which have been provided to Co-Lead Counsel for their review.

7. Attached hereto as **Exhibit A** is a detailed summary indicating the amount of time spent by the partners, attorneys and other professional support staff of my firm who have been involved in this litigation, and the lodestar calculation is based on my firm's current hourly billing rates from case inception through June 30, 2022.

8. As detailed in **Exhibit B**, my firm has incurred a total of \$687.65 in unreimbursed expenses during the period from case inception through June 30, 2022.

9. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

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 20th of July 2022 at Washington, DC.



Hassan A. Zavareei

Counsel for Plaintiff Henry Henderson

Exhibit A

Tycko & Zavareei LLP
Lodestar Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit A

Lodestar Summary

Firm: **Tycko & Zavareei LLP**
Reporting Period: **Inception through June 30, 2022**

| Professional | Title | Hourly Rate | Total Hours | Total Lodestar |
|---------------------|--------------|--------------------|--------------------|-----------------------|
| Aizpuru, Katherine | A | \$678.00 | 2.3 | \$1,559.40 |
| Morrison, James | PL | \$208.00 | 0.6 | \$124.80 |
| Porzenheim, Nicole | PL | \$208.00 | 9.1 | \$1,892.80 |
| Zavareei, Hassan | P | \$919.00 | 5 | \$4,595.00 |
| | | | | |
| | | | | |
| Totals | | | 17.0 | \$8,172.00 |

Title:
 Partner (P)
 Associate (A)
 Paralegal (PL)
 Of Counsel (OC)
 Law Clerk (LC)
 Legal Assistant (LA)

Exhibit B

Tycko & Zavareei LLP
Expense Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit B

Expense Summary

Firm: **Tycko & Zavareei LLP**
Reporting Period: **Inception through June 30, 2022**

| Expense | Amount |
|--|-----------------|
| Court Costs (<i>i.e.</i> , Filing Fees) | \$400.00 |
| Postage / U.S. Mail | \$29.80 |
| Service of Process | \$240.00 |
| Photocopies (In House) | \$8.55 |
| Pacer Document Retrieval | \$9.30 |
| Total | \$687.65 |

Exhibit 9

Declaration of Graham B. LippSmith, Esq.
LippSmith LLP

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**DECLARATION OF GRAHAM B. LIPPSMITH ON BEHALF OF LIPPSMITH LLP
IN SUPPORT OF PLAINTIFFS' PETITION FOR AN AWARD OF ATTORNEYS'
FEES AND COSTS, AND SERVICE AWARDS**

I, GRAHAM B. LIPPSMITH, declare and state as follows:

1. I am a founding partner of LippSmith LLP. I submit this Declaration in support of Plaintiffs' Petition for an Award of Attorneys' Fees and Costs, and Service Awards, and in connection with services rendered and expenses incurred by my firm and predecessor firm, Kasdan LippSmith Weber Turner LLP, now known as Kasdan Turner Thomson Booth LLP ("KTTB"), in connection with this litigation.

2. A portion of the time and all of the costs submitted for reimbursement were incurred while LippSmith LLP attorneys and staff were with KTTB. When my timekeepers and I left KTTB, Plaintiff Kevin Ngai opted to continue his representation in this matter with the attorneys who formed LippSmith LLP.

3. KTTB and then LippSmith LLP were counsel in this action. Specifically, I filed *Ngai v. fairlife LLC, et al.*, Case No. 2:19-cv-08148, in the United States District Court, Central District of California, which was consolidated in this MDL, while I was at KTTB. During the

period from case inception through October 2, 2019, KTTB and my firm conducted the following activities for the common benefit of Plaintiffs:

- a. Attorneys and staff formerly at KTTB and now at LippSmith LLP initiated contact with potential putative class members, interviewed responsive putative class members, investigated potential defendants, researched potential claims against Defendants, researched applicable statutes of limitation, drafted and filed a Complaint in the Central District of California, managed the day-to-day of that individually-filed action, and consulted with Lead Counsel regarding early case strategies.

4. The total number of common benefit hours expended on this litigation by timekeepers at KTTB and now at LippSmith LLP from case inception through October 2, 2019, is 54.4 hours. The total common benefit lodestar for KTTB and LippSmith LLP in this time period is \$24,980.00.

5. For the time period October 3, 2019, through June 30, 2022, and at the request of Plaintiffs' Co-Lead Counsel, timekeepers at KTTB and LippSmith LLP conducted the following activities for the common benefit of Plaintiffs:

- a. Reviewed the Plaintiff Questionnaire, inquired of our client, and provided responses on behalf of client, Kevin Ngai; monitored the case for continued client communications; submitted firm information requested by the Court; consulted with Lead Counsel regarding early case strategy; and participated in group calls with Lead Counsel regarding plaintiff vetting.

6. The total number of hours expended on this litigation by KTTB and LippSmith LLP from the time period October 3, 2019, through June 30, 2022, for the common benefit of Plaintiff and class members, is 61.4 hours. The total lodestar for my firm in this time period is \$39,975.00.

7. The total number of common benefit hours expended on this litigation by KTTB and LippSmith LLP from case inception through June 30, 2022, is 115.8 hours. The total lodestar for KTTB and LippSmith LLP is \$64,955.00. KTTB and LippSmith LLP's lodestar figures are based on our timekeepers' current hourly billing rates. The hourly rates for the partners, attorneys, and professional support staff presently at LippSmith LLP are the same as the usual and customary hourly rates charged for their services in contingent billable matters. The total number of hours was determined by the examination of daily time records regularly prepared and maintained by our timekeepers while at KTTB and LippSmith LLP, and which have been provided to Co-Lead Counsel for their review.

8. Attached hereto as **Exhibit A** is a detailed summary indicating the amount of time spent by the partners, attorneys and other professional support staff of KTTB and LippSmith LLP who have been involved in this litigation. We applied LippSmith LLP's current hourly rates to all former KTTB timekeepers who are now at LippSmith LLP, which are all timekeepers except for Frank Perez. Mr. Perez did not join LippSmith LLP, so we used his then-current rates for when the time was incurred when we calculated the lodestar.

9. As detailed in **Exhibit B**, my predecessor firm, KTTB, incurred a total of \$1,748.59 in unreimbursed expenses during the period from case inception through June 30, 2022. LippSmith LLP has not incurred additional expenses related to this case.

10. The expenses incurred in this action are reflected on the books and records of my predecessor firm and records that LippSmith LLP possesses. These books and records are prepared

from expense forms, check records, and other source materials and represent an accurate recordation of the expenses incurred.

11. KTTB and LippSmith LLP entered into a confidential separation agreement with respect to managing and dividing fee and costs recoveries for clients formerly represented by KTTB and who later elected to be represented by LippSmith LLP. This separation agreement applies to the services KTTB and LippSmith LLP provided to Plaintiff Ngai and performed for the common benefit in this matter. Pursuant to the separation agreement between KTTB and LippSmith LLP, LippSmith LLP will process and distribute all fees and costs for the combined KTTB and LippSmith LLP services and costs on this matter. Plaintiff Ngai consented in writing to the attorney fee divisions between KTTB and LippSmith LLP provided in the separation agreement.

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 20th of July 2022 at Honolulu, Hawai'i.


GRAHAM B. LIPPSMITH
Counsel for Plaintiff Kevin Ngai

Exhibit A

LippSmith LLP
Lodestar Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit A

Lodestar Summary

Firm: **LippSmith LLP**
Reporting Period: **Inception through June 30, 2022**

| Professional | Title | Hourly Rate | Total Hours | Total Lodestar |
|----------------------|--------------|--------------------|--------------------|-----------------------|
| Anderson, Jaclyn | P | \$600.00 | 3.9 | \$2,340 |
| Andrews, Celene Chan | P | \$600.00 | 28.6 | \$17,160 |
| LippSmith, Graham | P | \$850.00 | 41.3 | \$35,105 |
| Perez, Frank | A | \$300.00 | 19.5 | \$5,850 |
| Smith, Niki | LA / PL | \$200.00 | 22.5 | \$4,500 |
| | | | | |
| Totals | | | 115.8 | \$64,955 |

Title:
 Partner (P)
 Associate (A)
 Paralegal (PL)
 Of Counsel (OC)
 Law Clerk (LC)
 Legal Assistant (LA)

Exhibit B

LippSmith LLP
Expense Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit B

Expense Summary

Firm: **LippSmith LLP**
Reporting Period: **Inception through June 30, 2022**

| Expense | Amount |
|--|-------------------|
| Court Costs (<i>i.e.</i> , Filing Fees) | \$550.00 |
| Experts / Consultants | \$0 |
| Federal Express / UPS | \$11.51 |
| Postage / U.S. Mail | \$0 |
| Service of Process | \$80.00 |
| Messenger / Delivery | \$0 |
| Hearing Transcripts | \$0 |
| Investigation | \$0 |
| Westlaw / Lexis / Pacer | \$2.50 |
| Photocopies (in House) | \$0 |
| Photocopies (Outside) | \$0 |
| Telephone / Telecopier | \$0 |
| Travel – Transportation | \$668.65 |
| Travel – Meals | \$138.39 |
| Travel – Hotels | \$224.44 |
| Miscellaneous (Parking) | \$73.10 |
| Total | \$1,748.59 |

Exhibit 10

Declaration of Syed Ali Saeed, Esq.
Saeed & Little, LLP

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**DECLARATION OF SYED ALI SAEED ON BEHALF OF SAEED AND LITTLE, LLP
IN SUPPORT OF PLAINTIFFS' PETITION FOR AN AWARD OF ATTORNEYS'
FEES AND COSTS, AND SERVICE AWARDS**

I, Syed Ali Saeed, declare and state as follows:

1. I am a Partner at the law firm of Saeed & Little, LLP. I submit this Declaration in support of Plaintiffs' Petition for an Award of Attorneys' Fees and Costs, and Service Awards, and in connection with services rendered and expenses incurred by my firm in connection with this litigation.

2. My firm has acted as counsel in this action. Specifically, my firm filed *Sabeehullah et.al. v. Fairlife, LLC et.al.*, which was consolidated in this MDL, and individually represents class representatives Nabil Khan. During the period from case inception through October 2, 2019, my firm conducted the following activities for the common benefit of Plaintiffs:

- a. Vetted multiple prospective plaintiffs, researched causes of action against the Defendants and identity of potential Defendants, sent pre-suit notices,

drafted and filed pleadings and several other tasks necessary to manage and stay apprised of the proceedings in this matter.

3. The total number of common benefit hours expended on this litigation by my firm from case inception through October 2, 2019, are 38.1. The total common benefit lodestar for my firm in this time period is \$ 16,595.

4. For the time period October 3, 2019, through June 30, 2022, and at the request of Plaintiffs' Co-Lead Counsel, my firm conducted the following activities for the common benefit of Plaintiffs:

a. Vetted prospective plaintiffs, reviewed pleadings and motions filed in this matter, managed existing clients, reviewed settlement documents, and several other tasks necessary to manage and stay apprised of the proceedings in this matter.

5. The total number of hours expended on this litigation by my firm from for the time period October 3, 2019, through June 30, 2022, for the common benefit of Plaintiff and class members, is 22.4 hours. The total lodestar for my firm in this time period is \$ 10,080.

6. The total number of common benefit hours expended on this litigation by my firm from case inception through June 30, 2022, is 60.5 hours. The total lodestar for my firm is \$ 26,675. My firm's lodestar figures are based on the firm's current hourly billing rates. The hourly rates for the partners, attorneys, and professional support staff in my firm are the same as the usual and customary hourly rates charged for their services in contingent billable matters. The total number of hours was determined by the examination of daily time records regularly prepared and maintained by my firm and which have been provided to Co-Lead Counsel for their review.

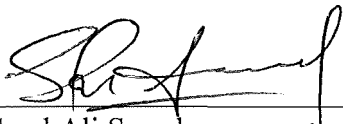
7. Attached hereto as **Exhibit A** is a detailed summary indicating the amount of time spent by the partners, attorneys and other professional support staff of my firm who have been involved in this litigation, and the lodestar calculation is based on my firm's current hourly billing rates from case inception through June 30, 2022.

8. As detailed in **Exhibit B**, my firm has incurred a total of \$ 1,116.30 in unreimbursed expenses during the period from case inception through June 30, 2022.

9. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

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 13th of July 2022 at Indianapolis, Indiana.



Syed Ali Saeed

Counsel for Plaintiff Nabil Khan

Exhibit A

Saeed & Little, LLP
Lodestar Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit A

Lodestar Summary

Firm: **Syed Ali Saeed**
Reporting Period: **Inception through June 30, 2022**

| Professional | Title | Hourly Rate | Total Hours | Total Lodestar |
|---------------------|--------------|--------------------|--------------------|-----------------------|
| Syed Ali Saeed | P | 450 | 58.5 | \$26,325 |
| Ienny Ribon | PL | 175 | 2 | \$350 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Totals | | | 64.6 | \$26,675 |

Title:

- Partner (P)
- Associate (A)
- Paralegal (PL)
- Of Counsel (OC)
- Law Clerk (LC)
- Legal Assistant (LA)

Exhibit B

Saeed & Little, LLP
Expense Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit B

Expense Summary

Firm: **Saeed & Little, LLP**
Reporting Period: **Inception through June 30, 2022**

| <u>Expense</u> | <u>Amount</u> |
|--|----------------------|
| Court Costs (<i>i.e.</i> , Filing Fees) | \$ 400 |
| Experts / Consultants | |
| Federal Express / UPS | |
| Postage / U.S. Mail | |
| Service of Process | |
| Messenger / Delivery | |
| Hearing Transcripts | |
| Investigation | |
| Westlaw / Lexis | |
| Photocopies (in House) | |
| Photocopies (Outside) | |
| Telephone / Telecopier | |
| Travel – Transportation* | \$ 566.3 |
| Travel – Meals** | \$ 150 |
| Travel – Hotels | |
| Miscellaneous | |
| Total | \$1,166.30 |

Exhibit 11

Declaration of Benjamin Heikali, Esq.
Faruqi & Faruqi, LLP

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

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

**IN RE FAIRLIFE MILK PRODUCTS
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 2909

Master Case No. 19-cv-3924

Judge Robert M. Dow, Jr.

This Document Relates To:

ALL CASES

**DECLARATION OF BENJAMIN HEIKALI ON BEHALF OF FARUQI &
FARUQI, LLP IN SUPPORT OF PLAINTIFFS' PETITION FOR AN AWARD OF
ATTORNEYS' FEES AND COSTS, AND SERVICE AWARDS**

I, Benjamin Heikali, declare and state as follows:

1. I am a Partner at the law firm of Faruqi & Faruqi, LLP. I submit this Declaration in support of Plaintiffs' Petition for an Award of Attorneys' Fees and Costs, and Service Awards, and in connection with services rendered and expenses incurred by my firm in connection with this litigation.

2. My firm has acted as counsel in this action. Specifically, my firm filed *Olivo v. The Coca-Cola Company et al.*, No. 2:19-cv-08302, which was consolidated in this MDL. During the period from case inception through October 2, 2019, my firm conducted the following activities for the common benefit of Plaintiffs:

- a. Researched the claims brought on behalf of the client, including reviewing the labels and advertising of the challenged products, both in store and online, as well as reviewing the strengths and weaknesses of the facts and legal theories;

- b. Vetted clients, including numerous intakes and follow up calls and correspondence;
- c. Drafted pleadings and related documents (*i.e.*, the Complaint);
- d. Drafted briefs and other documents in connection with JPML proceedings (e.g. Response in Support of Centralization); and
- e. Traveled to and attended the JPML hearing.

3. The total number of common benefit hours expended on this litigation by my firm from case inception through October 2, 2019, is 37.4 hours. The total common benefit lodestar for my firm in this time period is \$18,254.50.

4. For the time period October 3, 2019, through June 30, 2022, and at the request of Plaintiffs' Co-Lead Counsel, my firm conducted the following activities for the common benefit of Plaintiffs:

- a. Further client communication and follow up;
- b. Drafted and reviewed miscellaneous documents (e.g., motion to stay, joint statements, notice of appearance, etc.); and
- c. Researched issues relating to damages.

5. The total number of hours expended on this litigation by my firm from for the time period October 3, 2019, through June 30, 2022, for the common benefit of Plaintiff and class members, is 14.6 hours. The total lodestar for my firm in this time period is \$8,281.50.

6. The total number of common benefit hours expended on this litigation by my firm from case inception through June 30, 2022, is 52 hours. The total lodestar for my firm is \$26,536.00. My firm's lodestar figures are based on the firm's current hourly billing rates. The hourly rates for the partners, attorneys, and professional support staff in my firm are the same as

the usual and customary hourly rates charged for their services in contingent billable matters. The total number of hours was determined by the examination of daily time records regularly prepared and maintained by my firm and which have been provided to Co-Lead Counsel for their review.

7. Attached hereto as **Exhibit A** is a detailed summary indicating the amount of time spent by the partners, attorneys, and other professional support staff of my firm who have been involved in this litigation, and the lodestar calculation is based on my firm's current hourly billing rates from case inception through June 30, 2022.

8. As detailed in **Exhibit B**, my firm has incurred a total of \$**1,557.27** in unreimbursed expenses during the period from case inception through June 30, 2022.

9. The expenses incurred in this action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials and represent an accurate recordation of the expenses incurred.

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 20th of July 2022 at Los Angeles, California



Benjamin Heikali

Counsel for Plaintiff Olivo

Exhibit A

Faruqi & Faruqi, LLP
Lodestar Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit A

Lodestar Summary

Firm: **Faruqi & Faruqi, LLP**
Reporting Period: **Inception through June 30, 2022**

| Professional | Title | Hourly Rate | Total Hours | Total Lodestar |
|---------------------|--------------|--------------------|--------------------|-----------------------|
| Behnke, Derek | PL | \$425.00 | 5 | \$2,125.00 |
| Giacalone, Brian | PL | \$375.00 | 4.6 | \$1,725.00 |
| Heikali, Benjamin | P | \$645.00 | 13.3 | \$8,578.50 |
| Householder, Amanda | PL | \$200.00 | 1.4 | \$280.00 |
| Marton, Susanna | PL | \$375.00 | 16 | \$6,000.00 |
| Nassir, Joshua | A | \$550.00 | 1.9 | \$1,045.00 |
| Peter, Timothy | P | \$775.00 | 3.3 | \$2,557.50 |
| Varindani, Nina | P | \$650.00 | 6.5 | \$4,225.00 |
| Totals | | | 52 | \$26,536.00 |

Title:

- Partner (P)
- Associate (A)
- Paralegal (PL)
- Of Counsel (OC)
- Law Clerk (LC)
- Legal Assistant (LA)

Exhibit B

Faruqi & Faruqi, LLP
Expense Summary

In re Fairlife Milk Products Marketing and Sales Practices Litig.
MDL No. 2909, Lead Case No. 19-cv-03924-RMD-MDW (N.D. Ill.)

In re Fairlife Milk Products Marketing and Sales Practices Litigation
MDL No. 2909

Exhibit B

Expense Summary

Firm: **Faruqi & Faruqi, LLP**
Reporting Period: **Inception through June 30, 2022**

| Expense | Amount |
|--|-------------------|
| Court Costs (<i>i.e.</i> , Filing Fees) | \$937.00 |
| Experts / Consultants | |
| Federal Express / UPS | \$26.00 |
| Postage / U.S. Mail | |
| Service of Process | |
| Messenger / Delivery | |
| Hearing Transcripts | |
| Investigation | \$160.54 |
| Westlaw / Lexis | \$324.85 |
| Photocopies (in House) | \$82.40 |
| Photocopies (Outside) | |
| Telephone / Telecopier | \$26.48 |
| Travel – Transportation | |
| Travel – Meals | |
| Travel – Hotels | |
| Miscellaneous | |
| Total | \$1,557.27 |