

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DOMINICK VOLINO, ET AL.,
Plaintiff,

v.

Civil Action No. 1:21-cv-6243-LGS

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

MICHAEL VERARDO, ET AL.,
Plaintiff,

v.

Civil Action No. 1:22-cv-01714-LGS

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

**DECLARATION OF HANK BATES IN SUPPORT OF PLAINTIFFS' MOTION FOR
FINAL APPROVAL AND PETITION FOR ATTORNEYS' FEES, EXPENSES, AND
SERVICE AWARDS**

I, Hank Bates, declare and state as follows:

1. I am a partner at Carney Bates & Pulliam, PLLC ("CBP"). CBP, along with Jacobson Phillips PLLC ("Jacobson Phillips"), Normand PLLC ("Normand"), Edelsberg Law, P.A. ("Edelsberg"), Shamis & Gentile P.A. ("Shamis & Gentile"), and Bailey Glasser LLP ("Bailey Glasser"), serve as co-counsel of record for Plaintiffs John Plotts, Zachary Goodier, James England, Kevin Lukasik, Lorenzo Costa, Michael Verardo, and Lori Lippa against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company,

Progressive Max Insurance Company, and Progressive Casualty Insurance Company (collectively “Progressive” or “Defendants”) in the above-captioned consolidated cases (the “Action”).

2. I make this Declaration in support of Plaintiffs’ Unopposed Motion for Final Approval and in support of Plaintiffs’ Motion for Attorneys’ Fees, Litigation Expenses and Service Awards. I have personal knowledge of the facts set forth in this Declaration based on active participation in all aspects of the prosecution and resolution of the Action. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.

3. This declaration addresses factual issues concerning the factors relevant to the reasonableness of attorneys’ fees as part of a class action settlement, as set forth in *Goldberger v. Integrated Resources, Inc.*, 209 F.3d 43 (2d Cir. 2000). Those factors are: “(1) the time and labor expended by counsel; (2) the magnitude and complexities of the litigation; (3) the risk of the litigation . . . ; (4) the quality of representation; (5) the requested fee in relation to the settlement; and (6) public policy considerations.” *Id.* at 50.

I. Incorporation of Earlier Declaration

4. In the interests of brevity and to avoid redundancy, I hereby incorporate by reference the procedural history of this case included in my previous declaration submitted in support of the Motion for Preliminary Approval. ECF No. 371.

5. Moreover, I incorporate by reference the description of the Settlement terms found in ECF No. 371 at paragraphs 21-43 and ECF No. 376. In broad strokes, however, the Settlement provides 69% of potential compensatory damages (or roughly 54% of compensatory damages plus pre-judgment interest), less a deduction for attorneys’ fees, costs, and Service Awards, which will be distributed directly to Class Members without the need for a claiming process and without a

single dollar reverting to Progressive or going to a cy pres recipient. Instead, Class Members will receive the *entirety* of the cash fund, after deduction for fees and expenses.

II. Risks Attendant to Continued Litigation

6. Class Counsel took significant risks in bringing this action and would face more risk if this action were to proceed to trial. Class Counsel undertook representation in this Action on a purely contingency basis. If this case had been unsuccessful, we would've recovered nothing in attorneys' fees. Moreover, Class Counsel agreed to bear the costs of litigation. So, if this case had been unsuccessful, Class Counsel, not the Named Plaintiffs, would have borne the lost costs expended in this litigation.

7. This case carried significant risks. To explain why, a bit of background may be helpful. The theory of liability in this case is that used auto dealers price vehicles to market, meaning that the list price of used autos reflects its market value or market price. Progressive, however, applied a "projected sold adjustment" to the list prices of the comparable vehicles utilized in its vehicle valuation reports, which lowered its determination of the actual cash value of the vehicle. In other words, while Class Counsel (and Plaintiffs) contended that the list price of used autos is reflective of market value, Progressive contended that used autos are priced *above* market value and are uniformly negotiated down from there to its actual market value or price.¹ That was the genesis of the dispute and, thus, of our claim. Class Counsel contended (and still does) that because Progressive promises to pay actual cash value in the event of a total loss and to determined ACV based on the vehicle's market value, age, and condition, and because the list prices of used

¹ As discussed below, during discovery we uncovered that Progressive and its vendors were basing their calculation of the PSAs on transactional data from across the country of used auto sales but were deleting or excluding all transactions where a vehicle sold for list price or for more than list price. But, at the time we filed this Complaint, Class Counsel was unaware of that practice.

autos are reflective of market value, that Progressive's application of the PSAs constituted a substantive breach of its insurance Policy.

8. At the time this case was filed, that theory of liability—that application of a negotiation deduction (the PSAs) constituted a substantive breach of the specific terms of the insurance contract—was untested. As far as I'm aware, no other law firm or litigant had brought a case under such theory, and, certainly, there was no case law addressing that theory either as to the merits or as to the appropriateness (or not) for class treatment. As class action attorneys, we consider untested theories without any case law precedent or regulatory actions to be inherently risky, for two reasons. First, regardless of the pre-suit investigation and conclusions of Class Counsel and plaintiffs as to the merits (both factual and legal) and persuasiveness of the case's theory, there is simply no sure way to know how a court will view novel and original theories of liability where there is no case law precedent or regulatory actions to consider or follow. That carries an inherent and significant risk. Second, with no path to follow, we had to create from scratch all discovery, deposition questions, and briefing. This increases the risk because it necessarily means that significantly more hours and work will have to be invested into the case. Said another way, in a well-trodden claim or theory of liability where there are legal precedents and successful case preparations to follow (and thus less work that needs to be invested into a case), an unsuccessful resolution is not as costly because less time, hours, and costs will have been invested on the case.

9. As such, even standing alone, this reality—an untested and original theory of liability without any precedent, preceding regulatory action, or existing litigation to follow—was inherently risky. But such risks were even higher here because of the surrounding context involving auto total-loss litigation prior to and at the time this case was filed.

10. Prior to and concurrent with the filing of this action, there had been and was other litigation involving claims that insurance companies were undervaluing the ACV of total-loss vehicles, throughout various jurisdictions and states. Those cases fell into two different buckets. In one bucket were claims contesting the entirety of the vehicle valuations because they were offered by an allegedly improper source (usually based on a given state regulation), rather than on the plaintiff's preferred guidebook source (usually NADA). In the other bucket were cases primarily challenging adjustments as insufficiently disclosed rather than substantively illegitimate. So, at the time this action was filed and during the litigation, Plaintiffs and Class Counsel had to contend with negative authority denying motions for class certification in actions challenging ACV valuation determinations on different theories. *See Lara v. First Nat'l Ins. Co. of Am.*, 25 F.4th 1134 (9th Cir. 2022); *Sampson v. United Servs. Auto. Ass'n*, 83 F.4th 414 (5th Cir. 2023); *Richardson v. Progressive Am. Ins. Co.*, 2022 U.S. Dist. LEXIS 8783 (M.D. Fla. Jan. 18, 2022); *Curtis v. Progressive Northern Ins. Co.*, 2020 U.S. Dist. LEXIS 83429 (W.D. Ok. May 12, 2020); *Signor v. Safeco Ins. Co.*, 2021 U.S. Dist. LEXIS 71382 (S.D. Fla. Feb. 18, 2021); *Desai v. Geico Cas. Co.*, 574 F. Supp. 3d 507 (N.D. Oh. 2021). Additionally, Plaintiffs have had to contend with negative authority from various courts that rejected on the merits claims that insurance companies had breached its contract by undervaluing the ACV of total-loss vehicles. *See South v. Progressive Select Ins. Co.*, 558 F. Supp. 3d 1258 (S.D. Fla. 2021); *Signor v. Safeco Ins. Co. of Ill.*, 72 F.4th 1223 (11th Cir. 2023); *Curtis v. Progressive N. Ins. Co.*, 2022 U.S. Dist. LEXIS 5111 (W.D. Ok. Jan. 11, 2022).

11. In the end, Class Counsel successfully demonstrated that such cases are distinguishable. But, at minimum, the lack of success of facially similar claims concerning whether insurance companies are undervaluing ACV and whether such claims are suitable for class

treatment increased the inherent risk of this litigation. Indeed, after this action was filed, we brought materially similar claims in different states and jurisdictions against Progressive. Although the vast majority of the courts have granted certification of the class, three federal district courts have denied class certification of those claims. *Kroeger v. Progressive Universal Ins. Co.*, 2023 U.S. Dist. LEXIS 231824 (S.D. Io. Nov. 20, 2023); *Henson v. Progressive Premier Ins. Co. of Ill.*, 2024 U.S. Dist. LEXIS 109026 (E.D. N.C. Jun. 10, 2024); *Ambrosio v. Progressive Preferred Ins. Co.*, 2024 U.S. Dist. LEXIS 36963 (D. Ariz. Mar. 4, 2024). While Class Counsel believes those cases were wrongly decided, they further support that this litigation carried significant risks.

12. Moreover, the risk of litigation was heightened by the quality of Progressive's representation. Progressive retained and was represented by Jeffrey Cashdan and his team at King & Spalding. We were aware of Mr. Cashdan and his team's well-deserved reputation as skilled and determined litigators, both as it pertains to class actions in general and as to auto total-loss class actions in particular. Indeed, several of the Class Counsel firms have litigated against King & Spalding (including Mr. Cashdan and his team in particular) in other contexts. So, we knew that the risks of litigation were heightened by what would be skilled and tough representation. That has been borne out in this litigation—King & Spalding, while remaining eminently professional throughout the litigation, has skillfully and zealously defended its client.

III. Magnitude and Complexities of this Litigation

13. The magnitude and complexity of this litigation was immense, and this case was vigorously litigated. Class Counsel spent a significant amount of time researching the claim, Progressive's insurance policies, and the common law and statutes relevant to valuation of total-loss insured vehicles prior to filing. And then, after filing, we briefed multiple motions to dismiss, a motion for class certification, opposition to a Rule 23(f) petition, cross-motions for summary

judgment, *Daubert* motions, and extensive pre-trial filings. Moreover, our claims concerned the overlap of numerous topics and industries, including the appraisal industry, the used auto industry, data and statistical analysis, and the insurance industry.

14. As such, Class Counsel retained three experts—a statistician, an appraiser, and a used auto industry expert—and assisted in preparing expert reports, understanding the issues and areas of expertise at play, and the underlying analysis. Progressive also retained two experts—a used car industry expert and a PhD economist—which required Class Counsel to once again analyze swaths of data, research, and underlying materials (constituted of tens of thousands of pages and spreadsheet inputs), and ultimately to depose such experts.

15. Moreover, this was made more complicated and intensive given that one of Progressive’s experts, Mr. Spizzirri (the used car industry expert), declined to provide much of the survey reports and spreadsheets that were supposed to undergird his opinions. Identifying and then attempting to rectify this lack of disclosure required painstaking analysis, motions to compel, and ultimately a second deposition once such materials were ordered by this Court to be disclosed and provided.

16. As part of the discovery process, Class Counsel served multiple rounds of interrogatories and requests to produce to Progressive, JD Power, and Mitchell, which eventually led to production of tens of thousands of documents, as well as dozens of spreadsheets containing hundreds of thousands of claims, tens of millions of vehicle purchase transactions, and hundreds of millions of data inputs, all of which had to be closely analyzed and reviewed.

17. Consider just the transactional data (i.e., data containing the sold and list prices of used autos offered for sale and sold across the country). This transactional data constituted the primary (supposed) justification for applying the PSAs. So, in effect, it was extremely possible—

perhaps likely—that the outcome of this case turned on analysis of the transactional data, making it critical for Class Counsel to intensively and painstakingly analyze and review such data. We did so—notwithstanding that this data was constituted of literally tens of millions of transactions and hundreds of millions of data inputs. And as a result of our efforts, we were the first people in the country to uncover that Progressive’s vendors were *deleting and excluding data* that undermined its PSA thesis—i.e., all transactions where vehicles sold for list price or more—notwithstanding that this practice had been ongoing *for decades* without anyone uncovering it.

18. Additionally, because some of the critical issues in this case involved third-party vendors, Class Counsel was forced to depose not only Progressive’s 30(b)(6) representative, but also a representative from JD Power and Mitchell. In other words, Class Counsel was not only facing litigating against a multi-billion dollar insurance company, but also a multi-billion dollar consumer company (JD Power) and the second-largest appraisal software company (Mitchell), thereby, in effect, tripling the complexity and difficulty of this litigation.

19. The complexity and magnitude of this case was also magnified upon the granting of class certification, after which Class Counsel was required to devise and implement a Notice plan for more than 70,000 class members.² Moreover, this Court excluded from the Class insureds who were underwater on their loan, i.e., where the entirety of the total-loss claim payment went to a third-party creditor. Identifying such individuals (and excluding them from the Classes) required intensive analysis of Progressive’s spreadsheets and documents.

20. In sum, this litigation was extremely complex, data-intensive, and broad in scope.

² Class membership grew to approximately 82,000 between the time the classes were certified in March 2023 and the time the Court granted preliminary approval of the Settlement in August 2024.

IV. Quality of Representation

21. The Second Circuit has explained that “the quality of representation is best measured by results, and that such results may be calculated by comparing the extent of possible recovery with the amount of actual verdict or settlement.” *Goldberger*, 209 F.3d at 55.

22. The pertinent factual details of the Settlement are set forth in my previously submitted declaration. ECF No. 371; see also ECF No. 376. And the explanation as to why the substantive and procedural structure of the proposed Settlement are so positive and successful is set forth in the declaration by Brian Fitzpatrick submitted contemporaneously with this Declaration.

23. To that, I simply add the experience and resume of Class Counsel. Between them, Class Counsel have extensive and significant experience in class litigation, complex business litigation, appellate litigation, insurance litigation, and class trials in numerous contexts, as well as experience litigating all over the country and in the Southern District of New York.

24. As it pertains to auto total-loss litigation in particular, Class Counsel have successfully secured dozens of favorable settlements in the context of whether the ACV of totaled vehicles includes sales tax and/or title fees; have secured favorable case law on the merits of whether application of a negotiation adjustment constitutes a breach of contract (my firm litigated *Smith v. S. Farm Bureau Cas. Ins. Co.*, 18 F.4th 976, 978 (8th Cir. 2021), a case that has been critical to briefing on the merits of this case); and have successfully secured class certification and/or defeated summary judgment in numerous companion cases to this one throughout the country.

25. Each specific firm's expertise and experience are included in composite Exhibit 2 attached to the Motion for Attorneys' Fees, which is comprised of declarations from each firm. My own firm's resume/CV is included at the end of this declaration as Exhibit 1.

V. Time and Labor Expended³

26. In addressing the time expended and lodestar amounts discussed herein, billing judgment was exercised by all firms involved in this litigation, both specifically and generally. Generally, we established a division of labor to avoid duplication and unnecessary time expended as much as possible. For example, I took the lead on coordinating the litigation and overall strategy, and I also took key depositions and was involved in expert preparation, particularly Dr. Lacey, and reviewing the pivotal motions practice. Lee Lowther and Jacob Phillips were primarily responsible for writing briefs, discovery, handling appeals and preparing expert reports. I was primarily responsible for analyzing Dr. Walker's expert report and deposing Dr. Walker. Ed Normand was primarily responsible for Mark Spizzirri's expert report and deposition. Scott Edelsberg and I were primarily responsible for mediation. Jake Phillips was primarily responsible for designing and implementing the Notice. I was primarily responsible for damages analysis. Andrew Shamis and his associates were primarily responsible for all client-related work, including discovery, depositions, and client communication. Lee Lowther and I were primarily responsible for taking 30(b)(6) depositions. Bailey Glasser was primary trial counsel, and handled all pre-trial filings and trial preparation, with assistance from Jake Phillips and Lee Lowther given their familiarity with the record and litigation history. Of course, there was overlap in accordance with best practices to

³ The "public policy" and "requested fee in relation to the settlement" factors are addressed in the briefing and in Professor Fitzpatrick's declaration. Because my factual knowledge is not critical to those factors, I am not addressing them here.

ensure that representation was vigilant and excellent—and we believe the results in this case support that the representation in this matter was, indeed, excellent.

27. Consistent with these broad principles, for categories for which the firms were not primarily responsible, billing judgment was exercised by subtracting—fully or partially—in those categories for which the firms were not responsible. Specific examples of billing judgment and hours cut or not included are found in each firm’s declaration in the Composite Class Counsel Declaration. Exhibit 2. An example of specific billing judgment from my firm is that I cut all partner and associate time where the timekeeper had fewer than 15 hours in the case and all time billed by law clerks. While I believe that time was valuable—particularly working through big-picture issues with my partners who had distance from the day-to-day of the case—I nevertheless cut that time because I understand it might not be billable to a paying client.

28. I have reviewed the time entries and declarations from co-counsel and can attest that similar billing judgment was exercised to similarly avoid the possibility of duplicative or unnecessary time, as reflected, *inter alia*, in the declarations submitted as composite Exhibit 2. All the firms that collectively constitute Class Counsel exercised billing judgment, and averred as to specific time (as examples) that they cut or did not include in the lodestar submitted.

29. All firms kept and recorded time contemporaneously, and, if the Court so requests, can submit the individual time entries *in camera* or by category. These time entries constitute thousands of pages, however, and so Class Counsel is submitting summaries of the hours and rates per timekeeper, unless the Court requests the individual time entries.

30. My firm’s total lodestar is \$2,713,750.00, as reflected in the following chart, broken down by timekeeper:

Timekeeper	Position	Years Practicing	Hourly Rate	Total Hours	Lodestar
Hank Bates	Partner	31	\$1,225	896.6	\$1,098,335.00
Lee Lowther	Partner	11	\$890	1,042.9	\$928,181.00
Tiffany Wyatt-Oldham	Partner	22	\$1,125	414.7	\$466,537.50
Jake Windley	Associate	5	\$500	366.5	\$183,250.00
Kim Draheim	Paralegal		\$325	102.9	\$33,442.50
Dee Engelby	Paralegal		\$260	15.4	\$4,004.00
Total				2,839	\$2,713,750

31. These were prepared from contemporaneous time records regularly prepared and maintained by my firm in the usual course and manner of my firm. We maintain detailed records regarding the amount of time spent, and the lodestar calculation is based on current billing rates for the relevant market, billing records by other firms with attorneys of similar experience and time, and other factors deemed relevant in the Second Circuit and across all jurisdictions.

32. Furthermore, these billing rates are the same as—or for Jake Windley consistent with⁴—those approved for timekeepers in my firm in 2024 by two judges in the Southern District of New York in 2024. In *Vela v. AMC Networks, Inc.*, Case No. 1:23-cv-02524-ALC (S.D.N.Y.), this Court approved these hourly rates when conducting a lodestar crosscheck in the context of approving a one-third percentage of the fund award. *See* ECF No. 53 at ¶¶76-77 and Ex. 7 (documenting and requesting the same hourly rates as here); Exhibit 3 (Transcript of final approval hearing, May 16, 2024) at 11-12 (approving counsel’s billing rates as reasonable); ECF No. 64 (final approval order). In *Czanionka v. The Epoch Times Association*, Case 1:22-cv-06348-AKH

⁴ Jake Windley did not appear in either of the other two cases. His hourly rate is consistent with the hourly rates approved in both cases based upon his position, years of practice and experience.

(S.D.N.Y.), this Court approved these hourly rates when awarding a fee using the lodestar method in the context of an injunctive relief class action settlement pursuant to Rule 23(b)(2). *See* ECF No. 94, Ex. A (documenting and requesting the same hourly rates as here); ECF No. 106 at 6 (approving the requested fee).

33. The billing rates utilized by Jacobson Phillips PLLC, Normand PLLC, Edelsberg Law P.A., Shamis & Gentile, Bailey Glasser, and Thomas Mulvaney, P.A., are also consistent with rates recently approved by this Court in *Czanionka v. The Epoch Times Assoc.* and *Vela v. AMC Networks*, based on each timekeeper's role, status, and years of experience. They are also consistent with rates approved in other cases in this District in recent years. *See TAO AN et al., Plaintiffs-Counterclaim-Defendants, v. Luc A. Despins & Pual Hastings LLP, Defendants-Counter-Claimants Additional Party Names: Li*, No. 22CV10062VECJW, 2024 WL 1157281, at *4 (S.D.N.Y. Mar. 18, 2024) (finding Defendant's counsel's hourly rates of \$1,990 and \$1,440 to be reasonable and in line with prevailing market rates in the district); *Zhongli Sci. & Tech. Grp. Co. v. Fir Tree Partners*, No. 22MC2795NGGRML, 2023 WL 7130666, at *3 (E.D.N.Y. Oct. 30, 2023), objections overruled, No. 22MC02795NGGRML, 2024 WL 525535 (E.D.N.Y. Feb. 9, 2024) (approving as reasonable partner rates ranging from \$1,295 to \$875 per hour and associate rates ranging from \$630 to \$500 per hour); *Pearlstein v. BlackBerry Ltd.*, No. 13 CV 7060, 2022 WL 4554858, at *10 (S.D.N.Y. Sept. 29, 2022) (collecting cases and holding that hourly rates ranging from \$1,200 for senior partners to \$500 for associates are reasonable and comparable to billing rates "normally charged in the community where the counsel practices, i.e., the 'market rate'").

34. Based on this declaration and the declarations submitted as Exhibit 2, my firm's total lodestar is \$2,713,750.00. The total lodestar for Bailey Glasser is \$521,956.50. The total

lodestar for Normand PLLC is \$703,304.50. The total lodestar for Edelsberg Law, P.A., is \$346,320.00. The total lodestar for Shamis & Gentile is \$196,415.00. The total lodestar for Thomas Mullaney, P.A., is \$57,881.25. The total lodestar for Jacobson Phillips PLLC is \$946,105.00. As such, the total lodestar for Class Counsel is \$5,485,782.25. This lodestar figure represents a total of 6,183.4 hours worked by Class Counsel's firms.

35. Based on this number standing alone, a fee request of \$16,000,000.00 would therefore include a multiplier of 2.92.

36. However, based on Class Counsel's experience in similar class actions settlements, I estimate that at least an additional 150 hours will be required in preparing the motion for final approval and declarations in support of that motion,⁵ preparing for and conducting the final fairness hearing, monitoring and assisting the settlement administration process, and otherwise completing this litigation and bringing this case to final judgment. At a blended rate of \$800.00 per hour, this would add an additional \$120,000.00 in lodestar. This would bring the total lodestar to an estimated \$5,605,782.25, which results in a lodestar crosscheck multiplier of 2.85.

37. Furthermore, this only includes time devoted specifically to the *Volino* case. Class Counsel also is litigating companion cases against Progressive based on the same conduct and theory across the country in numerous jurisdictions and devoted a significant amount of time to those cases as well. Some of that time related to overlapping issues and was helpful in this Action as well. As just one example, *Daubert* briefing in related cases challenging Defendants' experts Walker and Spizzirri preceded those *Daubert* challenges here and therefore was highly beneficial (and arguably creditable to this case), even though that time is not being counted in the

⁵ Because we had to be finalizing the numbers and various lodestar amounts, we did not include the majority of the time spent on preparing the Motion for Final Approval and exhibits in the lodestar amounts submitted as part of the Fee Petition.

aforementioned lodestar. So, although Class Counsel is not including that time here, we thought it worth noting for the Court that the aforementioned amounts are conservative compared to the amount of hours expended across all the cases that were beneficial and relevant to this case.

38. To fund the litigation, each of the Class Counsel firms contributed to a litigation fund, which covered common litigation expenses such as expert fees, deposition expenses, mediation costs, and so forth. Those costs amount to \$170,857.64, as shown in the following chart:⁶

Litigation Fund Expenses

Category	Expense
Experts and Consultants	\$126,312.95
Depositions	\$27,905.19
Mediation Services	\$16,500.00
Process Service	\$139.50

Total \$170,857.64

Each firm accrued additional costs that were not paid for out of the litigation fund, including travel, depositions expenses, filing fees, as detailed in the exhibits. I have reviewed the declarations submitted by Class Counsel as Composite Exhibit 2, and, for the convenience of the Court, have added up those costs, which amount to \$171,908.62.⁷ As such, the total litigation expenses incurred by Class Counsel in this Action are \$342,766.26. My firm's costs paid outside the litigation fund total \$33,903.61, broken down in the following chart:

⁶ These costs do not include the expert witness fees of Professor Brian Fitzpatrick, who is serving as Class Counsel's fee expert. Because those costs are for Professor Fitzpatrick's opinions solely devoted to attorneys' fees, costs, and Service Awards, Class Counsel is not seeking to assess such costs against the Class Members—instead, Class Counsel will entirely bear those costs.

⁷ This is the sum of, per firm, CBP (\$33,903.61), Normand (\$34,320.34), Jacobson Phillips (\$1,468.22), Edelsberg (\$4,605.74), Shamis & Gentile (\$49,913.44), Bailey Glasser (\$47,295.26), and Mullaney Law (\$402.00).

Carney Bates& Pulliam, PLLC: Litigation Expenses (Separate from Litigation Fund)

Category	Expense
Depositions	\$9,533.20
Experts and Consultant	\$877.50
Fed Ex/Postage/Shipping	\$496.50
Legal Research	\$1,020.39
PHV/Filing Fees	\$1,278.77
Telephone Conferences	\$617.76
Travel	\$20,079.49

Total: \$33,903.61

39. Along with the rest of Class Counsel, I believe these costs are eminently reasonable and necessary for the litigation in this matter. They are less than the estimated costs of \$460,000.00 that Class Counsel, in an abundance of caution as a conservative estimate, included in the Notice provided to Settlement Class Members that Class Counsel may seek in litigation expenses. Said another way, we are seeking less in expenses than Settlement Class Members were informed we would potentially be seeking, and thus Class Members recoveries will be slightly higher than estimated on a pro rata basis, since less costs would be deducted than was estimated.

40. Attached as Exhibit 4 to this Declaration is a Composite Exhibit including each Class Representative's separate declaration in support of their request for a service award.

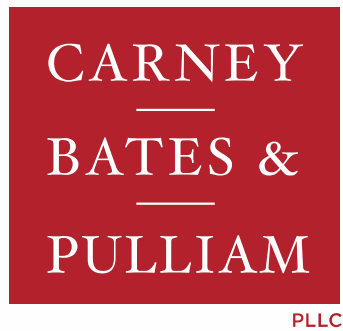
I declare under penalty of perjury, pursuant 28 U.S.C. § 1746, that the foregoing is true and correct.

Dated: November 4, 2024

/s/ Hank Bates
Hank Bates, Class Counsel

EXHIBIT 1

CBP Firm Resume Consumer Lead



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The Firm's Practice and Achievements

Carney Bates & Pulliam, PLLC ("CBP") is a national law firm that litigates class actions involving false advertising and deceptive marketing, data breach and data security, auto insurance total loss settlement practices, securities fraud, environmental hazards, and a host of other consumer and data privacy matters. With its experienced litigators and trial-focused litigation approach, CBP has emerged as one of the country's premiere firms in the areas of consumer protection, securities fraud, environmental law, and employment discrimination class actions.

The attorneys at CBP are uniquely qualified to prosecute consumer protection claims. CBP has represented the State of New Mexico in numerous lawsuits against some of the largest financial service companies in connection with their practice of deceptively marketing and implementing Payment Protection Plans. The firm has recovered over \$100 million for credit card holders in various actions against Bank of America, Capital One, Chase, Discover and HSBC. CBP served as co-lead counsel in *Williams v. State Farm Mutual Automobile Insurance Company*, 4:11-cv-00749-KGB (E.D. Ark.), a class action involving State Farm's subrogation practices which resulted in a settlement of \$21.7 million with 7,635 individuals receiving 100% recovery plus 6 percent prejudgment interest while releasing no claims or rights (other than named plaintiffs). The firm served as co-lead counsel in *Ebarle, et al. v. LifeLock, Inc.*, 3:15-cv-00258 (N.D. Cal.), a class action on behalf of customers of the identity theft protection service, arising from claims that LifeLock delivered false statements about its services and failed to alert customers on a timely basis of potential identity theft, that concluded with a nationwide settlement of \$81 million. The firm also served as counsel in *Wayne Miner et al. v. Philip Morris USA Inc.*, Circuit Court of Pulaski County, Arkansas, Case No. 60CV-03-4661, a class action brought on behalf of Arkansas smokers over claims that the defendant misrepresented the safety of its "light" cigarette products, which settled for \$45 million. The firm currently serves as counsel to the State of New Mexico in *State of New Mexico v. JUUL Labs, Inc.*, County of Santa Fe First Judicial District Court, New Mexico, Case No. D-101-CV-2020-01033, related to JUUL's marketing and sale of e-cigarettes to teenagers and adolescents. The firm also served as counsel to the State of New Mexico in *State of New Mexico v. Tiny Lab Productions, et al.*, Case No. 18-cv-00854-LF-KBM (D.N.M.), an action brought against child app developers and advertising networks for violations of the Children's Online Privacy Protection Act, 15 U.S.C. §§ 6501, *et seq.* ("COPPA"), and against Google, LLC for trafficking in privacy-invasive apps in its online store.

The firm has positioned itself at the forefront of data breach and data security litigation. Our attorneys were appointed to the Plaintiffs' Steering Committee in *In re: The Home Depot, Inc., Customer Data Security Breach Litigation*, 1:14-md-02583-TWT (N.D. Ga.), an MDL class action brought on behalf of injured financial institutions in the wake of a massive retailer data breach. A settlement, with a common fund of \$25 million and an additional fund of \$2.25 million for distribution to financial institutions whose claims were purportedly released by third-party sponsors, was granted final approval on September 22, 2017. We served as counsel for the lead plaintiff in *In re: Target Corporation Customer Data Security Breach Litigation*, 0:14-cmd-02522-PAM-JJK (D. Minn.), successfully representing Umpqua Bank and a class of financial institution plaintiffs over injuries suffered from one of the largest data breaches in history. A settlement, valued at \$39.4 million, was granted final approval by the Court on May 12, 2016. CBP also was appointed to the Financial Institution Plaintiff's Steering Committee in the multi-district litigation, *In re. Equifax, Inc., Customer Data Security Breach Litigation*, 1:17-md-2800-TWT (N.D. Ga.). The litigation arises from the 2017 Equifax data breach, in which hundreds of millions of consumer records were stolen by third parties.

CBP served as co-lead counsel in three class actions against mobile application developers alleging

surreptitious tracking of minors in violation of state laws. *Amanda Rushing, et al. v. The Walt Disney Company, et al.*, 3:17-cv-04419-JD (N.D. Cal.); *Amanda Rushing, et al. v. Viacom Inc., et al.*, 3:17-cv-04492-JD (N.D. Cal.); and *Michael McDonald, et al. v. Kiloo APS, et al.*, 3:17-cv-04344-JD (N.D. Cal.). These cases resolved in fifteen separate settlements with Disney, Viacom, Kiloo, Sybo and 11 advertising technology firms. In a New York Times article, Josh Golin, the executive director of Campaign for a Commercial-Free Childhood, said “This is going to be the biggest change to the children’s app market that we’ve seen that gets at the business models . . . On thousands of apps, children will no longer be targeted with the most insidious and manipulative forms of marketing.”

Similarly, in *Daniel Matera, et al. v. Google, Inc.*, 5:15-cv-04062-LHK (N.D. Cal.), CBP served as co-lead counsel in a class action involving allegations of email interception and violation of state and federal anti-wiretapping laws. A settlement, requiring Google to stop using content derived from email transmissions for user profiling and targeted advertising, was granted final approval on February 9, 2018. In addition, our attorneys were appointed by the court as co-lead counsel in *Matthew Campbell, et al. v. Facebook, Inc.*, 4:13-cv-05996-PJH (N.D. Cal.), a class action involving allegations of email interception and violations of federal anti-wiretapping laws. Final approval of an injunctive relief settlement, securing disclosures and limitations on Facebook’s interception and use of private message content, was granted on August 18, 2017. We served as lead counsel in *Econo-Med Pharmacy, Inc. v. Roche Diagnostics Corporation*, 1:16-cv-00789-TWP-MPB (S.D. Ind.), representing a class of pharmacies in a Telephone Consumer Protection Act (“TCPA”) litigation resulting in a \$17 million settlement, which was granted final approval on September 21, 2017. Additionally, we served as lead counsel in *ARcare, Inc. v. Qiagen North America Holdings, Inc., et al.*, Case No. 43CV-17-46 (Judge Sandy Huckabee, Lonoke Co. Cir. Ct.), representing a class of pharmacies in a TCPA litigation resulting in a \$15.5 million settlement, which was granted final approval on December 3, 2018.

CBP is actively involved in numerous automobile total loss settlement practices class actions across the country and has been appointed co-lead counsel in such notable cases as *Volino v. Progressive Cas. Ins. Co.*, 1:21-cv-06243-LGS (S.D.N.Y. Mar. 16, 2023); *Brown v. Progressive Mountain Ins. Co.*, 3:21-cv-175-TCB (N.D. Ga. Aug. 3, 2023); *Drummond v. Progressive Specialty Ins. Co.*, No. 21-4479, 2023 U.S. Dist. LEXIS 140205 (E.D. Pa. Aug. 11, 2023); and *Clippinger v. State Farm Mut. Ins. Co.* 2:20-cv-02482-TLP-cgc (W.D. Tn. Aug. 25, 2023).

CBP’s reputation for excellence in accounting fraud and other complex class actions has been recognized on repeated occasions by federal and state court judges who have appointed the firm to serve as lead or co-lead counsel in numerous cases throughout the country. In this regard, the firm has successfully represented certain states throughout the country in matters involving securities litigation such as in *Mississippi Public Employees Retirement System v. Semtech* and *In re Sterling Financial Corporation Securities Class Action*, representing Public Employees Retirement Association of New Mexico and the New Mexico Educational Retirement Board.

The firm has been successful at protecting shareholders in “change-of-control” transactions seeking to maximize shareholder value. For example, the firm represented shareholders of Nationwide Financial in a going private transaction and was able to negotiate more than \$200 million for the public shareholders in the form of an increased share price. In a similar matter, attorneys at the firm represented shareholders of 7-Eleven and brokered an additional \$140 million in the sales price.

Additionally, our attorneys handling environmental litigation possess expert knowledge in issues related to groundwater and air pollution, toxic exposures, leaking pipelines and underground storage tanks, oil field contamination, and pesticides. The firm pursues claims against corporate polluters and governmental agencies on the state, local and federal level. For example, CBP served as co-lead counsel

on behalf of the Quapaw Tribe in a case that involved natural resources damages to tribe-related lands from lead and zinc mining, which resulted in an \$11.5 million settlement against Asarco, LLC, in addition to confidential settlements with four other mining companies.

In the employment context, CBP served as co-lead counsel in *Nelson v. Wal-Mart Stores, Inc.*, 04-00171 (E.D. Ark.), a nationwide race discrimination class action on behalf of African-American truck drivers against Wal-Mart that provided \$17.5 million in recovery, as well as significant changes to Wal-Mart's hiring policies and four years of court supervision of the settlement terms.

In addition to its strong personnel, CBP is well-capitalized, allowing it to dedicate considerable resources and to advance expenses on a contingency fee basis to the fullest extent necessary to achieve the best possible result for class members. As a result of its successful track record and strong capitalization, the firm enjoys a high level of respect and credibility with the defense bar and insurance carriers that often defend and insure corporations and their officers and directors.

As a firm, CBP values practicing in a small environment where professional and personal interaction among the partners, associates, paralegals, accounting staff and other personnel allow for a true "team approach" to litigation strategy that fosters an energetic exchange of ideas. The firm believes its size allows for a greater degree of independence, flexibility and satisfaction than a large firm environment, without sacrificing the quality of representation necessary to achieve successful results for its clients.

The Firm's Attorneys

ALLEN CARNEY

Mr. Carney is a graduate of the University of Arkansas, earning a degree in Finance. Subsequently, Mr. Carney graduated from the University of Arkansas at Little Rock School of Law.

Mr. Carney concentrates his practice on prosecuting complex litigation on behalf of investors, consumers and employees. He has extensive experience in nationwide cases, including appointment as lead counsel in dozens of securities and consumer class actions. He has successfully represented investors and consumers in cases that achieved cumulative recoveries in the hundreds of millions of dollars for plaintiffs.

Mr. Carney played a key role in litigating the various Payment Protection actions against the largest credit card issuers. These actions resulted in significant recoveries for injured consumers. See *Kardonick v. JPMorgan Chase*, S.D. Florida, \$20 million; *Esslinger v. HSBC Bank Nevada*, E.D. Pennsylvania, \$23.5 million; *In re Discover Credit Card Payment Protection*, N.D. Illinois, \$10.5 million; *In re Bank of America*, N.D. California, \$20 million; *Spinelli v. Capital One*; M.D. Florida; more than \$100 million.

Mr. Carney was lead counsel in Semtech Securities Litigation, a federal securities fraud class action that settled prior to trial achieving a significant recovery for investors. Additionally, he has served as lead counsel in numerous other federal securities fraud class actions, including *In re Lernout & Hauspie Securities Litigation*, No. 00-11589-PBS (D. Mass.) (\$115 million settlement); *In re NewPower Securities Litigation*, No. 2-CV-1550 (S.D.N.Y.) (\$41 million settlement); *In re DQE, Inc. Securities Litigation*, No. 01-1851 (W.D. Pa.); *In re Ashanti Goldfields Securities Litigation*, No. CV-00-9717 (DGT) (RML) (E.D.N.Y.); *In re Central Parking Corporation Securities Litigation*, No. 03-CV-0546 M.D. Tenn.); *In re Keyspan Securities Litigation*, No. CV-01-5852 (ARR) (MDG) (E.D.N.Y.); *Paul Ruble, et. al. v. Rural Metro Corp., et. al.*, No. CV-99-822-PHX-RGS (D. Ariz.).

Prior to joining the firm, Mr. Carney was a partner with Jack, Lyon & Jones, P.A. in the Little Rock, Arkansas office, where he practiced extensively in the areas of complex commercial litigation, labor and employment litigation, and business transactions. He was involved in a number of high-profile cases, including the successful defense of Capital Cities/ABC News in an action brought by Tyson Foods regarding the secret videotaping of chicken processing plants. He was also a Contributing Author to "Arkansas Employment Law Letter," published by M. Lee Smith, 1995.

Mr. Carney is licensed to practice law in Arkansas state courts, the United States District Courts for the Eastern and Western Districts of Arkansas, and the United States Court of Appeals for the Third and Eighth Circuits. Mr. Carney has argued before the Arkansas Supreme Court. Additionally, Mr. Carney has appeared in numerous federal and state courts across the nation via admission *pro hac vice*.

HANK BATES

Mr. Bates focuses his practice on representing individuals, small businesses, public interest groups and governmental entities in litigation to combat consumer fraud, protect data privacy, guard employee rights, clean up pollution and preserve the environment.

Mr. Bates has worked to protect consumers in a variety of settings. Recently, Mr. Bates successfully prosecuted *Williams, et al. v. State Farm*, 4:11-cv-00749-KGB (E.D. AR), alleging State Farm illegally took a portion of its insureds' settlements with third parties. After over six years of litigation, this case settled in June 2018, resulting in a \$21.7 million common fund with 7,630 Arkansans receiving 100% recovery of the improperly taken funds plus 6 percent interest without having to file a claim or sign any release. Mr. Bates also served as co-lead counsel in *Ebarle, et al. v. LifeLock, Inc.*, 3:15-cv-00258 (N.D. Cal.), a class action on behalf of customers of the identity theft protection service, arising from claims that LifeLock delivered false statements about its services and failed to alert customers on a timely basis of potential identity theft. A nationwide settlement of \$81 million was approved in September 2016.

Mr. Bates also served as counsel in *Wayne Miner et al. v. Philip Morris USA Inc.*, Circuit Court of Pulaski County, Arkansas, Case No. 60CV-03-4661, a class action brought on behalf of Arkansas smokers over claims that the defendant misrepresented the safety of its "light" cigarette products, which settled in 2016 for \$45 million, and *Zuern v. IDS Property Casualty Insurance Co.*, Case No. 3:19-cv-06235 (W.D. WA.), a class action alleging the insurer breach the terms of their policies by devaluing insureds' total loss claims and failing to pay actual cash value, which settled for \$1.75 million.

Mr. Bates is at the forefront of data privacy and data security litigation. In the data privacy context, he served as court-appointed class counsel in *Matera, et al. v. Google, Inc.*, 5:15-cv-04062-LHK, securing a class action settlement in 2018 requiring Google to stop using content derived from email transmissions for user profiling and targeted advertising, and also served as court-appointed class counsel in *Campbell, et al. v. Facebook, Inc.*, 4:13-cv-05996-PJH (N.D. Cal.), securing a settlement in 2017 requiring disclosures of and limitations on Facebook's interception and use of private message content. He also served as co-lead counsel in three class actions against mobile application developers alleging surreptitious tracking of minors in violation of state laws. *Amanda Rushing, et al. v. The Walt Disney Company, et al.*, 3:17-cv-04419-JD (N.D. Cal.); *Amanda Rushing, et al. v. Viacom Inc., et al.*, 3:17-cv-04492-JD (N.D. Cal.); and *Michael McDonald, et al. v. Kiloo APS, et al.*, 3:17-cv-04344-JD (N.D. Cal.). These cases resolved in fifteen separate settlements with Disney, Viacom, Kiloo, Sybo and 11 advertising technology firms. In a New York Times article, Josh Golin, the executive director of Campaign for a Commercial-Free Childhood, said "This is going to be the biggest change to the children's app market that we've seen that gets at the business models . . . On thousands of apps, children will no longer be targeted with the most insidious and manipulative forms of marketing."

Mr. Bates has been involved in litigation over some of the largest consumer data breaches in history, serving as counsel for the lead financial institution plaintiff in *In re: Target Corporation Customer Data Security Breach Litigation*, 0:14-cmd-02522-PAM-JJK (D. Minn.), which recovered \$39.4 million for the class of financial institutions, and serving on the Plaintiffs' Steering Committee in *In re: The Home Depot, Inc., Customer Data Security Breach Litigation*, 1:14-md-02583-TWT (N.D. Ga.), which settled for \$25 million for the class of financial institutions.

In the environmental context, Mr. Bates has represented numerous communities across America where neighboring industries polluted their air and tainted their groundwater. These cases have resulted in multi-million-dollar recoveries for the residents of these communities as well as agreements and court orders requiring remediation of contamination and compliance with the environmental laws in the future. For example, as co-lead counsel for the Quapaw Tribe of Oklahoma, Mr. Bates secured an \$11.5 million

settlement from Asarco, LLC for spoiling the Tribe's historic reservation with lead and zinc mining waste, in addition to confidential settlements from four other mining companies. Mr. Bates has also successfully represented numerous farmers in cases involving crop damage by defective pesticides. In addition, he represented conservation groups in California and Arkansas to protect our waterways from pollution, free-flowing stream from dams, and endangered species from loss of critical habitat.

Mr. Bates's employment litigation includes acting as court-appointed class counsel in a nationwide race discrimination class action on behalf of African-American truck drivers against Wal-Mart that provided \$17.5 million in recovery, significant changes to Wal-Mart's hiring policies and four years of court supervision of the settlement terms requiring improved hiring practices.

In his community, Mr. Bates has served as President of the Board of Directors for Arkansas Advocates for Children and Families, and on the Advisory Board for the Arkansas Journal of Social Change and Public Service. He served as an inaugural board member of the Arkansas Citizens First Congress and has been honored as Sierran of the Year by the Arkansas Chapter of the Sierra Club, Civil Rights Activist of the Year by the Arkansas Public Policy Panel, and has received the Angel Award from Treatment Homes, Inc., which provides training for therapeutic foster care parents.

Mr. Bates is active in the bar, currently serving as Arkansas State Coordinator for Public Justice. Previously he served as the Chairman of the Environmental Law Section of the Arkansas Bar Association and as Vice-Chairman of the American Bar Association's Committee on Pesticides, Chemical Regulation, and Right-to-Know.

Mr. Bates is listed in The Best Lawyers in America and as a "Super Lawyer" (among the top 5 percent of lawyers in Arkansas, Mississippi and Tennessee) by Mid-South Super Lawyers Magazine.

RANDALL K. PULLIAM

Mr. Pulliam graduated from the University of Central Arkansas with a Bachelor of Business Administration degree, where he was nominated for Outstanding Management Student in the university's School of Business. Mr. Pulliam later earned his Master of Business Administration degree from the University of Arkansas, with an emphasis in Finance. Mr. Pulliam earned his juris doctorate from the University of Arkansas at Little Rock (UALR) School of Law where he received multiple American Jurisprudence Awards.

Mr. Pulliam has been appointed lead counsel in dozens of successful class actions relating to consumer protection, including *Econo-Med Pharmacy, Inc. v. Roche Diagnostics Corporation*, 1:16-cv-00789-TWP-MPB (S.D. Ind.), representing a class of pharmacies in a Telephone Consumer Protection Act (“TCPA”) litigation resulting in a \$17 million settlement and *ARcare, Inc. v. Qiagen North America Holdings, Inc., et al.*, Case No. 43CV-17-46 (Judge Sandy Huckabee, Lonoke Co. Cir. Ct.), representing a class of pharmacies in a TCPA litigation resulting in a \$15.5 million settlement; Mr. Pulliam has been co-lead counsel in *Ebarle, et al. v. LifeLock, Inc.*, 3:15-cv-00258 (N.D. Cal.), a class action on behalf of Customers of the identity theft protection service settled for \$81 million; *Kardonick v. JPMorgan Chase & Co.*, S.D. Florida, \$20 million; *Esslinger v. HSBC Bank Nevada*, E.D. Pennsylvania, \$23.5 million; *In re Discover Credit Card Payment Protection*, N.D. Illinois, \$10.5 million; *In re Bank of America Credit Protection Marketing & Sales Practices Litig.*, N.D. California, \$20 million; *Spinelli v. Capital One*, M.D. Florida; more than \$100 million. Mr. Pulliam represented the State of New Mexico in a series of lawsuits that each favorably resolved asserting causes of actions for violations of the Dodd-Frank Act and state law against seven of the largest financial institutions in the world.

Mr. Pulliam has substantial experience in many areas of the securities industry, holding his Series 7 General Securities Representative license. Mr. Pulliam worked for Stephens, Inc. as an Equity Trader for four years, where he executed in excess of \$2 billion in securities transactions each year and participated in the firm’s underwriting and Initial Public Offering allocation decisions. Prior to working at Stephens, Mr. Pulliam worked as an investment banker for Crews and Associates, Inc., where he was responsible for buying municipal bonds for both individual and institutional investors.

Mr. Pulliam has also represented investors seeking financial recovery for losses suffered as a result of securities fraud, as well as in “change-of-control” transactions seeking to maximize shareholder value. Mr. Pulliam represented shareholders of Nationwide Financial in a going private transaction and was able to achieve more than \$200 million for the public shareholders. In a similar matter, Mr. Pulliam represented shareholders of 7-Eleven and helped negotiate an additional \$140 million in the sales price.

Prior to joining the firm, Mr. Pulliam had a successful law practice in a variety of legal areas, including commercial litigation, where he gained extensive courtroom experience, successfully trying several jury trials.

On the issues of securities fraud and fiduciary duty, Mr. Pulliam has been quoted in numerous publications, including the New York Times and the Dallas Morning News. Mr. Pulliam has also provided presentations about issues affecting institutional investors at conferences and to the boards of numerous public and union pension funds, including being a panelist on the 2005 Institutional Shareholder Services Annual Conference, The Fiduciary Responsibility to Claim Securities Class Action Settlements. Mr. Pulliam is a past chair of the Arkansas Bar Association Securities Law Section.

TIFFANY WYATT OLDHAM

Ms. Oldham graduated *cum laude* from the University of Arkansas at Fayetteville School of Law in 2001. She served as a member of the Board of Advocates and the W.B. Putman Inns of Court. In addition, Ms. Oldham served as President of Phi Delta Phi honors fraternity. During her law school career, Ms. Oldham participated in various trial competitions and moot court, where she was selected as a semi-finalist in the spring rounds. Ms. Oldham has a Bachelor's of Arts in English from the University of Arkansas at Fayetteville.

Ms. Oldham began her legal career with Carney Bates & Pulliam in 2002, and for nearly two decades now, she has focused her practice on securities and consumer fraud class actions.

Ms. Oldham has had a significant role in several of the firm's prominent cases, including: *Spinelli v. Capital One Bank*, No. 08-CV-132-T-33EAJ (M.D. Fla.); *In re Semtech Corp. Securities Litigation*, No. 07-cv-7114 (FMOx) (C.D. Cal.); *In re Fleming Companies, Inc. Securities and Derivative Litigation*, 5-030MD-1530 (TJW) (E.D. Tex.); *In re Keyspan Securities Litigation*, No. CV-01-5852 (ARR) (MDG) (E.D.N.Y.); *Freidman v. Rayovac Corporation*, No. 02-CV-0308 (W.D. WI); *In re IXL Enterprises, Inc. Securities Litigation*, No. 1:00-CV-2347-CC (N.D. Ga.); *Asher v. Baxter International, Inc.*, et. al., No. 02-CV-5608 (N.D. Ill.). Having prosecuted numerous class actions through all stages of the litigation process, Ms. Oldham has experience with the full range of litigation issues confronting investors and consumers in complex litigation.

Working together with her colleagues at Carney Bates & Pulliam, Ms. Oldham's work has contributed to hundreds of millions in recoveries for investors and consumers. Specifically, Ms. Oldham has contributed to the litigation and settlement efforts in the following cases: *Ebarle, et al. v. Lifelock, Inc.*, Case No.3:15-cv-00258 (N.D. Cal) (consumer class action that resulted in a \$81 million settlement); *Econo-Med Pharmacy, Inc. v. Roche Diagnostics Corp.*, Case No. 1:16-cv-00789-TWP-MPB (S.D. Ind.) (TCPA class action that resulted in a \$17 million settlement); *ARcare, Inc. v. Qiagen North America Holdings, Inc. et al.*, Case No. 43CV-17-46 (Lonoke Co. Cir. Ct.) (TCPA class action that resulted in a \$15.5 million settlement); *Williams v. State Farm Mutual Automobile Ins. Co.*, Case No. 4:11-cv-00749-KGB (E.D. Ark.) (litigation involving insurance settlement practices that resulted in a common fund settlement of \$21.7 million); and *Zuern v. IDS Property Casualty Insurance Co.*, Case No. 3:19-cv-06235 (W.D. WA.) (litigation involving the undervaluation of insureds' total loss claims that resulted in a \$1.75 million settlement).

Ms. Oldham has also worked on notable data breach and privacy cases, including the following: *In re Equifax, Inc., Customer Data Security Breach Litigation*, 1:17-md-2800-TWT (N.D. Ga.); *In re: The Home Depot, Inc., Customer Data Security Breach Litigation*, Case No. 1:14-md-02583-TWT (N.D. Ga.); and *In re: Target Corporation Customer Data Security Breach Litigation*, Case No. 0:14-cmd-02522-PAM-JJK (D. Minn.).

Immediately prior to joining Carney Bates & Pulliam, Ms. Oldham spent time overseas working for the Japanese municipal government in Okinawa, Japan. In addition, Ms. Oldham worked as an intern for the United States Bankruptcy Court, Western Division of Arkansas, where she assisted in researching bankruptcy issues and administering bankruptcy proceedings.

Ms. Oldham is licensed to practice in the Arkansas state courts and the United States District Courts for the Eastern and Western Districts of Arkansas, and the United States Courts of Appeals for the Third Circuit. She is currently a member of the American, Arkansas and Pulaski County Bar Associations. Ms. Oldham has experience in a multitude of legal fields including securities law, corporate law, business litigation, real estate transactions, and insurance regulation.

LEE LOWTHER

Mr. Lowther represents consumers in complex litigation who have fallen victim to the frauds, schemes, and abuses of unscrupulous actors. For several years before joining Carney Bates & Pulliam, Mr. Lowther had a wide-ranging defense practice at a respected firm in Little Rock, Arkansas. During his time as a defense lawyer, Mr. Lowther learned how to attack procedural and substantive weaknesses in plaintiffs' cases. This experience serves him well representing consumers, enabling him to spot and solve problems before they arise.

Since joining CBP, Mr. Lowther has been appointed class counsel in numerous contested class actions and settlement classes. He is currently counsel to two certified classes—*Torliatt v. Ocwen Loan Servicing, LLC* (N.D. Cal.) and *Williams v. LoanCare, LLC* (S.D. Tex.)—that claim the defendants violated state debt-collection laws by collecting fees from borrowers who made their mortgage payments online or over the phone. Lee is class counsel in two other cases making similar allegations—*Caldwell v. Freedom Mortgage Corporation* (N.D. Tex.) (\$2.25 million settlement granted final approval) and *Phillips v. Caliber Home Loans, Inc.* (D. Minn.) (\$5,000,000 settlement granted final approval). In addition, Mr. Lowther was class counsel for a nationwide class of borrowers who alleged Freedom Mortgage Corporation violated the terms of their mortgages by charging them unnecessary property-inspection fees—*Cole v. Freedom Mortgage Corporation* (Burl. County, NJ) (\$650,000 settlement granted final approval).

In addition to his mortgage practice, Mr. Lowther also has an active practice representing insureds and third-party claimants in class actions against insurance companies for underpaying what their totaled cars are worth. He was recently appointed class counsel for a settlement class where members recovered approximately 75% of the amount wrongfully withheld from their total-loss payments—*Zuern v. IDS Property Casualty Insurance Co.* (W.D. WA.) (\$1.75 million settlement granted final approval).

Mr. Lowther has also benefited from working in the courts. During law school, Mr. Lowther worked as an intern for the Honorable James M. Moody Sr., United States District Judge for the Eastern District of Arkansas. And after graduating, he clerked for the Honorable D.P. Marshall Jr., United States District Judge for the Eastern District of Arkansas. In these roles, Mr. Lowther had the benefit of working on cases during every stage of litigation, from the filing of the complaint through rulings on post-judgment motions. More importantly, Mr. Lowther observed firsthand how litigation strategies succeed and fail.

During law school, Mr. Lowther was chosen by faculty to join the National Trial Competition Team. He also competed in the 2012 Ben J. Altheimer Moot Court Competition, where he and his partner took the award for Best Respondent's Brief.

SAM JACKSON

Mr. Jackson joined Carney Bates & Pulliam in 2021 after developing a strong interest in protecting the public as a Deputy Prosecuting Attorney. As a Deputy Prosecuting Attorney Mr. Jackson gained invaluable litigation experience from his work evaluating cases, managing relationships with victims, negotiating cases with opposing counsel, and ultimately trying numerous cases in front of judges and juries. He gained the ability to quickly evaluate evidence and credibility and to identify weaknesses in case theory in a high-volume practice. Working to bring justice for victims of violent domestic and sexual abuse naturally led him to the firm, where his focus is on consumer protection and data privacy. Mr. Jackson was actively engaged in his educational communities both at Hendrix College (2008) and the University of Arkansas School of Law (2013). He remains engaged, volunteering his time for the tennis community in Little Rock as well as both the Arkansas and Southern Tennis Associations.

COURTNEY ROSS BROWN

Ms. Ross joined Carney Bates & Pulliam in 2021. Prior to joining the firm, she was a judicial extern for United States Magistrate Judge Joe J. Volpe. She graduated *cum laude* from the University of Arkansas at Fayetteville School of Law, where she was chosen by faculty to be a member of the traveling young lawyers association's mock trial advocacy team. She also competed in many of the law schools' board of advocates competitions.

COLE LORIGAN

Mr. Lorigan joined Carney Bates & Pulliam in 2023. He served as a Deputy Prosecuting Attorney in Little Rock, Arkansas from 2016 to 2023. Cole prosecuted cases ranging from thefts and gun crimes to domestic violence, sexual assaults, and homicides. During his time as a DPA, he tried dozens of cases in front of judges and juries in Pulaski County, Arkansas. Cole is dedicated to seeking justice, whether for victims of violent crimes, consumers whose health is put at risk by dangerous products, or individuals whose privacy is invaded and exploited by big tech companies. Cole graduated law school *cum laude* from the University of Arkansas – Little Rock (2016). He graduated *magna cum laude* with a degree in English from Arkansas State University (2012), where he also played on the football team.

WILLIAM P. CREASMAN

Mr. Creasman has built and managed corporate legal departments and served as a chief legal officer or general counsel of a variety of companies, including Alltel Wireless, TCBY, and Wrangler Europe. Will has extensive domestic and international experience in corporate governance, securities, marketing, advertising, franchising, insurance, telecommunications, information technology, and employment law and has worked in the insurance, telecommunications, information technology, apparel manufacturing, food processing, and foodservice industries.

Shortly after joining the firm, Will launched *In re Delta Dental Antitrust Litig.*, Civil Action No. 1:19-CV-06734, United States District Court for the Northern District of Illinois, a nationwide class action on behalf of all dentists against all of the Delta Dental companies, which are the largest dental insurance companies in America. That case is currently in discovery. In addition to that and other cases, he has a full corporate and pro bono practice.

Mr. Creasman obtained his law degree from Wake Forest University and his undergraduate degree from The Johns Hopkins University. Over the years he has been an adjunct professor at the School of Law, University of Arkansas – Little Rock, a member of the Board of Directors of the Center for Arkansas Legal Services (a *pro bono* legal services corporation), and a Commercial Panelist for the American Arbitration Association. He is admitted to practice in Arkansas, North Carolina, and Texas.

Leadership Positions

Class Action, MLD and Complex Litigation Cases where the attorneys of Carney Bates & Pulliam have held a leadership position of Lead or Co-Lead Plaintiffs' Counsel or as a member of the Executive Committee of Counsels:

In re AFC Enterprises, Inc. Securities Litigation, United States District Court for the Northern District of Georgia, Case No. 1:03-cv-0817-TWT (\$15 million settlement).

Amanda Rushing, et al. v. The Walt Disney Company, et al., 3:17-cv-04419-JD; *Amanda Rushing, et al. v. Viacom Inc., et al.*, 3:17-cv-04492-JD; *Michael McDonald, et al. v. Kiloo APS, et al.*, 3:17-cv-04344-JD United States District Court for Northern District of California (injunctive relief settlement in three consolidated actions requiring removal, disabling and limiting of tracking software that could be used to target children with ads across thousands of gaming apps)

Anderson, et al. v. Farmland Industries, Inc., United State District Court for the District of Kansas, Case No. 98-cv-2499-JWL (multi-party consolidated environmental litigation, Co-Lead Counsel; confidential settlement).

ARcare, Inc. v. Cynosure Inc., United State District Court for the District of Massachusetts, Case No. 16-11547-DPW (Class Counsel; \$8.5 million settlement).

ARcare, Inc. v. Qiagen North America Holdings, Inc., et al., Circuit Court of Lonoke County, Arkansas, Case No. 43CV-17-46 (Lead Counsel, \$15.5 million settlement).

In re Ashanti Goldfields Securities Litigation, United States District Court for the Eastern District of New York, Case No. CV-00-0717 (DGT) (RML) (Co-Lead Counsel; \$15 million settlement).

Asher v. Baxter International, Inc., et al., United States District Court for the Northern District of Illinois, Eastern Division, Case No. 02 C 5608 (Co-Lead Counsel).

In re Bank of America Credit Protection Marketing & Sales Practices Litig., United States District Court for the Northern District of California, Case No. 11-md-2269-THE (\$20 million settlement; member of Plaintiffs' Executive Committee).

Bland, et al. v. Petromark, Inc., et al., Circuit Court of Boone County, Arkansas, Case No. CV-2003-3-2 (multi-party consolidated environmental litigation, Co-Lead Counsel).

Brown v. Progressive Mountain Ins. Co., 3:21-cv-175-TCB (N.D. Ga. Aug. 3, 2023) (Class Counsel).

Caldwell, et al. v. Freedom Mortgage Co., No. 3:19-cv-02193-N (N.D. Tex.) (Co-Lead Counsel; \$2.25 million settlement).

Campbell, et al. v. Facebook, Inc., United States District Court for the Northern District of California, Case No. 4:13-cv-05996-PJH (Co-Lead Counsel; injunctive relief settlement securing disclosures and limitations on Facebook's interception and use of private message content).

In re Central Parking Corporation Securities Litigation, United States District Court for the

Middle District of Tennessee), Case No. 3:03-0546 (\$4.85 million settlement).

Clippinger v. State Farm Mut. Ins. Co. 2:20-cv-02482-TLP-cgc (W.D. Tn. Aug. 25, 2023) (Class Counsel).

Cole v. Freedom Mortgage Corporation (Burl. County, NJ) (\$650,000 settlement granted final approval).

Daniel, et al. v. Ford Motor Company, United States District Court for the Eastern District of California, Case No. 2:11-02890 WBS EFB (Co-Lead Counsel).

Desert Orchid Partners, LLC v. Transaction Systems Architects, Inc., United States District Court for the District of Nebraska, Case No. 02-cv-553 (\$24.5 million settlement; Co-Lead Counsel).

In re Discover Credit Card Payment Protection Plan Marketing and Sales Practices Litig., United States District Court for the Northern District of Illinois, Case No. MDL No. 2217 (\$10.5 million; Co-Lead Counsel).

Drummond v. Progressive Specialty Ins. Co., No. 21-4479, 2023 U.S. Dist. LEXIS 140205 (E.D. Pa. Aug. 11, 2023) (Class Counsel).

In re DQE, Inc. Securities Litigation, United States District Court, Western District of Pennsylvania, Case No. 01-1851 (Co-Lead Counsel; \$12 million settlement).

In re Dynacq International, Inc. Securities Litigation, United States District Court for the Southern District of Texas, Houston Division, No. H-02-0377 (Co-Lead Counsel).

Eastwood, et al. v. Southern Farm Bureau Cas. Ins. Co., United States District Court for the Western District of Arkansas, Case No. 11-3075 (Co-Lead Counsel; \$3.6 million settlement).

Ebarle, et al. v. LifeLock, Inc., United States District Court for the Northern District of California, Case No. 3:15-cv-00258 (Co-Lead Counsel; \$81 million settlement).

Econo-Med Pharmacy, Inc. v. Roche Diagnostics Corporation, Southern District of Indiana, Case No. 1:16-cv-00789-TWP-MPB (Lead Counsel, \$17 million settlement).

Esslinger v. HSBC Bank Nevada, United States District Court for the Eastern District of Pennsylvania, Case No. 2:10-cv-03213-BMS (\$23.5 million; Co-Lead Counsel).

In re Fleming Corporation Securities Litigation, United States District Court for the Eastern District of Texas, Texarkana Division, No. 5-02-CV-178 (Co-Lead Counsel for 33 Act Claims; \$93.75 million settlement).

Friedman v Rayovac Corporation, et al., United States District Court of the Western District of Wisconsin, Case No. 02-0308 (\$4 million settlement).

Gaynor v. Thorne, et al., Circuit Court of Cook County, Illinois County, Dept of Chancery, Case No. 07-CH-14381.

Garza v. J.D. Edwards & Co., United States District Court for the District of Colorado, Case No.

99-1744, (\$15 million settlement).

Hardin, et al. v. BASF, United States District Court for the Eastern District of Arkansas, Western Div., Consolidated No. 00-CV-00500 SWW (multi-party consolidated environmental litigation, Co-Lead Counsel; confidential settlement).

In re: The Home Depot, Inc., Customer Data Security Breach Litigation, United States District Court for the Northern District of Georgia, Case No. 1:14-md-02583-TWT (Executive Committee; \$25 million settlement).

Jensen, et al. v Cablevision Systems Corporation, United States District Court for the Eastern District of New York, Case No. 2:15-cv-04188-LDW-ARL.

In re Keyspan Corporation Securities Litigation, United States District Court for the Eastern District of New York, Case No. 01-cv-5852 (ARR) (MDG).

Kardonick v. JPMorganChase, United States District Court for the Southern District of Florida, Case No. 1:10-cv-23235-WMH (\$20 million settlement; Co-Lead Counsel).

King, et al., v. Hamilton Sundstrand Corporation, District Court of Adams County, Colorado, Case No. 02-CV-2018 (Co-lead Counsel; \$2 million settlement of groundwater contamination case).

Langston v. Gateway Mortgage Group, LLC, United States District Court for the Central District of California, Case No. 5:20-cv-01902-VAP-KKx (Co-Lead Counsel; \$1,175,000 settlement).

In re Lernout & Hauspie Securities Litigation, United States District Court for the District of Massachusetts, No. 00-CV-11589-PBS (Co-Lead Counsel; \$115 million settlement).

Lewis, v. Maverick Transportation LLC, et al., Southern District of Illinois, No. 3:22-cv-00046-NJR (Class Counsel; \$56,800 settlement for class of 71).

In re Liberty Refund Anticipation Loan Litig., United States District Court for the Northern District of Illinois, Case No. 1:12-cv-02949 (Co-Lead Counsel; \$5.3 million settlement).

Lynch v. JDN Realty Corp., et al., United States District Court for the Northern District of Georgia, Atlanta Division, Case No. 1:00-CV-2539 (settled for over \$40 million in cash and stock with 11% of the total settlement allocated to Mr. Bowman's clients).

Matera, et al. v. Google, Inc., United States District Court for the Northern District of California, Case No. 5:15-cv-04062-LHK (Co-Lead Counsel; injunctive relief settlement requiring Google to stop using content derived from email transmissions for user profiling and targeted advertising).

Middlesex County Retirement System v. Semtech Corp. et al, United States District Court for the Southern District of New York, Case No. 07-Civ-7183 (DC) (Co-Lead Counsel; \$20 million settlement).

Miner et al. v. Philip Morris USA Inc., Circuit Court of Pulaski County, Arkansas, Case No. 60CV-03-4661 (\$45 million settlement).

Montalvo v. Triplos, Inc. et al., United States District Court for the Eastern District of Missouri, Eastern Division, Case No. 4:03CV995SNL (Co-Lead Counsel; \$3,150,000 settlement).

In re Monterey Pasta Company Securities Litigation, United States District Court for the Northern District of California, Case No. 3:03 CV 00632 MJJ (Co-Lead Counsel).

In re National Golf Properties, Inc. Securities Litigation, United States District Court for the Central District of California, Western Division, Case No. 02-1383-GHK RZX; (\$4.175 million settlement).

In re Nationwide Financial Services Litigation, United States District Court for the Southern District of Ohio, Case No. 08-CV-00249 (\$5.05 per share increase in offer price; \$232.8 million value).

Nelson, et al. v. Wal-Mart Stores, Inc., United States District Court for the Eastern District of Arkansas, Case No. 04-CV-00171 (Co-Lead Counsel; \$17.5 million).

In re NewPower Holdings Securities Litigation, United States District Court for the Southern District of New York, Case No. 01-cv-1550 (CLB) (Co-Lead Counsel; \$41 million settlement).

Pennsylvania Avenue Funds v. Gerard H. Brandi, et al., Common Wealth of Massachusetts Superior Court, Middlesex County, Case No. CV 08-1057.

Phillips, et al. v. Caliber Home Loans, Inc., 19-cv-02711-WMW-LIB (D. Minn.) (Class Counsel; \$5 million settlement).

Pierce v. Ryerson Inc. et al., Illinois Circuit Court, Cook County, Case No. 07 CH 21060.

Poff, et al. v. PHH Mortgage Corp., et al., United States District Court for the Southern District of Texas, Case No. 4:20-cv-04018 (Class Counsel; \$1.3 million settlement).

City of Pontiac General Employees' Retirement System v. CBS Corp., United States District Court for the Southern District of New York, Case No. 08-CV-10816 (LBS).

In re Phycor Shareholder Litigation, United States District Court for the Middle District of Tennessee, Nashville Division, Case No. 3-99-0807 (\$11.2 million cash settlement).

The Quapaw Tribe of Oklahoma v. Blue Tee Corp., United States District Court for the Northern District of Oklahoma, Case No. 03-cv-0846-CVE-PJC (\$11.5 million settlement in a case against Asarco, LLC).

Ruble, et. al. v. Rural Metro Corp., et. al., United States District Court for the District of Arizona, Case No. 99-cv-822-PHX-RGS.

Sheet Metal Workers Local 28 Pension Fund v. Office Depot, Inc. et al., United States District Court for the Southern District of Florida, Case No. 07-81038-CIV-Hurley/Hopkins.

Simpson, et al., v. Koppers, et al., Pulaski County Circuit Court, Third Division, Case No. CV-00-1659 (multi-party consolidated environmental litigation, Co-Lead Counsel; confidential settlement).

Slatten v. Rayovac Corporation, et al., United States District Court for the Western District of Wisconsin, Case No. 02 C 0325 C (Co-Lead Counsel; \$4 million settlement).

Slone, et.al. v. Fifth Third, United States District Court for the Southern District of Ohio, Case No. 03-cv-00211 (\$15 million settlement).

Smith v. Intuit, Inc., United States District Court for the Northern District of California, Case No. 5:12-cv-00222 (\$6.55 million cash settlement).

Spinelli v. Capital One Bank (USA), et al., United States District Court for the Middle District of Florida, Case No. 8:08-cv-132-T-33EAJ (more than \$100 million settlement; Co-Lead Counsel).

State of New Mexico v. Discover Financial Services, Inc., et al., United States District Court for the District of New Mexico, Case No. 1:13-cv-00503 (\$2.15 million cash settlement).

State of New Mexico v. JPMorgan Chase & Co., et al., United States District Court for the District of New Mexico, Case No. 1:13-cv-00472 (\$2,146,750.00 million cash settlement).

In re Sterling Financial Corporation Securities Class Action, United States District Court of the Southern District of New York, Case No. CV 07-2171(Co-Lead Counsel; \$10.25 million settlement).

Stokes, et al. v. Government Employees Insurance Company d/b/a GEICO, et al., Circuit Court of Pulaski County, Arkansas, Civil Division, Case No. 60CV-13-4282 (Co-Lead Counsel; \$517,206.30 settlement).

In re Supervalu, Inc. Securities Litigation, United States District Court for the District of Minnesota, Case No. 02-CV-1738 (JEL/JGL) (Co-Lead Counsel; \$4 million settlement).

In re: Target Corporation Customer Data Security Breach Litigation, 0:14-cmd-02522-PAM-JJK (D. Minn.) (Counsel for Lead Plaintiff; \$39.4 million settlement).

Torliatt v. Ocwen Loan Servicing, LLC, United States District Court for the Northern District of California, Case No. 3:19-cv-04303-WHO (Class Counsel, \$7 million settlement).

Valuepoint Partners, Inc. v. ICN Pharmaceuticals, Inc. Et al., United States District Court for the Central District of California, Case No. 03-0989 (\$3,225,000 settlement).

In re Vision America Securities Litigation, United States District Court for the Middle District of Tennessee, Nashville Division, Case No. 3-00-0279 (\$5.9 million settlement).

Volino v. Progressive Cas. Ins. Co., 1:21-cv-06243-LGS (S.D.N.Y. Mar. 16, 2023) (Class Counsel).

White v. Minnesota Mining & Manufacturing Co., United States District Court for the Eastern District of Arkansas, Western Div., Case No. LR-C-98-362 (multi-party consolidated environmental litigation, Co-Lead Counsel; confidential settlement).

Williams v. LoanCare, LLC, United States District Court for the Southern District of Texas, 4:20-cv-01900 (Class Counsel).

Williams, et al. v. State Farm, Eastern District of Arkansas, Case No. 4:11-cv-00749-KGB (Co-Lead Counsel, \$21.7 million settlement).

Wilson v. Santander Consumer USA Inc., United States District Court for the Eastern District of Arkansas, Case No. 4:20-cv-00152 KGB (Lead Counsel; \$800,000 settlement).

Wise, et al. v. Arkansas Aluminum Alloys, Inc., et al., Miller County Circuit Court; Case No. CIV-2003-14-1(multi-party consolidated environmental litigation, Co-Lead Counsel; confidential settlement).

Wroten, et al. v. Shelter Mutual Ins. Co., Circuit Court of Pulaski County, Arkansas, Civil Division, Case No. 60CV-14-517 (Co-Lead Counsel; \$1,773,453.56 settlement).

Wroten, et al. v. US Able Mutual Ins. Co., Circuit Court of Pulaski County, Arkansas, Civil Division, Case No. 60CV-14-516 (Co-Lead Counsel; \$1,234,585.00 settlement).

Yvon DuPaul v. H. Edwin Trusheim, et al. (Rehabcare Group), Circuit Court of the County of St. Louis, Missouri, Case No. 02 CC 3039 (Lead Derivative Counsel).

Zuern v. IDS Property Casualty Insurance Co., Western District of Washington, Case No. 3:19-cv-06235 (Co-Lead Counsel; \$1.75 million settlement).

EXHIBIT 2

Composite Class ***Counsel*** Declarations

MULLANEY DECLARATION

DECLARATION OF THOMAS M. MULLANEY

1. My name is Thomas M. Mullaney. I am the founder of The Law Office of Thomas M. Mullaney. My firm, along with Carney Bates & Pulliam (“CPB”), Jacobson Phillips PLLC (“Jacobson Phillips”), Normand PLLC (“Normand”), Edelsberg Law, P.A. (“Edelsberg”), Shamis & Gentile P.A. (“Shamis & Gentile”), and Bailey Glasser LLP (“Bailey Glasser”), serve as co-counsel of record for Plaintiffs John Plotts, Zachary Goodier, James England, Kevin Lukasik, Lorenzo Costa, Michael Verardo, and Lori Lippa against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company (collectively “Progressive” or “Defendants”) in the above-captioned consolidated cases (the “Action”).
2. This declaration is based on my personal knowledge of the facts as attested to herein. I am over the age of 18, and I make this declaration freely and voluntarily. This declaration is submitted in support of Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, and Service Awards. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.
3. My firm’s total lodestar is \$57,881.25. This amount is based on the total hours and hourly rates expended, as reflected in the following chart:

Title	Timekeeper	Total Hours	Hourly Rate	Lodestar
Partner	Mullaney	47.25	\$ 1,225.00	\$ 57,881.25

4. This chart was prepared from contemporaneous time records regularly prepared and maintained by my firm in the usual course and manner of my firm. My firm maintains detailed records regarding hours expended (down to 1/10th of an hour), and the lodestar calculation is based on current billing rates, including hourly rates that have been approved

as reasonable by other state and federal district courts, billing records by other firms with attorneys of similar experience and time, and other factors deemed relevant in the Second Circuit and across all jurisdictions. Furthermore, the hourly rates may have been adjusted (downward or upward) to be consistent with the rates of attorneys in other Class Counsel firms to ensure consistency of rates for attorneys of similar experience and years of practice in the Southern District of New York for complex and class action litigation.

5. The total lodestar was calculated after utilizing billing judgment. In general, my firm's practice is to avoid including any hours that are duplicative or that unnecessarily overlap with hours expended by others in my employ or by our co-counsel. Specifically, I did not include or cut hours that I believe were reasonably expended, but in an abundance of caution cut them to avoid even the possibility of duplicative or unnecessary billing. As just one example, I did not include approximately 5-10 hours spent reviewing and editing case filing and briefs to ensure I was not including hours that were arguably duplicative of other attorneys' work and/or unnecessarily expended. To be clear, I believe those hours were reasonable, necessary, and could be assessed to this case, but I chose not to include them out of an abundance of caution.
6. The Law Office of Thomas Mullaney is a litigation boutique firm that specializes in commercial and Class Action litigation, typically in the Consumer Right area, where I have worked both as Plaintiff's and Defense counsel. Most notably on the Plaintiff side, I was Class Counsel in *Marolda v. Symantec, Inc.*, a Class Action that was litigated in the District Court for the Northern District of California, and which established what is known as the Marolda Doctrine in the Ninth Circuit. I regularly litigate cases in this Court, as well as in the Eastern District of New York, New York State Supreme Court, Commercial Division,

and the Appellate Division, First Department. My full CV is included at the end of this declaration as.

7. The foregoing is true and complete to the best of my knowledge.

Further the declarant sayeth naught.

Dated: 11/4/2024

/s/ Thomas M. Mullaney

Thomas M. Mullaney

Law Offices of Thomas M. Mullaney CV

THOMAS M. MULLANEY, ESQ.
BACKGROUND and RELEVANT REPRESENTATIONS

Education:

Tufts University, B.A., 1991

Boston College Law School

Honors:

Boston College Law Review

Publications:

Co-author, with Owen C. Pell: "Nazi Stolen Art," Whittier Law Review, Vol. 20, No. 1, Fall 1998

Employment History:

White & Case LLP: Associate, Litigation, 1996-2000

The Law Office of Thomas M. Mullaney, 2000-present

Admissions:

United States District Court, Southern and Eastern Districts of New York

United States District Court, Northern and Central Districts of California

United States Court of Appeals, District of Columbia Circuit

Relevant Cases and Representations / Reported Decisions

- *MWH Int'l, Inc. v. Inversora Murten, S.A., Energoprojekt Holding Co., Energoprojekt Hidroinzenjering Co. Ltd.*, Case No.: 11-Cv-02444 (GHW)(FM)
Background: In United States District Court, Southern District of New York, representation of the *Energoprojekt* defendants, Serbia-based international construction companies, in a multi-jurisdictional litigation. Plaintiff attempted to restrain and collect upon Defendants' assets in the United States, in an effort to satisfy a \$100,000,000 judgment previously obtained in the District of New Jersey. Plaintiff had alleged that it had entered into a joint-venture with the *Energoprojekt* defendants to construct a hydro-electric power plant in the Republic of Guinea, and that the *Energoprojekt* defendants had breached both the JV investment agreement and various fiduciary duties. Plaintiff also attempted to impose alter-ego liability on *Energoprojekt* defendants. After trial, the *Energoprojekt* defendants were found to be free of liability on all claims
- *Itau Unibanco S.A., Nassau Branch, et al. v. Schahin Engenharia S.A., and Schahin Holding S.A.*, Index No. 651644/2015 (N.Y. Sup. Ct.)
Background: In New York State Supreme Court, representation of two Brazilian oil drilling entities that defaulted on a \$351,292,147.52 loan extended by a Brazilian and Bahamian multi-bank consortium. The main legal defenses involved various points of Brazilian bankruptcy law, and application thereof in New York litigation, as a parallel proceeding had been brought by the consortium in Brazil. After partial summary judgment was achieved, the consortium ceased pursuit of its claims in New York.

- Rio Tinto plc v. Vale, S.A., et al.*, 14-Cv-3042 (RMB)(AJP)

Background: Representation of a Minister of a West African Republic, who had been accused of accepting and facilitating bribes from an Israeli mining concern, on his own behalf and for the President of that Republic. The bribes were allegedly paid in order to cause the government to cancel the pre-existing mining rights in that country owned by the plaintiff. No litigation was brought against the Minister after limited discovery and pre-suit negotiations.
- Square Mile Structured Debt (One), LLC v. Swig*, 110 A.D.3d 449, 973 N.Y.S.2d 39, 40 (N.Y. Sup. Ct. 2013)

Background: In New York State Supreme Court, representation of Defendant Swig, a large real estate developer in New York and California, for breaches of various loan agreements, and certain LLC operating agreements, and for fraud and breaches of fiduciary duty. Claims were brought by various financial institutions and New York real estate developer Harry Macklowe. The claims for fraud and breach of fiduciary duty were dismissed on summary judgment, and Swig recovered certain legal fees from Macklowe. An amicable resolution of loan disputes was obtained, and that aspect of litigation was settled favorably.
- Dover Ltd. v. Morrow*, No. 08-Cv.-1337 (LTS)(JCF)

Background: In United States District Court, Southern District of New York, representation of Plaintiff, a Singapore-based investment firm, in action for breach of contract, breach of fiduciary duty, fraud, violations of section 10(b) of the Securities Exchange Act of 1934, unjust enrichment and conversion in connection with an unrealized business venture. Plaintiff prevailed after a jury trial held in the Southern District of New York.
- In re Lehman Bros. Inc.*, 541 B.R. 45 (Bankr. S.D.N.Y. 2015), *aff'd in part, rev'd in part sub nom. In re Lehman Bros., Inc.*, 554 B.R. 626 (S.D.N.Y. 2016), *aff'd in part, rev'd in part sub nom. In re Lehman Bros. Holdings Inc.*, 703 F. App'x 18 (2d Cir. 2017), and *aff'd in part, rev'd in part sub nom. Lehman Bros., Inc.*, No. 15 CIV. 8989 (LGS), 2016 WL 4197594 (S.D.N.Y. Aug. 8, 2016), *aff'd sub nom. In re Lehman Bros. Holdings Inc.*, 703 F. App'x 18 (2d Cir. 2017)

Background: Trustee objected to general creditor proofs of claim filed by former employees of Chapter 11 debtor business, who became employees of purchaser as a result of asset purchase agreement. Client, an extremely profitable derivatives trader for Lehman, obtained multi-million-dollar judgment against estate following 2016 trial in federal bankruptcy court, and appeals to Southern District of New York and Second Circuit in 2017.
- Solar Investment Management Company, LLC v. Mann*, et al., Index No. 650878/2016 (N.Y. Sup. Ct. 2019)

Background: In New York State Supreme Court, representation of plaintiff. In a Decision and Order dated May 28, 2019, Plaintiff won summary judgment on motion

declaring the Class B membership interests of former LLC members null and void pursuant to LLC Operating Agreement.

NORMAND DECLARATION

DECLARATION OF ED NORMAND

1. My name is Ed Normand. I am the managing partner at Normand PLLC (“Normand”). My firm, along with Carney Bates & Pulliam (“CPB”), Jacobson Phillips PLLC (“Jacobson Phillips”), Edelsberg Law (“Edelsberg”), Shamis & Gentile P.A. (“Shamis & Gentile”), and Bailey Glasser LLP (“Bailey Glasser”), serve as co-counsel of record for Plaintiffs John Plotts, Zachary Goodier, James England, Kevin Lukasik, Lorenzo Costa, Michael Verardo, and Lori Lippa against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company (collectively “Progressive” or “Defendants”) in the above-captioned consolidated cases (the “Action”).
2. This declaration is based on my personal knowledge of the facts as attested to herein. I am over the age of 18, and I make this declaration freely and voluntarily. This declaration is submitted in support of Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, and Service Awards. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.
3. My firm’s total lodestar is \$703,304.50. This amount is based on the total hours and hourly rates expended by the various timekeepers, as reflected in the following chart:

Title	Timekeeper	Total Hours	Hourly Rate	Lodestar
Paralegal	Thompson	35.9	\$260.00	\$9,334.00
Paralegal	Monteclavo	45.9	\$325.00	\$14,917.50
Paralegal	Sherwood	220.7	\$325.00	\$71,727.50
Partner	Normand	481.1	\$1,225.00	\$589,347.50
Associate	Couch	20.2	\$890.00	\$17,978.00

4. This chart was prepared from contemporaneous time records regularly prepared and maintained by my firm in the usual course and manner of my firm. We maintain detailed records regarding hours expended (down to 1/10th of an hour), and the lodestar calculation is based on current billing rates, including hourly rates that have been approved as reasonable by other state and federal district courts, billing records by other firms with attorneys of similar experience and time, and other factors deemed relevant in the Second Circuit and across all jurisdictions. Furthermore, the hourly rates may have been adjusted (downward or upward) to be consistent with the rates of attorneys in other Class Counsel firms to ensure consistency of rates for attorneys of similar experience and years of practice, consistent with Second Circuit rates.
5. My firm's total lodestar was calculated after utilizing billing judgment. In general, our firm's practice is to avoid including any hours that are duplicative or that unnecessarily overlap with hours expended by others in our firm or by our co-counsel. In an abundance of caution, however, we also specifically cut or did not include time that were even arguably duplicative or unnecessary in this Action. As just an example, I did not include approximately 20 hours spent reviewing and approving case filings and briefs because those hours were arguably duplicative of other work in this matter and were not my primary responsibility in this case. Another example is that I cut all hours expended by one of by associates, Chris Hudon, which was spent on discovery analysis and review, in an abundance of caution to ensure it did not overlap with time spent by other attorneys in Class Counsel's firm or within my own firm. I also cut dozens of hours expended by various paralegals and staff in an abundance of caution to ensure such work was not duplicative or overlapping with paralegal and staff work from other Class Counsel firms. While I believe

those hours were reasonable, necessary, and could be assessed to this case, I chose not to include them out of an abundance of caution.

6. I have reviewed the declaration submitted by Hank Bates. I agree that Class Counsel exercised billing judgment by dividing labor and tasks amongst the firms to ensure there was no duplicative or unnecessary time expended. Additionally, at my firm specifically, we exercised further billing judgment to ensure there was no duplication or unnecessary time expenditures within the firm. By way of example, I was primarily responsible for expert discovery and trial planning related to Experts (specifically Mr. Spizzirri). Alex Couch was primarily responsible for assisting with damages analysis and spreadsheet review, and Chris Hudon was primarily responsible for assisting in fact discovery.
7. Not counting the litigation fund, our firm's costs (for categories such as Travel) are \$34,320.34.
8. Normand PLLC primarily focuses on consumer class action. We have a particular specialty in insurance class action litigation. We are very experienced in handling cases like the subject matter of this case: first party private passenger automobile class action litigation. In the last 5 years we have been lead counsel or co-counsel in approximately 150 class action cases related to the determination of Actual Cash Value in motor vehicle total loss claims. In this time frame we have been appointed lead counsel in over 50 class action cases, most of which involved insurance litigation. My firm's full CV is included at the end of this declaration.
9. The foregoing is true and complete to the best of my knowledge.

Further the declarant sayeth naught.

Dated: 11/4/2024

/s/ Ed Normand

Edmund A. Normand

Normand PLLC CV

NORMAND PLLC FIRM RESUME

NORMAND PLLC is a consumer litigation and trial law firm with offices in Orlando, Florida. Founded by Edmund A. Normand, the focus of the firm is complex consumer class action and complex tort litigation.

Mr. Normand has been a member of the Florida Bar since 1990. He gained invaluable, early experience in general tort and medical malpractice cases at his first job working under the tutelage of the late Al Cone, a founder of the Florida Justice Association and one of the preeminent trial lawyers in the history of Florida Civil Trial Law. In 1991, Butch Wooten offered Ed a position to work for the firm of Wooten, Honeywell and Kest, a firm with long history of trial excellence in Orlando since it began in 1966. Mr. Normand then joined the ranks of storied firm alumni that include a former Mayor of Orlando, a former Mayor of Orange County, a United States Senator and eminent sitting Judges in Orange County, Florida. He was elected a shareholder of the firm in 1996. The firm was named Wooten, Kimbrough and Normand P.A. With that firm, Mr. Normand has been honored with the highest Tier One ranking for Orlando in the Best Law Firms Report issued by U.S. News & World Report Magazine for four consecutive years. Ed is now the founder of Normand Law PLLC d/b/a Normand PLLC.

Mr. Normand has been honored for many accomplishments in consumer and personal injury litigation. His current and past professional memberships, court memberships and awards include:

- Florida Justice Association
- The American Association of Justice
- Board Certified Civil Trial Lawyer 2002 (re-certification in 2007, 2012, 2017)
- Orange County Bar Association
- Central Florida Trial Lawyers Association, President 2011

- American Mensa Member
- AVVO (Highest rating)
- AV Preeminent Rated by Martindale-Hubbell
- Certified Public Accountant, Maryland, 1990
- Lexis Counsel Connect, Leader Florida Torts Group
- United States District Court for the Middle District of Florida
- United States District Court for the Southern District of Florida
- United States 11th Circuit Court of Appeals
- Federal Court of Claims
- ABOTA
- High score recognition Florida Bar Exam
- Chancellor at University of Texas Law School. Since 1912, Chancellors has recognized the law students who have achieved the highest grade point averages in their class through their second year of school

Mr. Normand has won many significant jury verdicts and settlements in past and present matters including cases involving: Daimler Chrysler, Ford, General Motors, Emeritus Corporation, Disney, Universal, Ace American Insurance Company, Allstate, Covidien, Lasko Manufacturers, Nationwide, State Farm, Orlando Regional Healthcare, Florida Hospital, HCA, The United States of America, The State of Florida, most of the leading insurance companies in the U.S., Wal-Mart, Target, BCBS of Florida, Royal Caribbean and numerous other large corporations.

Jacob Phillips is an attorney at Normand PLLC and helps lead the class action and appellate practice groups. Mr. Phillips has been a member of the Florida Bar since 2015 and graduate *cum laude* from the University of Florida Levin School of Law. He is admitted to numerous state and federal courts, including the Fifth, Seventh, and Eleventh Circuits. Mr. Phillips has handled appeals in numerous state and federal courts, and is counsel on class actions throughout the country.

Normand PLLC is or has been counsel in a number of past and present putative class actions including:

- Lead class counsel in *Roth v. Geico Gen. Ins. Co.*, No. 16-62942-Civ-DIMITROULEAS, a certified class of thousands of GEICO insureds who were not paid sales tax or tag and title fees for their total loss leased vehicles. Summary judgment was awarded to the class for all of the damages sought in the case;
 - Lead counsel in *Venerus v. Avis Budget*, Case No. 6:13-CV-921-CEM-GJK class action concerning breach of contract and FDUTPA claims for the failure to procure rental car insurance to hundreds of thousands of car-renters, in which Mr. Normand and Mr. Phillips successfully overturned a denial of class certification, as well as summary judgment for the named Plaintiff. *Venerus v. Avis Budget Car Rental, LLC*, 723 F. App'x 807, 809 (11th Cir. 2018);
 - *Resnick v. AvMed, Inc.*, a certified and settled class action which made important law in the data breach jurisprudence in the 11th Circuit. *Resnick v. AvMed, Inc.*, 693 F.3d 1317, 1325 (11th Cir. 2012);
 - *Sos v. State Farm Mutual Insurance Company*, Case No. 6:17-cv-890-orl-18KRS, a putative class action involving an alleged breach of insurance obligation to pay sales tax or tag and title fees owed to State Farm insureds for their total loss leased vehicles;
 - *Sullivan v. Geico*, Case No.: 6:17-cv-891-Orl-40KRS (M.D. Fla.), a putative class action involving an alleged breach of insurance obligation to pay tag and title fees owed to Geico insureds for their total loss vehicles across the United States;
 - *Parker v. Universal*, Case No. 6:16-CV-01193-CEM-DAB (M.D. Fla.), a TCPA case against Universal Pictures and other defendants in which Mr. Normand secure a settlement for over \$19 million for class members;
 - Dozens of total-loss cases in more than ten states throughout the country, including several cases which successfully settled with full damages provided to claimants, including, for example, a settlement pending approval of over \$22 million in *Junior v. Infinity Ins. Co.*, Case No. 6:18-cv-1598-ORL- 40-TBS (M.D. Fla.);
 - Numerous other class actions involving insurance breach of contract, the rental car industry, TCPA, FDUTPA, electronic telemarketing, and consumer fraud.
-
- *Spielman v. United Services Automobile Assoc.*, Case No. 2:19-cv-01359-AB-MAA (C.D. Ca. filed Feb. 22, 2019);
 - *Junior v. Infinity Ins. Co.*, Case No. 6:18-cv-01598 (M.D. Fl. filed September 25, 2018) (settlement for full damages for certified class of approximately 20,000 insureds pending Court approval);
 - *Joffe v. GEICO*, Case No. 0:18-cv-61361-WPD (S.D. Fl. Filed June 15, 2018) (class of likely approximately 5,000 leased-vehicle insureds certified July 31, 2019);
 - *Jones v. Gov't Employees Ins. Co.*, Case No. 6:17-cv-00891-Orl-40LRH (M.D. Fla. filed May 17, 2017) (judgment entered in favor of a certified class of over 200,000 members for \$79.35 plus interest, fees, and costs);
 - *Sos v. State Farm Mutual Automobile Ins. Co.*, Case No. 6:17-00-890-PGB-LRH (M.D. Fl. filed May 17, 2017) (summary judgment granted in favor certified class of approximately 3,000 insureds);
 - *Roth v. GEICO*, Case No. 16-cv-62942-WPD (S.D. Fl. removed Dec. 14, 2016) (judgment of nearly \$7,000,000 entered in favor of certified class of approximately 3,500 insureds).

KAUFFMAN DECLARATION

DECLARATION OF JAMES L. KAUFFMAN

1. My name is James L. Kauffman. I am a partner at Bailey Glasser LLP (“Bailey Glasser”). My firm, along with Carney Bates & Pulliam (“CPB”), Jacobson Phillips PLLC (“Jacobson Phillips”), Normand PLLC (“Normand”), Edelsberg Law, P.A. (“Edelsberg”), and Shamis & Gentile P.A. (“Shamis & Gentile”), serve as co-counsel of record for Plaintiffs John Plotts, Zachary Goodier, James England, Kevin Lukasik, Lorenzo Costa, Michael Verardo, and Lori Lippa against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company (collectively “Progressive” or “Defendants”) in the above-captioned consolidated cases (the “Action”).
2. This declaration is based on my personal knowledge of the facts as attested to herein. I am over the age of 18, and I make this declaration freely and voluntarily. This declaration is submitted in support of Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, and Service Awards. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.
3. My firm’s total lodestar is \$521,956.50. This amount is based on the total hours and hourly rates expended by the various timekeepers, as reflected in the following chart:

Title	Timekeeper	Total Hours	Hourly Rate	Lodestar
Paralegal	Miner	85.70	\$350.00	\$29,995.00
Associate	Hedrick	20.10	\$440.00	\$8,844.00
Partner	Marshall	49.70	\$950.00	\$47,215.00
Partner	Kipnis	135.80	\$950.00	\$129,010.00
Partner	Kauffman	278.30	\$950.00	\$264,385.00
Partner	Glasser	34.70	\$1,225.00	\$42,507.50

4. This chart was prepared from contemporaneous time records regularly prepared and maintained by my firm in the usual course and manner of my firm. We maintain detailed

records regarding hours expended (down to 1/10th of an hour), and the lodestar calculation is based on current billing rates, including hourly rates that have been approved as reasonable by other state and federal district courts, billing records by other firms with attorneys of similar experience and time, and other factors deemed relevant in the Second Circuit and across all jurisdictions. Furthermore, the hourly rates may have been adjusted (downward or upward) to be consistent with the rates of attorneys in other Class Counsel firms to ensure consistency of rates for attorneys of similar experience and years of practice.

5. My firm's total lodestar was calculated after utilizing billing judgment. In general, our firm's practice is to avoid including any hours that are duplicative or that unnecessarily overlap with hours expended by others in our firm or by our co-counsel. Specifically, however, we cut hours that we believe were reasonably expended, but in an abundance of caution cut them to avoid even the possibility of duplicative or unnecessary billing. For example, we removed hours for all timekeepers who spent less than 10 hours on the Action, which included some trial strategy sessions, preparation of different aspects of Plaintiffs' pretrial submissions, and work spent on preparing and filing pro hac vice motions. This, in sum, constituted dozens of hours. While I believe those hours were reasonable, necessary, and could be assessed to the Action, we chose not to include them out of an abundance of caution.
6. Not including contributions to the litigation fund, our costs (for categories such as travel, trial preparation services etc.) are \$47,295.26.
7. Bailey Glasser was brought into this case to serve as trial counsel, given our extensive experience and success in class action trials. For example, our attorneys obtained a \$20.5

million verdict in a Telephone Consumer Protection Act class action, that was trebled by the court in *Krakauer v. Dish Network*, Case No. 1:14-cv-333 (M.D.N.C.). Also, our attorneys obtained a \$29.7 million verdict in a breach of fiduciary duty ERISA action in *Brundle v. Wilmington Trust*, Case No. 1:15-cv-1494 (E.D.Va.) and a \$21 million verdict in a breach of contract action before this Court in *Charron v. Sallyport Global Holdings*, Case No. 12-cv-6837 (S.D.N.Y.).

8. Bailey Glasser is a trial-focused law firm with a track record of success in both class and mass actions. The firm currently represents among others the States of Florida, Montana, Ohio, Oklahoma, and West Virginia, individual consumers, and retirement plan investors throughout the United States. The firm has substantial experience in successfully prosecuting multimillion-dollar cases and goes toe-to-toe with the largest corporations in the world. A copy of my firm's resume is attached at the end of this declaration.
9. The foregoing is true and complete to the best of my knowledge.

Further the declarant sayeth naught.

Dated: November 4, 2024

/s/ James L. Kauffman
James L. Kauffman

Bailey Glasser LLP CV

Exhibit A

BAILEY & GLASSER LLP

FIRM RESUME

Bailey & Glasser brings a trial-focused litigation approach to its wide-ranging and successful class action and mass torts practice. The firm has the resources, experience and expertise to go toe-to-toe with some of the wealthiest corporations in the world. We litigate class action cases involving predatory mortgage lending, illegal loan servicing, antitrust violations, breaches of warranty, employee rights, mismanaged pension funds, ERISA, and a host of other consumer and employee matters.

The firm concentrates its litigation practice in the areas of complex commercial mass torts and class action litigation. The firm currently represents among others the States of Florida, Montana, Ohio, Oklahoma, and West Virginia, individual consumers, and retirement plan investors throughout the United States. The firm has substantial experience in successfully prosecuting multi-million dollar cases, including complex class actions and mass torts.

Our lawyers are equally comfortable and adept in the role of plaintiff or defendant. We bring a trial-focused approach to litigation to vigorously protect the interests of clients. We represent government and businesses, as well as individual plaintiffs and defendants, and lawyers throughout the country call upon the firm to access our unique blend of resources and trial experience.

The firm concentrates its practice in the areas of complex commercial and class action litigation, with a particular emphasis in energy and finance. We currently represent individual and classes of consumers, and a variety of corporate entities throughout the United States. The firm has substantial experience in successfully prosecuting and defending multimillion-dollar cases, including complex class actions.

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Other Class Action Representation:

- Jessop v. Bankers Trust Company, et al., Case No. 2:14-cv-00916 (D. Utah) (\$19.8 million settlement recovery in 2017 on behalf of employee stock ownership plan participants for ERISA claims).
- Krakauer v. Dish Network, L.L.C., Case No. 1:14-cv-00333 (M.D. N.C.) (\$20.5 million jury verdict in a class action trial against Dish Network, alleging Dish was liable for more than 51,000 telemarketing calls placed by a defunct DISH dealer to persons whose telephone numbers were on the National Do Not Call Registry).
- Cummins v. H & R Block, Inc., Case No. 03-C-134 (Kanawha County, W. Va.) (in a case litigated for five years in venues ranging from the West Virginia trial and appellate courts, to federal district courts in West Virginia and Illinois, to the United States Supreme Court, firm lawyers served as lead counsel in winning a \$62.5 million multistate class action settlement against H&R Block. The case involved first-impression claims relating to the application of West Virginia's credit-services organization statute to Block's refund anticipation loan product. Other firms across the country litigated cases against Block alleging similar claims, without success, for more than ten years. West Virginia's share of the settlement was \$32.5 million).
- Tadeballi v. Uber Technologies, Inc., Case 3:15-cv-04348 (N.D. Cal.) (100% refunds made in class action settlement for California Uber riders charged approximately \$2.2 million in "airport fee tolls" which Uber did not pay to California airports).
- Navelski v. International Paper Company, Case No. Case No. 3:14-cv-445 MCR/CJK (N.D. Fla.) (certified class on behalf of homeowners of 317 homes in a neighborhood alleged to be flooded by Defendant's dam breaking).
- Wieland v. Bring Care Home, Inc., C.A. No. ESCV2013-01380 (Essex County, Mass.) (class action settlement for failure to pay all hours worked).
- Thomas v. Home Credit Corp., Inc., 11-CVS-1116 (Vance County, N.C.) (class action settlement in favor of state-wide class of borrowers denied consumer rights disclosures).
- Desai v. Charvat, Civil Action No. 1:11-cv-1925 (N.D. Ill.) (\$15 million TCPA class settlement).
- Roberts v. Walgreen Co., et al., Civil Action No. 12-C-337 (Circuit Court of Mercer County, West Virginia) (wage payment class settlement).
- Glover v. Bank of America, N.A., C.A. No. 13-40042-TSH (D. Mass.) (class action settlement for Massachusetts borrowers regarding late fees).
- Powers v. Santander Consumer USA, Inc., Civil Action No. 12-cv-11932-TSH (D. Mass.) (consumer class action resulting in the establishment of a \$750,000 settlement fund and \$20 million in debt relief).

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Other Class Action Representation (cont.):

- Ross v. CitiFinancial Auto Ltd., Case No. 12-1173-TJC (M.D. Fla.) (class action settlement in favor of state-wide class of borrowers denied consumer rights disclosures).
- Morris v. Merck Sharp & Dahme Corp., Civil Action No. 3:11-cv-00882 (S.D. W. Va.) (wage payment class action settlement totaling \$750,000).
- Hall v. Capital One Auto Fin., Inc., Case No. 08-1181 (N.D. Ohio) (\$37 million settlement on behalf of state-wide class of car owners sent allegedly flawed repossession notices).
- Brailsford v. Jackson Hewitt, Inc., Case No. 06-00700 (N.D. Cal.) (\$672,000 settlement on behalf of class of California consumers).
- Hardwick v. Rent-A-Center, Inc., Civil Action No. 3:06-0901 (S.D. W. Va.) (class action settlement worth more than \$5 million, alleging violations of state Consumer Goods Rental Protection Act).
- Shonk v. SG Sales Co., Case No. 07-C-1800 (Circuit Court of Kanawha County, West Virginia) (\$2.4 million nationwide settlement of class action brought under the Telephone Consumer Protection Act).
- Lowe v. Ford Motor Credit, Case No. 99 CVF 15806 (Cuyahoga County, Ohio) (\$22 million settlement on behalf of state-wide class of car owners subject to flawed repossession practices).
- Brailsford v. Jackson Hewitt, Case No. C 06-00700 CW (N.D. Cal.) (class action against Jackson Hewitt, Inc. for class of California consumers who purchased the tax preparer's refund anticipation loan product, settled for \$672,000).
- Malacky v. Huntington Nat'l Bank, Case No. CV 03 491420 (Cuyahoga County, Ohio) (\$15 million settlement in favor of state-wide class of car owners sent flawed repossession notices).
- Mey v. Herbalife Int'l, Inc., Civil Action No. 01-C-263 (Circuit Court of Ohio County, West Virginia) (\$7 million nationwide class action settlement alleging violations of the federal Telephone Consumer Protection Act).
- Cooley v. F.N.B. Corp., Case No. 10010 of 2003, C.A. (Lawrence County, Penn.) (\$14 million settlement on behalf of state-wide class of car owners allegedly deprived of post-repossession disclosures).
- Dillon v. Chase, Civil Action No. 03-C-164-W (Circuit Court of Hancock County, West Virginia) (\$3.3 million consumer class action settlement).
- Deem v. Ames True Temper, Inc., Civil Action No. 6:10-cv-01339 (S.D. W. Va.) (\$405,000 class action settlement in an ERISA action).

BAILEY GLASSER LLP



Partner

Brian A. Glasser

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1055 Thomas Jefferson Street NW
Suite 540
Washington, D.C. 20007
T: 202.463.2101; 304.345.6555 F:
202.463.2103
bglasser@baileyglasser.com

Brian Glasser, a Rhodes scholar and founding partner of the firm, represents a diverse array of plaintiffs and defendants throughout the United States. He has tried cases in 16 different states, including two mass actions and four class actions. Brian's practice also regularly includes negotiating and managing the execution of business transactions across a range of industries. From time to time, Brian has represented governors, members of Congress, and high-ranked agency officials in ticklish personal, political, or criminal inquiries, including state and federal impeachment proceedings.

His exceptional rapport with clients and broad experience over 28 years of practice ensures that clients repeatedly call upon him to handle their most sensitive legal challenges.

Brian has been featured in a variety of publications throughout his career including:

- Yellowstone Club Trustee Offers Bounty to Find Blixseth's Missing Millions
- Objections Overruled – Court is in Session with Legal Powerhouse Brian Glasser
- Bailey & Glasser – A Different Kind of Legal Powerhouse
- Attorney Charges Into Legal Arena

Here are a few examples of Brian's work:

2024

- Won appeal of the \$5 million arbitration award against MyPillow chief executive Mike Lindell's company, discussed below. For more visit [here](#).
- Obtained, as lead defense counsel in a multimillion-dollar lease reformation or termination case, a \$1.00 judgment against our clients Blackhawk Land and Resources LLC and Rockwell Mining,

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BRIAN A. GLASSER

LLC and no forfeiture of a massive mineral lease covering several mining complexes. Learn more [here](#).

- Recognized by Forbes Media as one of the “Top 200 Lawyers in America” in its first-ever top lawyers list: “[t]hey all share reputations for integrity, records of excellence—and Forbes’ recognition as the best in the business.” Learn more [here](#).
- Named a “2025 Lawdragon 500 Leading Litigator in America” as well as a “2024 Lawdragon 500 Leading Civil Rights & Plaintiff Employment Lawyer.”

2023

- Obtained, as lead trial counsel, a \$5 million arbitral judgment against Lindell Management LLC by proving to 100% certainty that the data Mr. Lindell claimed to possess showing votes were moved from Mr. Trump to Mr. Biden was not 2020 election data at all. The decision can be viewed [here](#). Visit this link to read an excerpt from the book “Election Hacks - Zeidman v. Lindell: Exposing the \$5 Million Election Myth,” about Mr. Glasser's examination of one of Mr. Lindell's expert witnesses, characterized by the author (Robert Zeidman) as “probably the best I'd ever encountered in all of my over 260 lawsuits.”
- Obtained, as co-lead trial counsel, dismissal of Johnson & Johnson's attempt to create a special purpose entity to bankrupt and manage its talc liabilities. We lost at the bankruptcy court, but were vindicated on appeal. The Court of Appeals for the Third Circuit decision reversing the bankruptcy court decision can be reviewed [here](#); Mr. Glasser's opening argument slides on the trial court level can be viewed [here](#).
- Obtained, as part of the national trial team, a dismissal of the bankruptcy of 3M subsidiary Aearo Technologies by a federal judge who found that the filing did not serve a valid reorganization purpose. Aearo and 3M were attempting to use this bankruptcy to resolve, on terms they wanted to dictate, more than 260,000 lawsuits brought by veterans and U.S. service members alleging that 3M military earplugs caused their hearing loss. This new ruling upends 3M's litigation strategy to resolve mass tort claims in bankruptcy and to circumvent the ability of plaintiffs to have their cases heard by a jury of their peers as guaranteed by the U.S. Constitution. The dismissal order can be viewed [here](#).
- Obtained, as lead counsel, judgment for \$19.96 million in favor of Wildcat Coal, LLC, against Bridger Coal Company in a lease dispute over the interpretation of an advance royalty provision. The Order granting judgment can be viewed [here](#).
- Named a “2024 Lawdragon 500 Leading Litigator in America”

2022

- Served as co-trial counsel in a Roundup case that settled for a confidential sum on the fourth day of trial.

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- Served as co-lead trial counsel to the Official Committee of Talc Claimants in the Johnson & Johnson bankruptcy of its special purpose subsidiary LTL Management.

2021

- Obtained, as co-trial counsel, a verdict on behalf of Ramaco Resources Inc. of approximately \$32.7 million against Chubb-related insurance companies for breach of contract in a denial of insurance coverage case. The trial court subsequently reduced the verdict, but it was substantially reinstated by the Court of Appeals.

2020

- Tried two cases by Zoom in Delaware concerning the interpretation of a shareholder rights agreement and a Limited Liability Company Agreement's restrictions on transfer of units.
- Obtained a confidential settlement on behalf of more than 120 residents, including many who were killed and injured, of an apartment building complex in Maryland that was destroyed by a natural gas explosion.

2019

- In the DISH Network case discussed below, the U.S. Court of Appeals for the Fourth Circuit upheld the \$61.34 million trial verdict.
- Obtained, as co-trial counsel, an arbitration award of over \$10 million for client S&N Communications, Inc. against Bechtel Infrastructure Corporation for breach of contract in the engineering and construction of a high-speed fiber optic network.

2018

- In the Allegheny Energy case discussed below, the Ohio Court of Appeals upheld the \$2 million trial court judgment.
- Obtained, as co-trial counsel, an arbitration award of over \$1.9 million on behalf of Protech Solutions, Inc. against Conduent State & Local Solutions, Inc., for breach of a Strategic Alliance for teaming on the design, development, and implementation of a custom software solution.
- Resolved damage suits for more than \$800 million arising out of events of force majeure, alleged lease defaults, and for lost coal, against Hillsboro Energy LLC and Macoupin Energy LLC for approximately \$190 million, paid over 15 years.

2017

- Obtained, as co-trial counsel, a verdict on behalf of ERISA plan participants of approximately \$29.7 million against Wilmington Trust for breach of fiduciary duty in the valuation and

BAILEY GLASSER **LLP**

BRIAN A. GLASSER

purchase of a defense contractor on behalf of an ESOP plan. Memorandum Opinion

- Obtained, as lead trial counsel, a verdict on behalf of a class of consumers of approximately \$20.5 million against DISH Network, Inc., for over 51,000 violations of the Telephone Consumer Protection Act for calling numbers protected by the National Do Not Call registry. Verdict Sheet The Court then increased the jury award up to \$61.34 million because we proved willfulness. Memorandum Opinion and Order
- Obtained, as lead trial counsel, a verdict for more than \$2 million against Allegheny Energy, Inc., in a uniform commercial code case over breach of a contract for the sale of goods.

2016

- In the Yellowstone Mountain Club case discussed below, the United States Court of Appeals for the Ninth Circuit rejected all defendant Tim Blixseth's challenges to the verdict and reversed the trial court's reduction to \$40 million, reinstating the original fraud judgment for more than \$286 million.
- In the Yellowstone Mountain Club BLX case discussed below, the United States Court of Appeals for the Ninth Circuit upheld the trial court's breach of contract judgment for over \$219 million against Tim Blixseth.
- In the Sallyport case discussed below, the United States Court of Appeals for the Second Circuit upheld the trial court verdict for more than \$21 million.

2015

- Lead counsel to Foresight Reserves, L.P., in the sale of a non-controlling 50% interest in its subsidiary Foresight Energy L.P. (NYSE: FELP) to Murray Energy Corporation for \$1.375 billion.
- Lead counsel to Kameron Collieries ULC in its acquisition of 100% of the Donkin Project, a large undeveloped coal reserve in the Cape Breton region of Nova Scotia, Canada, from Glencore Xstrata, a global mining and trading company based out of Barr, Switzerland and Morien Resources Corporation, a Canadian royalty company.

2014

- Obtained, as Trustee of the Yellowstone Club Liquidating Trust, judgment against Tim Blixseth for \$219.8 million for breach of a promissory note contract.
- Served as counsel to Foresight Reserves, L.P., in the \$2.4 billion initial public offering of common units of its subsidiary Foresight Energy Partners, L.P. (NYSE: FELP). <https://www.youtube.com/watch?v=5FnxjsLh7Cg>
- Obtained, as lead trial counsel, a \$21.1 million dollar verdict against Sallyport Global Holdings, Inc., in a breach of contract valuation case in federal court in New York City. Published Decision

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2013

- Counsel to Foresight Energy LLC in connection with its \$1.55 billion refinancing, involving a bond, term loan and revolver combination.
- Served as Trustee for the Yellowstone Club Liquidating Trust.

2012

- Served on the Board of Directors of Tory Burch, LLC as the Chris Burch designee during the period of a contentious dispute over investor rights. The case was resolved by agreement.
- Counsel to the issuer in Foresight Energy LLC's \$200 million bolt-on financing.

2011

- Lead counsel defending International Industries Inc. from a \$127 million breach of contract claim. After five years of litigation, the Court limited the plaintiff's maximum recovery to \$2 million and the case was quickly resolved.

2010

- Co-lead trial counsel in the Yellowstone Mountain Club fraud case in Montana, obtaining a \$286 million verdict against property developer and former owner Tim Blixseth for fraud. The trial court reduced the judgment to \$40 million and upon defendant's appeal, we cross-appealed.
- Lead counsel in Foresight Energy, LLC's \$690 million refinancing.

2009

- Lead trial counsel in a case of first impression respecting the power of the United States Mine Safety and Health Administration to impose ventilation plans on mine operators.
- Lead counsel for Colt LLC's sale of \$255 million in coal reserves.
- Lead counsel for Macoupin Energy LLC's sale/leaseback of \$143.7 million in coal reserves.

2008

- Retained by the Trustee of the Refco Liquidating Trust and obtained a significant confidential settlement on his behalf.
- Served on trial team in major nationwide product liability case that settled prior to trial.

2007

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- Lead counsel for Adena Minerals LLC's sale of coal and transportation assets in return for a significant percentage of Natural Resource Partners, LP (NYSE: NRP) and a 22% interest in NRP's general partner.
- Lead counsel for the West Virginia class and coordinating/lead negotiator for multistate class in a \$62.5 million settlement with H&R Block (NYSE: HRB). The West Virginia share was \$32.5 million.
- Served as sell-side counsel in a significant private equity investment by Riverstone Holdings, LLC, a private equity fund manager, in Foresight Reserves, L.P.

Earlier Matters

- Co-lead trial counsel for plaintiffs in a mass action under the Surface Coal Mining and Reclamation Act obtaining compensation for damage to water wells and homes.
- Lead trial counsel for the plaintiffs in a mass action of first impression under the Surface Coal Mining and Reclamation Act, establishing rights for off-permit damages from dust fall.
- Served as co-counsel in the Petition and Briefing stage at the United States Supreme Court in *Buckhannon Board and Care Home, Inc. v. West Virginia Department of Health and Human Resources*, 532 US 598 (2001).
- Special Assistant Attorney General for the State of West Virginia in the Mountaintop Removal, Cumulative Hydrologic Impact Analysis, and Bonding Litigations from 1999-2003. This series of cases involved several injunction hearings and numerous complex federal and state issues resulting in fundamental changes in the mining and environmental laws of West Virginia and the region.
- Tried numerous civil and criminal cases to verdict in state and federal court, in arbitration, and before state and federal agencies.

Awards & Accolades

Benchmark Litigation, Top 100 Trial Lawyers and "Litigation Star" (2025)

2024 Forbes "Top 200 Lawyers in America"

Lawdragon 500 Leading Litigators in America (2024 and 2025)

Lawdragon 500 Leading Civil Rights & Plaintiff Employment Lawyers (2024)

Chambers USA, West Virginia: General Commercial, Band 1 (2015 - 2024) and Corporate/Commercial, Band 3 (2018 - 2024)

Best Lawyers in America: Bet-the-Company Litigation, Commercial Litigation, Criminal Defense: White-Collar, Energy Law, Banking and Finance Law (2010 - 2025)

BAILEY GLASSER **LLP**

BRIAN A. GLASSER

"Top 100 Trial Lawyers," National Trial Lawyers

Best Lawyers in America, Lawyer of the Year, Energy Law (2023)

Best Lawyers in America, Lawyer of the Year, Criminal Defense: White Collar (2019)

Super Lawyers, West Virginia, General Litigation and Business Litigation (2007 - 2024)

Clerkships

Law Clerk, Hon. M. Blane Michael, U.S. Court of Appeals for the Fourth Circuit (1994 - 1995)

Practice Areas

Appellate and Supreme Court Practice

Arbitration & Dispute Resolution

Banking & Financial Services

Bankruptcy & Business Reorganization

Business & Finance

Business Litigation

Business Valuation

Catastrophic Personal Injury

Catastrophic Personal Injury - Gas Explosions

Class Actions

Commercial Litigation

Consumer Litigation

Criminal Defense & Internal Investigations

Defective Firearms

Energy - Mining

Energy - Oil & Gas

Environmental

ERISA, Employee Benefits & Trust Litigation

Insurance Recovery

Life Sciences

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Maryland Juvenile Hall Sexual Abuse
MDL Panels
Medical Device & Drugs
Mergers & Acquisitions
Personal Injury & Product Liability
Private & Family Businesses
Product Liability
Sexual Abuse
Telephone Consumer Protection Act (TCPA)

Education

J.D., Harvard Law School, 1994, *cum laude*
B.A., Oxford University, 1991
B.A., West Virginia University, 1988, *summa cum laude*, Rhodes Scholar – 1988, Truman Scholar - 1987

Admissions

District of Columbia
West Virginia
Supreme Court of the United States
U.S. Court of Appeals for the First Circuit
U.S. Court of Appeals for the Second Circuit
U.S. Court of Appeals for the Third Circuit
U.S. Court of Appeals for the Fourth Circuit
U.S. Court of Appeals for the Sixth Circuit
U.S. Court of Appeals for the Seventh Circuit
U.S. Court of Federal Claims
U.S. District Court, Northern District of West Virginia
U.S. District Court, Southern District of West Virginia

BAILEY GLASSER LLP



Partner

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jkauffman@baileyglasser.com

James L. Kauffman concentrates his practice on complex business litigation and class actions specifically in the areas of consumer protection, business litigation, and securities. James has represented consumers, investors, state attorneys general, municipalities, and whistleblowers in a wide variety of disputes in both court and arbitration forums across the country.

Notably, James represented shareholders in one of the largest securities litigation matters in history, *In re Initial Public Offerings Security Litigation* (21 MC 92) (SDNY), a case that involved 309 tech-bubble IPOs and 55 investment brokerage defendants and recovered \$586 million.

James regularly speaks at business tort seminars across the country and also on nationally syndicated radio and television shows. He covers topics such as financial industry regulation, consumer fraud, ERISA, and whistleblower protection.

He is also actively involved in the community and provides pro bono legal services to Laugh for Sight, a non-profit organization that raises money for eye disease research through comedy benefits in Los Angeles and New York City.

Government Service / Previous Employment

Financial Advisor, Morgan Stanley (1999)

Practice Areas

Arbitration & Dispute Resolution

Business & Finance

Class Actions

Commercial Litigation

Consumer Litigation

ERISA, Employee Benefits & Trust Litigation

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Education

J.D., University of Florida Fredric G. Levin College of Law, 2002, *cum laude*

B.S.B.A., University of Florida, 1998

Admissions

District of Columbia

Florida

Arkansas

US Court of Appeals for the Ninth Circuit

US Court of Appeals for the Eleventh Circuit

US District Court, Northern District of Florida

US District Court, Southern District of Florida

US District Court, Middle District of Florida

US District Court, Eastern District of Arkansas

US District Court, Western District of Arkansas

US District Court, Eastern District of Michigan

Representative Matters

- Obtained \$19.8 million recovery of employees' retirement benefits from trustee and individual officers of a closely held private company.
- Represented a borrower challenging estimated attorney's fees tacked onto his mortgage loan in *Prescott v. Seterus*, a case that involved two separate appeals to the US Court of Appeals for the Eleventh Circuit; work resulted in two significant appellate opinions that strengthened nationwide consumer debt collection law and led to industry-wide reform, and this precedent paved the way for several recoveries for borrowers from their banks or loan servicers where James served as class counsel.
- Obtained \$586 million recovery for shareholders against 309 IPO companies and 55 investment banks in one of the largest securities fraud litigations in history.
- Obtained \$20 million recovery for shareholders against semiconductor supplier company in connection with the backdating of employee stock option grants.
- Represented shareholders against certain officers and directors who participated in a massive Medicare fraud. Resulted in significant corporate reforms and removal of CEO, CFO and General Counsel.

BAILEY GLASSER LLP



Partner

Jonathan R. Marshall

Charleston, WV
209 Capitol Street
Charleston, WV 25301
T: 304.340.2295 F: 304.342.1110
jmarshall@baileyglasser.com

Jonathan R. Marshall focuses his practice on solving complex problems for individuals, other lawyers, and business owners. His approach to sophisticated legal work involves a team centered orientation where creative and experienced lawyers, subject matter experts, and technology leaders are leveraged to create practical and valuable solutions for clients.

In keeping with this philosophy, Jonathan has led federal and state mass tort and class action litigations in a dozen states. He has tried multiple mass and class actions to verdict.

Through a mixture of jury verdicts, settlements, and creative solutions, he has helped his clients avoid liability and provided hundreds of millions of dollars to his clients.

Jonathan leads the firm's Consumer Litigation Group, which focuses on numerous areas of consumer law including debt collection, predatory lending, TCPA, and wage-and-hour class actions.

Jonathan is a Director of the Center for Consumer Law and Education at West Virginia University College of Law, where he also teaches.

He is also a founder and co-chairman of the Consumer Law Division of the West Virginia Association for Justice and a frequent speaker at seminars on consumer law issues.

Awards & Accolades

2017 Member of the Year Award Recipient, West Virginia Association of Justice

2016 Consumer Advocate of the Year Award Recipient, West Virginia Association of Justice

Practice Areas

Appellate Advocacy

Arbitration & Dispute Resolution

Banking & Financial Services

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Class Actions
Commercial Litigation
Consumer Litigation
Electronically Stored Information (ESI)
Energy - Oil & Gas
Labor & Employment
MDL Panels
Sexual Abuse & Harassment
Telephone Consumer Protection Act (TCPA)

Education

J.D., West Virginia University College of Law, 2007, Order of the Coif
B.A., West Virginia University, 2003, *summa cum laude*, Phi Beta Kappa, Outstanding Senior

Admissions

West Virginia
Illinois
US Supreme Court
US Court of Appeals for the Fourth Circuit
US District Court, Northern District of West Virginia
US District Court, Southern District of West Virginia
US District Court, Northern District of Illinois
US District Court, District of Colorado
US District Court, Northern District of Florida
US Bankruptcy Court, Northern District of West Virginia
US Bankruptcy Court, Southern District of West Virginia

Representative Matters

- Served as class counsel in approved class settlements totaling more than \$100 million, in dozens of state and federal cases; successfully litigated cases involving a range of consumer issues including predatory lending, debt collection, loan origination, and TCPA claims.
- *Exemplar recent contested cases include: Dijkstra v. Carenbauer* (N.D. W. Va.) (court awarded class more than \$2.6 million after granting affirmative summary judgment in mortgage loan case alleging violations of the West Virginia Consumer Credit and Protection Act; settled on appeal).

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- *Alig v. Quicken* (N.D. W. Va.) (court certified class and awarded each class member \$3,500 for defendant's practice of sending appraisers estimated home values; presently on appeal).
- *Exemplar loan servicing cases settled in last two years include: Henry v. Ocwen* (class action settlement for \$1.975 million in case alleging debt collection violations under West Virginia Consumer Credit and Protection Act); *Perez v. Figi's* (S.D. W. Va.) (same; \$1.7 million settlement); *Snuffer v. Liberty University*, (Circuit Court of Raleigh County, W. Va.) (same; more than \$1.947 million settlement); *Cox v. BB&T Co.* (S.D. W. Va.) (same; \$861,355 settlement).
- *Additional high-stakes class settlements include: Dunlap v. Wells Fargo* (Circuit Court of Lincoln County, West Virginia) (consumer class action resulting in \$9 million cash settlement, plus millions of dollars in debt relief, interest rate reductions and credit repair provided as part of the settlement); *In re Monitronics* (N.D. W. Va.) (\$28 million TCPA class action settlement).
- Led more than 45 certified wage and hour class actions.
- Negotiated confidential resolutions to more than 50 high-stakes contractual disputes among business owners over a three-month period.
- Tried a West Virginia flood case to a verdict of over \$1 million, and on appeal changed the measure of damages for real property law that had been West Virginia law for over three decades, a victory for successful West Virginia landowners.

Community and Professional Activities

Director, Center for Consumer Law and Education, West Virginia University College of Law

Co-Chair and Founding Member, West Virginia Association for Justice Consumer Law Division

Co-Chair Education Committee, National Association of Consumer Advocates

President of the Board of Directors, West Virginia Land Trust

BAILEY GLASSER LLP



Partner

Patricia Mulvoy Kipnis

New Jersey
923 Haddonfield Road
Suite 300
Cherry Hill, NJ 08002
T: 856.324.8219 F: 304.342.1110
pkipnis@baileyglasser.com

Trish Kipnis concentrates her practice on consumer class actions, complex litigation, and appellate advocacy. As an experienced litigator, she pursues consumer claims on behalf of state and national classes. Trish regularly handles cases stemming from a full range of deceptive, unfair, and fraudulent business practices.

Trish particularly enjoys the research, innovation, and writing components of her legal practice: from developing and alleging claims, persuading the courts and adversaries of the merits of those claims, and achieving results for her clients in the courtroom or at the negotiating table. She has served on class counsel teams for dozens of certified class actions and helped successfully resolve many of these matters.

Awards & Accolades

2017 Distinguished Advocate Award, Support Center for Child Advocates

Clerkships

Law Clerk, Hon. Anita B. Brody, US District Court for the Eastern District of Pennsylvania (2003 - 2004)

Government Service / Previous Employment

Adjunct Professor of Legal Analysis, Writing and Research, Rutgers School of Law – Camden (2011 - 2012)

Judicial Intern, Hon. Edmund V. Ludwig, US District Court for the Eastern District of Pennsylvania (2001)

Practice Areas

Appellate Advocacy

Arbitration & Dispute Resolution

BAILEY GLASSER

Commercial Litigation
Consumer Litigation
Medical Device & Drugs
Telephone Consumer Protection Act (TCPA)

Education

J.D., University of Pennsylvania Law School, 2003, Moot Court Board Chairperson; Editor, *Journal of International Economic Law*; Legal Writing Instructor
M.S.I., University of Michigan School of Information, 1999
B.A., Swarthmore College, 1997, Honors

Admissions

New Jersey
West Virginia
Pennsylvania
US Supreme Court
US Court of Appeals for the Fourth Circuit
US District Court, District of New Jersey
US District Court, Western District of Pennsylvania
US District Court, Eastern District of Pennsylvania
US District Court, Southern District of West Virginia
US District Court, Northern District of West Virginia

Representative Matters

- Court awarded class more than \$2.6 million after granting affirmative summary judgment in mortgage loan case alleging violations of the West Virginia Consumer Credit and Protection Act (*Dijkstra v. Carenbauer* (N.D. W. Va.))
- Court certified class and awarded each class member \$3,500 for defendant's practice of sending appraisers estimated home values; presently on appeal (*Alig v. Quicken* (N.D. W. Va.))
- Obtained class action settlement for \$1.975 million in case alleging debt collection violations under West Virginia Consumer Credit and Protection Act (*Henry v. Ocwen* (S.D. W. Va.))
- Obtained reversal of summary judgment before Florida's District Court of Appeal, arguing novel issue of qualified civil immunity in wrongful death case (*Martinez v. Taurus Int'l Mfg.*, 251 So.3d 328 (Fla. DCA 3d 2018))

BAILEY GLASSER

- Obtained reversal in the US Court of Appeals for the Eleventh Circuit when the court found that that under § 1681i(a) of the Fair Credit Reporting Act, a consumer may recover actual damages even if the defendant credit reporting agency did not publish the consumer's false credit information to a third party (*Collins v. Experian*)

Community and Professional Activities

Lecturer in Law, University of Pennsylvania Law School

Volunteer on behalf of abused and neglected children referred to the Support Center for Child

Advocates in Philadelphia

PHILLIPS DECLARATION

DECLARATION OF JACOB PHILLIPS

1. My name is Jacob Phillips. I am a founding partner at Jacobson Phillips PLLC (“Jacobson Phillips”). My firm, along with Carney Bates & Pulliam (“CPB”), Normand PLLC (“Normand”), Edelsberg Law (“Edelsberg”), Shamis & Gentile P.A. (“Shamis & Gentile”), and Bailey Glasser LLP (“Bailey Glasser”), serve as co-counsel of record for Plaintiffs John Plotts, Zachary Goodier, James England, Kevin Lukasik, Lorenzo Costa, Michael Verardo, and Lori Lippa against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company (collectively “Progressive” or “Defendants”) in the above-captioned consolidated cases (the “Action”).

2. This declaration is based on my personal knowledge of the facts as attested to herein. I am over the age of 18, and I make this declaration freely and voluntarily. This declaration is submitted in support of Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, and Service Awards. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.

3. My firm’s total lodestar is \$946,105.00. This amount is based on the total hours and hourly rates expended by the various timekeepers, as reflected in the following chart:

Title	Timekeeper	Total Hours	Hourly Rate	Lodestar
Partner	Phillips	902	\$890.00	\$ 802,780.00
Partner	Jacobson	113	\$650.00	\$ 73,450.00
Paralegal	Phillips	215	\$325.00	\$ 69,875.00

4. This chart was prepared from contemporaneous time records regularly prepared and maintained by my firm in the usual course and manner of my firm. We maintain detailed records regarding hours expended (down to 1/10th of an hour), and the lodestar calculation is based on

current billing rates, including hourly rates that have been approved as reasonable by other state and federal district courts, billing records by other firms with attorneys of similar experience and time, and other factors deemed relevant in the Second Circuit and across all jurisdictions. Furthermore, the hourly rates may have been adjusted (downward or upward) to be consistent with the rates of attorneys in other Class Counsel firms to ensure consistency of rates for attorneys of similar experience and years of practice, consistent with Second Circuit rates.

5. My firm's total lodestar was calculated after utilizing billing judgment. In general, our firm's practice is to avoid including any hours that are duplicative or that unnecessarily overlap with hours expended by others in our firm or by our co-counsel. In an abundance of caution, however, we also specifically cut or did not include time that were even arguably duplicative or unnecessary in this Action. As just an example, I did not include any time spent on communications with co-counsel (phone calls, emails, etc.), which constituted (conservatively) approximately 85 hours, to ensure it was not even arguably duplicative or unnecessary. Another example is that we cut at least 10 hours expended by Josh Jacobson on expert deposition prep, and another 10 hours expended by Joey Phillips on preparing and finalizing documents for filing to ensure it was not duplicative of other paralegal or other staff time. While I believe those hours were reasonable, necessary, and could be assessed, I chose not to include them out of an abundance of caution.

6. I have reviewed the declaration submitted by Hank Bates, and agree that Class Counsel exercised billing judgment by dividing labor and tasks amongst the firms to ensure there was no duplicative or unnecessary time expended. Additionally, my firm specifically, we exercised further billing judgment to ensure there was no duplication or unnecessary time expenditures within the firm. By way of example, I was primarily responsible for brief writing, appellate work, and litigation strategy, Mr. Jacobson was primarily responsible for expert discovery and Daubert

drafting, and Joey Phillips was primarily responsible for Notice plans and (working with Mr. Bates) damages analysis and identifying Class Members based on reviewing of the data spreadsheets.

7. Not counting the litigation fund, our firm's costs are \$1,468.22.

8. Jacobson Phillips PLLC is a law firm specializing in complex and class action litigation and appeals. The attorneys of Jacobson Phillips PLLC have served as lead counsel and been appointed class counsel in numerous class actions, including in myriad class actions challenging auto insurers' ACV payments, in addition to TCPA, deceptive bank fee, data breach, car rental cases and more.

9. On multiple occasions, I and my colleagues have succeeded in obtaining summary judgment on behalf of certified classes of insureds challenging their auto insurers' ACV payments, such as in *Sos v. State Farm Mutual Ins. Co.*, No. 6:17-cv-890-orl-19KRS, 396 F. Supp. 3d 1074 (M.D. Fla. 2019), and *Roth v. GEICO Gen. Ins. Co.*, No. 16-62942-Civ-DIMITROULEAS, 2018 U.S. Dist. LEXIS 226554 (S.D. Fla. June 13, 2018). The attorneys of Jacobson Phillips PLLC have prevailed in contested class certification motions on more than twenty occasions, and have served as class counsel in settlement classes in scores of other cases, representing millions of classmembers.

10. I have also handled appeals in state and federal courts throughout the country. Among my appellate highlights are successfully reversing orders compelling appraisal of insurance claims, reversing an order denying certification of a class of over 200,000 members, and successfully defending numerous Rule 23(f) petitions.

11. The foregoing is true and complete to the best of my knowledge.
Further the declarant sayeth naught.

Dated: 11/4/2024

/s/ Jake Phillips

Jacob L. Phillips

Jacobson Phillips PLLC CV



Jacobson Phillips PLLC
478 E. Altamonte Dr., Ste. 108-570
Altamonte Springs, FL 32701

Jacob L. Phillips, Esq., is co-founder of Jacobson Phillips PLLC and acquired his J.D. from the University of Florida Levin School of Law. Jake practices primarily in the areas of class action litigation and appeals. Jake has handled appeals in Florida and Ohio state appellate courts, along with the Third, Fifth, Sixth, Seventh, and Eleventh federal circuit appellate courts. Among his appellate highlights are successfully reversing orders compelling appraisal of insurance claims, reversing an order denying certification of a class of over 200,000 members, obtaining reversal of orders granting dispositive motions, and successfully defending numerous Rule 23(f) petitions. He is also lead counsel or has been appointed class counsel in numerous class actions, including in the fields of auto insurance, car rentals, TCPA, deceptive bank fee cases, and more.

Joshua R. Jacobson, Esq., is co-founder of Jacobson Phillips PLLC. Josh earned his undergraduate degree from the University of Florida and J.D. from UF's Levin College of Law. He served as senior research editor for Florida Law Review and is credited with publication of his law review Note. Josh was inducted into Florida Blue Key, the oldest and most prestigious honorary in the state of Florida. He graduated law school *summa cum laude*, finishing second in his class.

Upon graduation, Josh served a two-year term clerkship for the Honorable Paul G. Byron, district judge for the Middle District of Florida. Since clerking, Josh has focused his practice on complex, high-stakes litigation in state and federal courts. He represents

individuals and insureds who have been victimized by abusive corporate practices in class actions throughout the country. Josh has been appointed class counsel in contested and settlement class actions. In addition to his class action practice, Josh has represented individuals in personal injury and wrongful death lawsuits, and has substantial experience litigating products liability, premises liability, and catastrophic injury suits.

Notable Class Action Results:

Jacobson Phillips attorneys have obtained outstanding results representing consumers in class action litigation, including:

- *Angell v. Geico Advantage Ins. Co.*, No. 4:20-cv-799 (S.D. Tex.) (\$33,700,000.00 class settlement)
- *Buffington v. Progressive Advanced Ins. Co.*, 7:20-CV-07408 (VB) (S.D.N.Y.) (\$18,330,000 class settlement)
- *Grigorian v. FCA US LLC*, No. 2021-000976-CA-01 (Fla. Cir. Ct. Miami-Dade Cty.) (\$8,950,000.00 class action settlement)
- *In re GEICO Gen. Ins. Co.*, No. 19-cv-03768-HSG (N.D. Cal.) (\$6,200,000 class action settlement)
- *Junior v. Infinity Ins. Co.*, No. 6:18-cv-1598-WWB-EJK (M.D. Fla.) (\$27,460,000 class settlement)
- *Romaniak v. Esurance Property & Cas. Ins. Co.*, No. 1:20-cv-02773-PAB (N.D. Ohio) (\$3,140,000 class settlement)
- *Roth v. GEICO*, No. 16-cv-62942-WPD (S.D. Fla.) (judgment entered in favor of certified class)
- *Sos v. State Farm Mut. Auto. Ins. Co.*, No. 6:17-890-PGB-LRG (M.D. Fla. 2017) (summary judgment granted in favor of certified class)

EDELSBERG DECLARATION

DECLARATION OF SCOTT EDELSBERG

1. My name is Scott Edelsberg. I am the managing partner at Edelsberg Law (“Edelsberg”). My firm, along with Carney Bates & Pulliam (“CPB”), Jacobson Phillips PLLC (“Jacobson Phillips”), Normand PLLC (“Normand”), Shamis & Gentile P.A. (“Shamis & Gentile”), and Bailey Glasser LLP (“Bailey Glasser”), serve as co-counsel of record for Plaintiffs John Plotts, Zachary Goodier, James England, Kevin Lukasik, Lorenzo Costa, Michael Verardo, and Lori Lippa against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company (collectively “Progressive” or “Defendants”) in the above-captioned consolidated cases (the “Action”).
2. This declaration is based on my personal knowledge of the facts as attested to herein. I am over the age of 18, and I make this declaration freely and voluntarily. This declaration is submitted in support of Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, and Service Awards. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.
3. My firm’s total lodestar is \$346,320.00. This amount is based on the total hours and hourly rates expended by the various timekeepers, as reflected in the following chart:

Title	Timekeeper	Total Hours	Hourly Rate	Lodestar
Associate	Mandler	17.1	\$ 650.00	\$ 11,115.00
Partner	Gold	40.4	\$ 900.00	\$ 36,360.00
Partner	Schwartzbaum	47.7	\$ 900.00	\$ 42,930.00
Partner	Edelsberg	284.25	\$ 900.00	\$ 255,825.00

4. This chart was prepared from contemporaneous time records regularly prepared and maintained by my firm in the usual course and manner of my firm. We maintain detailed records regarding hours expended (down to 1/10th of an hour), and the lodestar calculation

is based on current billing rates, including hourly rates that have been approved as reasonable by other state and federal district courts, billing records by other firms with attorneys of similar experience and time, and other factors deemed relevant in the Second Circuit and across all jurisdictions. Furthermore, the hourly rates may have been adjusted (downward or upward) to be consistent with the rates of attorneys in other Class Counsel firms to ensure consistency of rates for attorneys of similar experience and years of practice.

5. My firm's total lodestar was calculated after utilizing billing judgment. In general, our firm's practice is to avoid including any hours that are duplicative or that unnecessarily overlap with hours expended by others in our firm or by our co-counsel. Specifically, however, we did not include or cut hours that we believe were reasonably expended, but in an abundance of caution cut them to avoid even the possibility of duplicative or unnecessary billing. As just one example, I did not include any of the time expended by my paralegal, Stephanie Ramos, which constituted approximately 50 hours, in an abundance of caution to ensure such time was not duplicative of other paralegal time. While I believe those hours were reasonable, necessary, and could be assessed to this case, I chose not to include them out of an abundance of caution.
6. I have reviewed the declaration submitted by Hank Bates, and agree that Class Counsel exercised billing judgment by dividing labor and tasks amongst the firms to ensure there was no duplicative or unnecessary time expended. Additionally, my firm specifically, we exercised further billing judgment to ensure there was not duplication or unnecessary time expenditures within the firm. By way of example, I was primarily responsible for mediation and settlement discussions, Chris Gold was primarily responsible for discovery and

document review, and Adam Schwartzbaum was primarily responsible for drafting *Daubert* briefs and expert-related tasks.

7. Not counting the litigation fund, our firm's costs (for categories such as Travel) are \$4,605.74.
8. Edelsberg Law, PA focuses on complex and class action litigation. The Firm has offices in Miami, Florida, and Los Angeles, California, and has served as lead counsel or co-lead counsel in hundreds of class actions lawsuits in state and federal courts across the country. In those cases, the Firm has won contested class certification motions, defended dispositive motions, engaged in data-intensive discovery and worked extensively with economics and information technology experts to build damages models. The firm has secured numerous class settlements, resulting in millions of dollars in relief for millions of class members. Some of the notable settlements include the following: *Albrecht v. Oasis Power, LLC*, No. 1:18-cv-1061 (N.D. Ill. 2018) (\$7,000,000.00 Class Settlement); *Bloom v. Jenny Craig, Inc.*, No. 1:18-cv-21820-KMM, 2018 U.S. Dist. LEXIS 151686 (S.D. Fla. 2018) (\$3,000,000.00 Class Settlement); *Eisenband v. Schumacher Automotive, Inc.*, No. 18-cv-01061 (S.D. Fla. 2018)(\$5,000,000.00 Class Settlement); *Gottlieb v. Citgo Corporation*, No. 16-cv-81911 (S.D. Fla. 2016) (\$8,300,000.00 Class Settlement); *Ostendorf v. Grange Indem. Ins. Co.*, No. 2:19-CV-1147 (S.D. Ohio 2020) (\$12,000,000.00 Class Settlement); *Papa v. Greico Ford Fort Lauderdale, LLC*, No. 1:18-cv-21897 (S.D. Fla. 2018) (\$4,800,000.00 Class Settlement); *Pena v. John C. Heath, Attorney at Law, PLLC, d/b/a Lexington Law Firm*, No. 18-cv- 24407-UU (S.D. Fla. 2018) (\$11,450,863.00 Class Settlement); *Petit Beau, et. al., v. Ocean Harbor Casualty Insurance Company*, No. CACE-

18-029268 (17th Judicial Circuit, Broward County) (\$4,500,000.000 Class Settlement).

Our CV is included at the end of this declaration.

9. The foregoing is true and complete to the best of my knowledge.

Further the declarant sayeth naught.

Dated: 11/4/2024

/s/ Scott Edelsberg

Scott Edelsberg

Edelsberg Law P.A. CV

EDELSBERG **LAW**

MIAMI

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786 289 9471 | EDELSBERGLAW.COM

ABOUT US

Your Trusted Class Action Law Firm. We are a dedicated class action firm committed to providing wide-ranging legal representation focused on delivering for our clients. Edelsberg Law is one of the top class action and commercial litigation law firms in the country.

THE EDELSBERG LAW PROMISE

Never shying away from litigating large consumer national class actions, Edelsberg Law is trusted by clients across the country to represent their interests and resolve their legal matters.

OUR MISSION

The attorneys and legal professionals at Edelsberg Law take pride in offering the highest caliber legal representation. We strive to help those that need help vindicating their rights and do not shy away from the difficult cases. If we take your case, we promise to work hard, efficient, and in your best interest.

SETTLEMENTS

Defranks V. Nastygall Class Settlement For \$5 Million Case No. 19-Cv-23028 (S.D. Fla 2020), Picton V. Greenway Dodge Class Settlement For \$2,745,000 Case No. 19-Cv-196-Orl (M.D. Fla 2020), Ostendorf V. Grange Indem. Ins. Co. Class Settlement For \$12 Million Case No. 2:19-Cv-1147, 2020 WL 134169 (S.D. Ohio 2020), Banks V. Fuccilloo Affiliates Of Florida Class Settlement For \$1,854,260 Case No. 19-Cv-00227 (M.D. Fla 2020), Goldschmidt V. Rack Room CLASS SETTLEMENT FOR \$25.9 MILLION Case No. 18-CV-21220 (S.D. FLA 2020), PENA V. LEX LAW CLASS SETTLEMENT FOR \$11.5 MILLION Case No. 18-CV-24407 (S.D. FLA 2020), Cortazar V. Ca Ventures Class Settlement For \$600,000 Case No. 19-Cv-22075 (S.d. Fla 2020), Albrecht V. Oasis Power Class Settlement For \$11 Million Case No. 18-Cv-1061 (S.D. Fla 2020), Robley V. Ids Property Casualty Ins. Co. Class Settlement For \$275,000 Case No. 2019-022263-Ca-01 (Fla. 11th Cir. Ct.), Bracero V. Mendota Ins. Co. Class Settlement For \$1.1 Million Case No. 2019-015886-Ca-01 (Fla. 11th Cir. Ct.), Avila-Preciado V. Horace Mann Property & Casualty Insurance Co. Class Settlement for \$290,000 Case No. 19-Ca-004683 (Fla. 20th Cir. Ct.), Colon V. Direct General Ins. Co. Class Settlement For \$780,000 Case No. 2019-Ca-1636 Oc, (Fla. 9th Cir. Ct.), Junior Et Al. V. Infinity Auto Insurance Company Over \$20 Million Settlement For Unpaid Sales Tax And Certain Fees, Final Approval Pending Case No. 6:18-Cv-01598-Wwbejk (M.D. Fla), Smart Et Al. V. Auto Club Insurance Et Al. Class Settlement For Over \$850,000 Case No. 19-Ca-005580 (Fla. 13th Cir. Ct.), Suarez V. Mapfre Insurance Co. Of Florida Class Settlement For \$800,000 Case No. 2019-020729-Ca-01 (Fla. 11th Cir. Ct.), George V. Peachtree Casualty Insurance Co. Class Settlement For \$580,000 Case No. Ca-19-674 (Fla. 7th Cir. Ct.), Dunleavy V. Surinse Detox Class Settlement For \$500,000 Case No. 18-Cv-25090 (S.D. Fla 2019), Eisenband V. Schumacher Automotive Class Settlement For \$5 Million Case No. 9:18-Cv-80911 (S.D. Fla 2019), Poirier V. Cubamax Class Settlement For \$800,000 Case No. 1:18-Cv-23240 (S.D. Fla 2019), Mclean V. Osborn Class Settlement For \$800,000 Case No. 18-Cv-81222 (S.D. Fla 2019), Bloom V. Jenny Craig Class Settlement For \$3 Million Case No. 1:18-Cv-21820 (S.D. Fla 2019), Papa V. Greico Ford Class Settlement For \$4.9 Million Case No. 18-21897 (S.D. Fla 2019), Wijesinha V. Susan B. Anthony Class Settlement For \$1,017,430 Case No. 18-Cv-22880 (S.D. Fla 2019), Halperin V. Youfit Heath Clubs Class Settlement For \$1,418,635 Case No. 18-Cv-61722 (S.D. Fla 2019), Dipuglia V. U.S. Coachways, Inc. Class Settlement For \$2.6 Million Case No. 17-23006-Civ (S.D. Fla 2018), Gottlieb V. Citgo Class Settlement For \$8.3 Million Case No. 9:16-81911 (S.D. Fla 2017), Masson V. Tallahassee Dodge Jeep Chrysler, Llc. Class Settlement For \$850,000 Case No. 1-17-Cv-22967 (S.D. 2017), Stathakos V. Columbia Sportswear Company Obtained Classwide Injunctive Relief Case No. 4:15-Cv-04543 (N.D. California 2017).



SCOTT EDELSBERG

PARTNER

E: scott@edelsberglaw.com

O: 310-438-5355

C: 305-975-3320

Scott Edelsberg's broad-based litigation experience representing both plaintiffs and defendants provides him with an invaluable perspective when prosecuting claims on behalf of consumers who have been harmed by corporate wrongdoing.

Scott Edelsberg is the founding partner of Edelsberg Law, PA and focuses his practice in the areas of class actions, consumer fraud and personal injury.

In connection with his representation in class action matters, Edelsberg has litigated cases in multiple state and federal jurisdictions throughout the country, including two multi-district litigation proceedings. In those cases, Edelsberg has won contested class certification motions, defended dispositive motions, engaged in data-intensive discovery and worked extensively with economics and information technology experts to build damages models. His efforts have lead to numerous class settlements, resulting in millions of dollars in relief for millions of class members.

Edelsberg is a native of South Florida and earned a Bachelor of Arts degree in Political Science from the University of Michigan. While at Michigan, he was awarded the Michigan Merit Scholar award and served as an intern for the Washtenaw County Public Defender's office. Edelsberg went on to receive a Juris Doctor degree, Cum Laude, from the University of Miami School of Law. While attending law school, he was on the Dean's List, a member of the International and Comparative Law Review, a Merit Scholarship recipient and served as an Equal Justice for America Fellow.

EDUCATION

University of Miami School of Law,
J.D. - 2012

University of Michigan, B.A. - 2009

BAR ADMISSIONS

Florida
California

COURT ADMISSIONS

Southern District of Florida
Middle District of Florida

PRIMARY PRACTICE

Class Action

ADAM SCHWARTZBAUM

PARTNER

E: adam@edelsberglaw.com

O: 786-673-2405

C: 305-725-1245

Adam Schwartzbaum is a Partner at Edelsberg Law in Miami, Florida, where he plays a leading role representing individuals in class action litigation across the country. Adam has a wealth of experience representing both plaintiffs and defendants in state and federal court and at the trial and appellate levels. Adam's passion for using the law to better the lives of ordinary people makes him a fierce advocate for his clients and a champion for justice. Further, Adam has helped recover over \$1.6 billion for his clients over the course of his legal career.

Adam was previously a partner at The Moskowitz Law Firm, where he worked on some of the country's largest class actions and multi-district litigation cases. Adam directly represented many survivors of the Champlain Towers South Condominium Collapse Litigation in the firm's role as lead counsel for the economic loss victims and helped achieve a historic \$1.1 billion settlement. Adam also worked directly with Co-Lead Counsel to help organize and run two federal multi-district litigations: the FieldTurf Artificial Turf Marketing and Sales Practices Litigation, and the Erie COVID-19 Business Interruption Insurance Protection Litigation. Other representative matters include the Transamerica and Lincoln cost of insurance litigation; the COVID-19 student fee cases against Florida public schools, including appeals in all of Florida's District Courts of Appeal; several Ponzi scheme cases on behalf of investors against both principals and aiders and abettors; suits challenging illegal and deceptive and unfair business practices in the insurance industry; and a certified issue class concerning the Fort Lauderdale Water Main Break against Florida Power & Light and several of its subcontractors that was affirmed on appeal and resulted in a trial victory for the certified class. Adam also chaired the firm's busy appellate practice, utilizing his twelve years of appellate experience to lead over a dozen appeals in the Florida District Courts of Appeal and the federal Circuit Courts of Appeal. For example, Adam helped lead a team of lawyers to brief and argue *Cherry v. Dometic*, 986 F.3d 1296 (11th Cir. 2021), an appeal that resulted in an opinion clarifying and revising the "ascertainability" standard to the benefit of class action plaintiffs across the country.

Adam began his legal career with a defense-oriented practice split between appellate and trial level advocacy. At Weiss Serota Helfman Cole & Bierman, Adam represented many local governments, as well as businesses and individuals, in both state and federal court, in a variety of commercial disputes and lawsuits involving complex constitutional and statutory issues. Prior to that, Adam practiced complex commercial litigation at White & Case.

Adam was raised in the Cuban-Jewish community in Miami Beach. He attended Brandeis University as a Justice Brandeis Scholar where he earned a Bachelor of Arts with highest honors and graduated summa cum laude and Phi Beta Kappa. Adam performed a year of national service in Washington, D.C. with City Year before attending the University of Pennsylvania Law School as a Levy Scholar. Adam was a Senior Editor of the University of Pennsylvania Law Review (which published his scholarship) and a member of the Penn Moot Court Board. Adam was President of the Penn Law student chapter of the American Constitution Society and was honored for his outstanding contributions to pro bono work on behalf of workers and children in Philadelphia.

Since 2015, Adam has served on the Board of Directors of Nu Deco Ensemble, Miami's 21st Century chamber orchestra, and is currently the corporate Secretary. Adam is the founder and Team Captain for Jewish Community Service's Miami Marathon and Half Marathon Team Blue Card, which since 2013 has raised over half a million dollars to support indigent Holocaust Survivors. Adam also sits on the Board of Directors of Temple Menorah in Miami Beach.

EDUCATION

Brandeis University, B.A., 2007

University of Pennsylvania Law School,
2011

BAR ADMISSIONS

Florida Bar

Southern District of Florida

Middle District of Florida

Eleventh Circuit Court of Appeals

Third Circuit Court of Appeals

AWARDS & RECOGNITION

Rising Star, Super Lawyer Magazine,
2018, 2019, 2020, 2021, 2022, 2023

Miami Dade County Bar Association
"40 Under 40" Award (2023)

Palm Beach Media Group
Top Lawyers, 2023

PRIMARY PRACTICE

Class Action



CHRIS GOLD

PARTNER

E: chris@edelsberglaw.com

O: 786-673-2405

C: 561-789-4413

Chris's practice focuses on all forms of complex, high-level class action and mass tort litigation. Before joining the Firm, Chris spent over ten years at Robbins Geller Rudman & Dowd, the country's most elite plaintiffs' class action firm, where he was a partner and part of the team that achieved a \$650 million settlement against Facebook in a landmark biometric privacy case. As a result of that record-breaking achievement, Chris was named one of Florida's Most Effective Lawyers in the Privacy category by American Law Media, 2020.

Chris has experience litigating all genre of class action and multidistrict litigation against the most sophisticated litigants, including false advertising, consumer fraud, data breach, privacy, securities fraud, merger & acquisition, and insurance. Chris served on the Plaintiffs' Steering Committee in In re Allergan Biocell Textured Breast Implant Prods, Liab. Litig. (D.N.J.), and he sat on the Law and Briefing and Government Entity Committees in In re Juul Labs, Inc. Mktg., Sales Pracs., & Prods. Liab. Litig., where he represented the School Boards of Broward and Miami-Dade County, and other government entities seeking damages caused by the public nuisance of youth e-cigarette use in those communities.

Chris has also represented institutional investors and sovereign wealth funds in Brazilian arbitration proceedings against Brazilian oil giant, Petrobras, arising out of the company's massive Lava Jato fraud.

Some of Chris's other notable recoveries include the following:

- Settlement valued at \$15 million in In re Sony Gaming Networks & Customer Data Sec. Breach Litig. (S.D. Cal.), a case arising from a massive data breach of Sony's PlayStation Network.
- \$15 million settlement in Boland v. Gerdau S.A. (S.D.N.Y.) on behalf of investors in a Brazilian steel conglomerate that failed to disclose its alleged bribery of Brazilian tax authorities.
- \$9 million settlement in In re Winn-Dixie Stores, Inc. S'holder Litig. (Fla. 4th Cir. Ct.), for former Winn-Dixie shareholders whose stock was undervalued in a buyout of the company.
- \$10 million settlement in In re AuthenTec, Inc. S'holder Litig. (Fla. 18th Cir. Ct.), on behalf of the former shareholders of AuthenTec following its buyout by Apple, which incorporated AuthenTec's fingerprint technology into the Apple iPhone.

Chris was recognized as a Super Lawyer Rising Star in 2020 and 2021. He holds a Bachelor of Science degree in Business Administration from Lynn University, in Boca Raton Florida, and a Juris Doctor degree from DePaul University College of Law in Chicago, Illinois.

Chris is a Blackbelt in Brazilian Jiu-jitsu and a former MMA fighter. Chris is fluent in Brazilian Portuguese.

EDUCATION

DePaul University College of Law,
J.D. -2010

Lynn University, B.S., Business - 2006

BAR ADMISSIONS

Florida

United States District Courts for the
Middle and Southern Districts of
Florida

United States District Court for the
Eastern District of Michigan

United States District Court for the
Southern District of Texas

Southern District of Florida

Middle District of Florida

ACCOLADES

Named one of "Florida's Most Effective
Lawyers" in the Privacy category by
American Law Media, 2020

Rising Star, Super Lawyers Magazine,
2019-2020



GABRIEL MANDLER

SENIOR ASSOCIATE

E: gabriel@edelsberglaw.com

C: 786-200-4316

Gabriel Mandler is a Senior Associate at Edelsberg Law. His practice focuses on multi-state consumer class action litigation, representing clients in both state and federal courts at the trial and appellate levels.

Gabriel has experience litigating a broad range of class action disputes, including employment discrimination, insurance disputes and mass torts. Gabriel previously worked at Stroock & Stroock & Lavan LLP, where he was part of a team in the remedial phase of a Title VII class action that recovered approximately \$2 billion for African American and Latino teachers who were discriminated against by New York City's Board of Education. Gabriel also has extensive experience handling complex commercial litigation disputes through trial.

A Miami native, Gabriel graduated magna cum laude from the University of Miami School of Law, where he was a member of the Business Law Review and Charles C. Papy, Jr. Moot Court Board. During this time, Gabriel interned for the Honorable Jonathan Goodman, a United States Magistrate Judge for the Southern District of Florida. Prior to law school, Gabriel earned his Bachelor of Arts Degree in Journalism and Communications from the University of Florida.

EDUCATION

University of Miami Law School, J.D.
University of Florida, B.A.



RACHEL DEEPER

OF COUNSEL

E: rachel@edelsberglaw.com

C: 305-610-5223

Rachel Dapeer's practice focuses on multi-state consumer class action litigation and complex commercial litigation. She handles a broad range of disputes involving insurance policies, fraudulent business practices, labeling claims, and other consumer matters.

Rachel is of-counsel at Edelsberg Law and manages her own law firm, Dapeer Law, P.A. where her litigation practice spans a variety of industries including real estate, automotive, banking and retail. Prior to joining Edelsberg law, Rachel was an Associate at Greenspoon Marder, LLP., where she represented businesses and individuals in a variety of disputes involving breach of contract, commercial transactions, fraud, business torts, deceptive and unfair trade practices, tax lien and real estate litigation.

Rachel attended undergraduate school at the University of North Carolina at Chapel Hill (B.S.B.A., 2007) and obtained a Juris Doctorate degree from Cardozo Law School (J.D., 2011). Before returning home to Miami, Rachel practiced in New York City at Windels, Marx, Lane & Mittendorf, LLP, representing lenders, financial institutions, and servicers with complex tax lien and mortgage foreclosure proceedings.

EDUCATION

Cardozo Law School, J.D. - 2011

University of North Carolina,
B.S., B.A. - 2007

SHAMIS DECLARATION

DECLARATION OF ANDREW J. SHAMIS

1. My name is Andrew J. Shamis. I am the managing partner at Shamis & Gentile P.A. (“Shamis & Gentile”) where I head the class action and mass torts divisions of the firm . My firm, along with Carney Bates & Pulliam (“CPB”), Jacobson Phillips PLLC (“Jacobson Phillips”), Normand PLLC (“Normand”), Edelsberg Law, P.A. (“Edelsberg”), and Bailey Glasser LLP (“Bailey Glasser”), serve as co-counsel of record for Plaintiffs John Plotts, Zachary Goodier, James England, Kevin Lukasik, Lorenzo Costa, Michael Verardo, and Lori Lippa against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company (collectively “Progressive” or “Defendants”) in the above-captioned consolidated cases (the “Action”).
2. This declaration is based on my personal knowledge of the facts as attested to herein. I am over the age of 18, and I make this declaration freely and voluntarily. This declaration is submitted in support of Plaintiffs’ Unopposed Motion for Attorneys’ Fees, Costs, and Service Awards. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.
3. My firm’s total lodestar is \$196,415.00 This amount is based on the total hours and hourly rates expended by the various timekeepers, as reflected in the following chart:

Title	Timekeeper	Total Hours	Hourly Rate	Lodestar
Associate	Grigorian	20.00	\$425.00	\$8,500.00
Partner	Elliott	146.90	\$650.00	\$95,485.00
Partner	Shamis	102.70	\$900.00	\$92,430.00

4. This chart was prepared from contemporaneous time records regularly prepared and maintained by my firm in the usual course and manner of my firm. We maintain detailed

records regarding hours expended (down to 1/10th of an hour), and the lodestar calculation is based on current billing rates, including hourly rates that have been approved as reasonable by other state and federal district courts, billing records by other firms with attorneys of similar experience and time, and other factors deemed relevant in the Second Circuit and across all jurisdictions. Furthermore, the hourly rates may have been adjusted (downward or upward) to be consistent with the rates of attorneys in other Class Counsel firms to ensure consistency of rates for attorneys of similar experience and years of practice.

5. My firm's total lodestar was calculated after utilizing billing judgment. In general, our firm's practice is to avoid including any hours that are duplicative or that unnecessarily overlap with hours expended by others in our firm or by our co-counsel. Specifically, however, we did not include or cut hours that we believe were reasonably expended, but in an abundance of caution cut them to avoid even the possibility of duplicative or unnecessary billing. For example, I did not include approximately 25 hours expended by Ms. Grigorian and Mr. Elliott spent on reviewing briefs and discovery and editing discovery requests in an abundance of caution to avoid even the possibility of duplicative or unnecessary time. While I believe those hours were reasonable, necessary, and could be assessed to this case, I chose not to include them out of an abundance of caution.
6. I have reviewed the declaration submitted by Hank Bates, and agree that, collectively, Class Counsel exercised billing judgment by dividing labor and tasks amongst the firms to ensure there was no duplicative or unnecessary time expended. Additionally, my firm specifically, we exercised further billing judgment to ensure there was not duplication or unnecessary time expenditures within our firm. For example, I was primarily responsible for client

communications, investigating claims, and preparing Complaints; Edwin Elliott was primarily responsible for preparing clients for deposition and for responding to client discovery requests, assisting in drafting *Daubert* briefs, as well as preparing the claims review pertinent to Dr. Lacey's expert report; Mariam Grigorian, prior to leaving the firm, was primarily responsible for preparing motions and filings related to case management and preparing and defending client depositions, and so forth.

7. Outside of the litigation fund, our firm incurred reasonable and necessary costs of \$49,913.44 to prosecute this action, which include things such as travel, client preparation for deposition (such as printing, shipping, etc.), intake, and so forth.
8. Shamis & Gentile is a class action firm that litigates cases in a broad range of industries, including insurance, banking, data privacy, deceptive and unfair trade practices and product liability. Shamis & Gentile regularly engages in complex litigation in a variety of industries and has frequently been appointed as Lead Counsel, Co-Counsel, or Class Counsel by courts throughout the country, including auto insurance total-loss claims like the present case. *See Davis, et. al. v. Geico Casualty Company, et. al.*, No. 19-cv-02477 (S.D. Ohio 2023); *Andrews v. State Auto Mut. Ins. Co.*, No. 2:21-CV-5867 (S.D. Ohio 2023); *Black v. USAA Casualty Ins. Co.*, No.: 1:21-cv-01363-LMM (N.D. Ga. 2023) (ECF No. 69); *Arevalo, et. al. v. USAA Casualty Ins. Co., et. al.*, No. 2020CI16240 (Bexar County, Texas 2023); *South, et. al. v. Progressive Select Insurance Company, et. al.*, No. 19-cv-21760 (S.D. Fla. 2023); *Jacques, et. al. v. Security National Ins. Co.*, No. CACE-19-002236 (Fla. 17th Cir. Ct. 2022); *McPheeters v. United Services Automobile Association and Garrison Property and Casualty Ins. Co.*, No. 1:20-CV-00414-TSB (S.D. Ohio 2022); *Hinds-Thomas et al. v. LM General Ins. Co. et al.*, No. 22SL-CC04131 (Circuit Court of St. Louis

County, MO); *Petit Beau, et. al., v. Ocean Harbor Casualty Ins. Co.*, No. CACE-18-029268 (Fla. 17th Cir. Ct. 2021); *Ostendorf v. Grange Indem. Ins. Co.*, No. 2:19-CV-1147 (S.D. Ohio 2020).

9. My years of experience representing individuals in complex class actions contributed to an awareness of Plaintiffs' settlement leverage, as well as the needs of Plaintiffs and the proposed Settlement Classes. I believe that our clients would ultimately prevail in the litigation on a class-wide basis. However, I am also aware that a successful outcome is uncertain and would be achieved, if at all, only after prolonged, arduous litigation with the attendant risk of drawn-out appeals. The other partners and attorneys of Shamis & Gentile that worked on this matter are as follows:

- a. Edwin E. Elliott: Mr. Elliott is a partner at Shamis & Gentile. Mr. Elliott has dedicated his entire career to prosecuting class actions on behalf of consumers in a variety of industries. While in law school, Mr. Elliott was awarded the University of Miami Class Action & Complex Litigation Endowed Fellowship – a merits-based scholarship awarded to those who demonstrated a commitment to practicing in class actions. Despite his relatively short career, Mr. Elliott has been appointed as Class Counsel by numerous courts throughout the country.
- b. Mariam Grigorian: Prior to Ms. Grigorian leaving the firm, she was a partner at Shamis & Gentile and practiced exclusively in litigating complex insurance disputes similar to the present case. Ms. Grigorian assisted in the recovery of millions of dollars owed to insureds throughout the country.

10. Our CV is attached at the end of this declaration.

11. The foregoing is true and complete to the best of my knowledge.

Further the declarant sayeth naught.

Dated: November 2, 2024

/s/ Andrew J. Shamis

Andrew J. Shamis

Shamis & Gentile, P.A. CV



Our Firm

Shamis & Gentile, P.A. has and continues to provide outstanding legal services in the Florida, New York, Texas, Georgia, Illinois, Ohio, Arizona, Missouri, and Washington communities. Shamis & Gentile, P.A. distinguishes itself because of our experience and legal resources to handle virtually any case involving class action, mass tort, mass arbitration, personal injury, personal injury protection, and contract disputes. Specifically, as it relates to class actions, Shamis & Gentile, P.A. has filed and litigated thousands of banking, insurance, data privacy, deceptive and unfair trade practice and product liability cases, often through contested class certification and even until trial. At Shamis & Gentile, P.A. our seasoned attorneys are some of the most innovative and progressive attorneys in the profession. Often, Shamis & Gentile, P.A. is called upon to litigate and settle cases that other law firms may not be able to handle on their own.

Shamis & Gentile, P.A. is committed to practicing law with the highest level of integrity in an ethical and professional manner. We are a diverse firm with lawyers and staff from all walks of life. Our lawyers and other employees are hired and promoted based on the quality of their work and their ability to treat others with respect and dignity.

Who We Are

Andrew Shamis is the managing partner at Shamis & Gentile, P.A. Mr. Shamis heads the class action and mass torts divisions of the firm, where his extensive experience in civil litigation has gained him the reputation of an attorney who can deliver where it matters the most, monetary results for his clients. Mr. Shamis has recovered over 1 billion dollars for consumers and plaintiffs throughout the country through his relentlessness, expertise, and calculated approach. Mr. Shamis is routinely certified class counsel and has successfully litigated over 10,000 civil cases in his young career.

Mr. Shamis is admitted to practice law in the states of Arizona, Florida, Georgia, Illinois, Missouri, New York, Ohio, Texas, and Washington as well as the U.S. District Courts for the Southern, Middle, and Northern Districts of Florida, Northern, Eastern, Western, and Southern Districts of New York, Northern, Southern, Central Districts of Illinois, Northern, Middle, and Southern Districts of Georgia, Eastern and Western Districts of Michigan, Eastern and Western Districts of Wisconsin, Northern and Southern Districts of Ohio, Eastern and Western Districts of Missouri, Eastern, Western, and Northern Districts of Oklahoma, Northern, Western, Eastern, and Southern Districts of Texas, Southern District of Indiana, U.S. District Court of Colorado, U.S. District Court of Connecticut, U.S. District Court of Arizona, and the U.S. District Court of Nebraska.

Mr. Shamis specializes in Consumer Protection Class Action Litigation, Mass Torts, Mass Arbitration, Personal Injury, Wrongful Death, as well as General Civil Litigation.

Angelica Gentile is a named partner at Shamis & Gentile P.A. Ms. Gentile heads the catastrophic injury, personal injury, and personal injury protection divisions of Shamis & Gentile, P.A. Ms. Gentile is recognized throughout the legal community as an extremely professional and efficient attorney. Ms. Gentile is admitted to practice law in both Florida and Texas and has extensive civil litigation experience, involving hundreds of depositions and motions throughout the state of Florida. Ms. Gentile not only prides herself in collecting millions of dollars in benefits owed to clients, but also in forging long lasting, successful relationships with clients.

Ms. Gentile specializes in Personal Injury, Personal Injury Protection, Class Action Litigation (TCPA, banking, insurance breach of contract, data breach, unfair and deceptive trade practices), Wrongful Death, Wrongful Termination, as well as General Civil Litigation.

Garrett Berg is a partner at Shamis & Gentile, P.A. and leads the firms' Data Privacy department. Mr. Berg's practice involves all aspects of federal and state civil litigation with a focus on consumer-protection class action lawsuits. Mr. Berg has been responsible for recovering millions of dollars owed to clients and class members across the nation and has litigated hundreds of cases.

Edwin Elliott is a partner at Shamis & Gentile, P.A. Mr. Elliott's practice involves all aspects of complex, high-level class action litigation. Mr. Elliott represents clients in federal and state courts across the nation in class actions involving consumer fraud, deceptive and unfair trade practices, false advertising, predatory financial services, digital privacy, and complex insurance disputes. Having prosecuted numerous class actions through all stages of the litigation process, Mr. Elliott's work has contributed to hundreds of millions in recoveries for consumers.

Our staff sets the standard on being innovative and technologically savvy. This innovation and use of fully customized cutting-edge case management software allows us to create an unparalleled level of customer service and attention to detail with our clients, which has led to an exceptional growth rate rarely seen in law firms.

Shamis & Gentile, P.A. has the resources, infrastructure and staff to successfully represent large putative classes. The attorneys and staff are not simply litigators, but directors of creating successful results with the ultimate level of satisfaction by the clients.

Class Actions

Shamis & Gentile, P.A. has initiated and served as both lead counsel and co-lead counsel in hundreds of class actions, many of which have generated internet articles. Currently, the firm serves as lead counsel or co-counsel on over 300 class action lawsuits. The lawsuits range from all Districts of Florida to the Central District of California. Shamis & Gentile, P.A. has also successfully settled many Class Action cases prior to verdict.

Prominent Class Action Settlements

Over the years, Shamis & Gentile attorneys have obtained outstanding results in some of the most well-known cases.

- *Andrews v. State Auto Mut. Ins. Co.*, No. 2:21-CV-5867 (S.D. Ohio 2023) (\$6,500,000.00 Class Settlement)
- *Arevalo, et. al. v. USAA Casualty Insurance Company, et. al.*, No. 2020CI16240 (Bexar County, Texas 2023) (\$4,089,287.50 Class Settlement)
- *Albrecht v. Oasis Power, LLC*, No. 1:18-cv-1061 (N.D. Ill. 2018) (\$7,000,000.00 Class Settlement)
- *Bloom v. Jenny Craig, Inc.*, No. 1:18-cv-21820-KMM, 2018 U.S. Dist. LEXIS 151686 (S.D. Fla. 2018) (\$3,000,000.00 Class Settlement)
- *Davis, et. al. v. Geico Casualty Company, et. al.*, No. 19-cv-02477 (S.D. Ohio 2023) (\$5,756,500.00 Class Settlement)
- *DeFranks v. Nastygal.com USA Inc.*, No. 19-cv-23028-DPG (S.D. Fla. 2019) (\$4,025,000.00 Class Settlement)
- *Deleon III, et. al. v. Direct General Insurance Company, et. al.* No. 19-CA-001636 (Fla. 9th Cir. Ct.) (\$2,450,000.00 Class Settlement)
- *Dipuglia v. US Coachways, Inc.*, No. 17-23006-Civ, 2018 U.S. Dist. LEXIS 72551 (S.D. Fla. 2018) (\$2,600,000.00 Class Settlement)
- *Eisenband v. Schumacher Automotive, Inc.*, No. 18-cv-01061 (S.D. Fla 2018) (\$5,000,000.00 Class Settlement)
- *Gottlieb v. Citgo Corporation*, No. 16-cv-81911 (S.D. Fla. 2016) (\$8,300,000.00 Class Settlement)
- *Jacques, et. al. v. Security National Insurance Company*, No. CACE-19-002236 (Fla. 17th Cir. Ct.) (\$6,000,000.00 Class Settlement)
- *Jones v. Washington State Employee's Credit Union*, No. 20-2-06596-5 (Superior Court of the State of Washington, County of Pierce) (\$2,400,000.00 Class Settlement)
- *McPheeters v. United Services Automobile Association and Garrison Property and Casualty Ins. Co.*, No. 1:20-CV-00414-TSB (S.D. Ohio 2022) (\$10,250,00.00 Class Settlement)
- *Middleton v. Liberty Mut. Ins. Co.*, No. 1:20-cv-00668-DRC (S.D. Ohio 2023) (\$14,404,00.00 Class Settlement)
- *Hinds-Thomas et al. v. LM General Insurance Company et al.*, No. 22SL-CC04131 (Circuit Court of St. Louis County, MO) (\$8,669,083.00 Class Settlement)

- *Ostendorf v. Grange Indem. Ins. Co.*, No. 2:19-CV-1147 (S.D. Ohio 2020) (\$12,000,000.00 Class Settlement)
- *Papa v. Greico Ford Fort Lauderdale, LLC*, No. 1:18-cv-21897 (S.D. Fla. 2018) (\$4,800,000.00 Class Settlement)
- *Pena v. John C. Heath, Attorney at Law, PLLC, d/b/a Lexington Law Firm*, No. 18-cv-24407-UU (S.D. Fla. 2018) (\$11,450,863.00 Class Settlement)
- *Petit Beau, et. al., v. Ocean Harbor Casualty Insurance Company*, No. CACE-18-029268 (Fla. 17th Cir. Ct.) (\$4,500,000.000 Class Settlement)
- *Picton v. Greenway Chrysler-Jeep-Dodge Inc. d/b/a Greenway Dodge Chrysler Jeep*, No. 19-cv-00196-GAP-DCI (M.D. Fla. 2019) (\$2,745,000.00 Class Settlement)
- *Soto-Melendez v. Banco Popular de Puerto Rico*, No. 3:20-cv-01057 (D.P.R. 2023) (\$5,500,00.00 Class Settlement)
- *South, et. al. v. Progressive Select Insurance Company, et. al.*, No. 19-cv-21760 (S.D. Fla. 2023) (\$48,800,000.00 Class Settlement)

More About Shamis & Gentile, P.A.

To learn more about our firm, please visit www.shamisgentile.com, or view links to our blogs at <https://www.sflinjuryattorneys.com/blog/>.

EXHIBIT 3

Transcript from Final
Approval hearing in
Vela v. AMC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
VELA, et al., : Docket #1:23-cv-02524-
 : ALC
 :
Plaintiffs, :
 :
- against - :
 :
AMC NETWORKS, INC., : New York, New York
 : May 16, 2024
Defendant. :
 : TELEPHONE CONFERENCE
----- :

PROCEEDINGS BEFORE
THE HONORABLE ANDREW L. CARTER, JR.,
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For Plaintiffs: CARNEY BATES & PULLIAM, PLLC
BY: JOSEPH H. BATES, III, ESQ.
One Allied Drive, Suite 1400
Little Rock, Arkansas 72202

LIEFF CABRASER HEIMANN & BERNSTEIN
BY: DOUGLAS IAN CUTHBERTSON, ESQ.
250 Hudson Street, 8th Floor
New York, New York 10013

REESE LLP
BY: MICHAEL R. REESE, ESQ.
100 West 93rd Street, 16th Floor
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Proceedings conducted telephonically and recorded by
electronic sound recording;
Transcript produced by transcription service .

APPEARANCES - CONTINUED:

For Plaintiffs: LAUKAITIS LAW LLC
BY: KEVIN LAUKAITIS, ESQ.
954 Avenida Ponce De Leon
Suite 205, #10518
San Juan, Puerto Rico 00907

For Defendant: HOLLAND & KNIGHT LLP
BY: MARK S. MELODIA, ESQ.
787 Seventh Avenue, 31st Floor
New York, New York 10019

INDEXE X A M I N A T I O N S

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- Direct</u>	<u>Re- Cross</u>
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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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None

1 PROCEEDINGS 4

2 THE CLERK: Before the Court for a telephone
3 fairness hearing in case number 23-cv-2524, Vela et al
4 vs. AMC Networks.

5 Counsel, please state your appearances for the
6 plaintiff.

7 MR. JOSEPH H. BATES, III: Yes. This is Hank
8 Bates with Carney Bates & Pulliam on behalf of the class
9 and the plaintiffs.

10 MR. DOUGLAS I. CUTHBERTSON: Also on the line
11 is Doug Cuthbertson of Liefk Cabraser Heimann &
12 Bernstein for the class and the plaintiffs.

13 MR. MICHAEL R. REESE: Good morning, your
14 Honor. This is Michael Reese of Reese LLP, also on
15 behalf of plaintiffs and the class.

16 MR. KEVIN LAUKAITIS: Kevin Laukaitis,
17 Laukaitis Law, on behalf of plaintiffs and the class.

18 THE CLERK: And for the defendant?

19 MR. MARK S. MELODIA: Good afternoon, your
20 Honor. It's Mark Melodia from Holland & Knight on
21 behalf of the defendant, AMC.

22 THE CLERK: Thank you.

23 HONORABLE ANDREW L. CARTER, JR., (THE COURT):
24 Okay, good afternoon. Someone needs to put their phone
25 on mute. We're getting a lot of background noise there.

1 PROCEEDINGS 5

2 We're here for a Final Fairness Hearing to
3 approve the class-wide settlement and approve an award
4 of attorney's fees. First let me get a sense from
5 plaintiffs' counsel -- well, first of all, have there
6 been any objections to the settlement that plaintiffs'
7 counsel has received?

8 MR. BATES: No, your Honor -- this is Hank
9 Bates on behalf of the class. No, your Honor.

10 THE COURT: Okay. Let me find out from
11 plaintiffs the status of Carlton X. Matthews as a
12 (indiscernible) plaintiff. Let me hear from plaintiffs
13 on this.

14 MR. BATES: Yes. As you know -- again, this is
15 Hank Bates -- excuse me. I'll be doing most of the
16 speaking, I believe, for the class. As you know, he
17 sent a letter to your Honor, to the Court, that he
18 styled a Supplemental Complaint. We interpreted the
19 letter as a request to be part of the class, to -- in
20 effect, he'd like to make a claim. And so we couldn't
21 tell from the letter if he's actually in the class. AMC
22 knows their subscribers by their email address. So we
23 sent him a letter on May 2nd asking for the email
24 address that he registered to use one of AMC's services.
25 We have not heard back from him. It is past the --

1 PROCEEDINGS 6

2 THE COURT: Hold on just a second.

3 Again, there's somebody on the call who needs
4 to put their phone on mute. I'm getting a lot of
5 background noise. It sounds like someone's on the
6 subway or on the street somewhere. They need to put
7 their phone on mute so we can hear what's happening here
8 with this conference.

9 Okay, go ahead. Continue, counselor.

10 MR. BATES: Okay, were you able to hear what
11 I've said thus far?

12 THE COURT: Yes.

13 MR. BATES: Do I need to back (indiscernible)?

14 THE COURT: Well, then (indiscernible) the
15 question.

16 MR. BATES: Yes. So we sent the letter on
17 May 2nd. We had not heard back from him. He -- you
18 know, the claims deadline has passed several weeks ago.
19 However, he is an incarcerated individual. He
20 (indiscernible - background noise continues) sent us an
21 email, we'll accept the claim.

22 THE COURT: Again, someone's going to need to
23 put their cell phone on mute. We're getting a lot of
24 background noise.

25 THE CLERK: Hello, there's someone on the line

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PROCEEDINGS

7

who needs to place your phone on mute. Please place your phone on mute. We can hear a lot of background noise. Thank you. All phones, for those dialing in to hear this proceeding should be on mute. Thank you.

MR. BATES: So in a nutshell, we have communicated with him and are waiting to hear back from him so we can determine whether he is indeed a member of the class.

THE COURT: Okay. Anything from defendant on this?

MR. MELODIA: Good afternoon, your Honor. It's Mark Melodia from Holland & Knight. AMC is ready to search its records once Mr. Matthews provides his email address so that we can see whether he's a member of the class. And then we'll work with the settlement administrator and plaintiffs' counsel to get that done as quickly as possible. But otherwise, you know, we're in agreement with what Mr. Bates just summarized.

THE COURT: Okay. All right, so let me just ask some plaintiffs' counsel, are you construing Mr. Matthews' letter as Mr. Matthews opted out of the settlement?

MR. BATES: No. What we construe it as is that -- as he would like to make a claim, be a claimant,

1 PROCEEDINGS 8

2 be part of this settlement. And he was looking to be --
3 that's how we have construed the letter was that he was
4 looking to make a claim. And that's why we sent the
5 letter asking for the information so we can determine if
6 he indeed is a class member. It's unclear whether he's
7 actually a class member, someone who actually uses AMC
8 services. And given that he's incarcerated, we
9 recognize that he may have had time constraints in terms
10 of making a claim. So we've reached out to him and are
11 willing to work with him.

12 THE COURT: Okay. Thank you.

13 The proposed settlement states a nonrevisionary
14 settlement fund of \$8,300,000. The settlement agreement
15 provides that all class members who submit valid claims
16 will receive a pro rata payment after deduction of costs
17 and expenses. I have reviewed the submissions from the
18 parties; and in accordance with the Court's January 10th
19 order, the settlement administrator --

20 (Interruption by background noise)

21 THE COURT: -- emailed the court-approved forms
22 to seven million two thousand --

23 (Voice comes on speaking Spanish.)

24 THE COURT: You need to put your phone on mute.

25 (Further interruption by recording.)

1 PROCEEDINGS 9

2 THE COURT: All right, let me just strike out
3 from the parties, what are the settlement
4 administrator's fees, and will these fees be paid out
5 from the settlement funds?

6 MR. BATES: Yes, your Honor; this is Hank Bates
7 again for the class. The -- yes, they will be paid out
8 from the funds. And the estimated fees are already
9 incurred is \$216,354.63. To get all of the payments
10 made and take this to the end, they're estimating
11 another \$308,588.92. So the estimated total costs of
12 administration to get to the very end will be -- that
13 comes to \$524,943.55.

14 THE COURT: Okay. Thank you.

15 Having reviewed everything before me, I find
16 that the settlement here is procedurally fair,
17 reasonable, adequate and not a product of collusion. In
18 general, class action settlements are encouraged by the
19 Courts and favored by public policy. Here the parties
20 have engaged in written discovery during the mediation
21 process, which allowed the parties to engage in
22 thorough, arm's length negotiations. Second, I find
23 that the settlement is substantively fair, reasonable
24 and adequate. In evaluating the substantive fairness to
25 the class action settlement, Courts consider the factors

1 PROCEEDINGS 10

2 set forth in *City of Detroit vs. Grinnell Corporation*.
3 Those factors are the complexity, expense and likely
4 duration of the litigation, the reaction of the class to
5 the settlement, the (indiscernible -background noise)
6 and the amount of discovery completed, the risk of
7 establishing liability, the risk of establishing
8 damages, the risk of maintaining the class action
9 through the trial, the ability of the defendant to
10 withstand a greater judgment, the range of
11 reasonableness of the settlement (indiscernible) right
12 of the best possible discovery and the range of
13 reasonableness in the (indiscernible) settlement funds
14 to a possible recovery in light of all the inherent
15 risks of litigation.

16 Additionally, as amended in 2018, Rule 23
17 allows the Court to approve the class action settlement
18 after hearing and considering the class representative
19 and class counsel have adequately represented the class,
20 the proposal was negotiated at arm's length, the relief
21 provided for the class is adequate, taking into account
22 the costs, risks (indiscernible) of trial and appeal,
23 the effectiveness of any proposed method of distributing
24 relief to the class, including the method of processing
25 class (indiscernible) of the claims, the terms of any

1 PROCEEDINGS 11

2 proposed award of attorney's fees, including timing of
3 payment and any agreement required to be identified
4 under Rule 23(e)(3) and the proposal treats class
5 members equitably relative to each other, I find that
6 all of these factors support approving the settlement,
7 and I will approve the settlement. I find that the
8 notice here is also sufficient. Regarding class
9 certification, Rule 23A imposes four threshold
10 requirements for certification of the class action:
11 numerosity, commonality, physicality, adequacy of the
12 (indiscernible) as explained in the order
13 (indiscernible) approving the settlement. The four
14 threshold requirements have been met. Accordingly, I
15 find the plaintiff has satisfied the requirements under
16 Rule 23(a) and 23(b)(3) subset certification of a class
17 for settlement purposes is appropriate.

18 Regarding the reasonableness of attorney's
19 fees, I also find that the fees and expenses requested
20 are reasonable in light of the factors described in
21 *Goldberger vs. Integrated Resources, Incorporated*, 209
22 F.3d 43-50 (2d Cir. 2000). The settlement agreement
23 provides the class counsel to be awarded one-third of
24 the settlement amount; that's \$2,766,666.66, and
25 \$25,127.80 expenses, as well as an award of 2,000 each

1 PROCEEDINGS 12

2 to the main plaintiffs for 18,000 total. Class counsel
3 spent approximately 1,329.05 hours on this action,
4 conducting factual investigations, engaging in informal
5 discovery, composing defendant's motion to compel
6 arbitration, preparing for and participating in
7 mediation and engaging in settlement discussions. Thus
8 I find that hours spent litigating this case and
9 counsels' billing rates are reasonable under the
10 circumstances.

11 I also grant the main plaintiffs' service
12 awards totaling \$18,000, to be deducted from the
13 settlement fund as explained in plaintiffs' papers and
14 settlement agreement. For the reasons above,
15 (indiscernible) settlement (indiscernible).

16 Anything else from plaintiffs' counsel?

17 MR. BATES: Again, this is Hank Bates for the
18 plaintiffs. No, your Honor, we have nothing else,
19 unless you have any questions from us.

20 THE COURT: Anything else from defense counsel?

21 MR. MELODIA: No, your Honor.

22 THE COURT: Thank you.

23 Okay. We are adjourned. Thank you.

24 (Whereupon, the matter is adjourned.)

25

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of Vela et al v. AMC Networks, Inc., Docket #23-cv-02524-ALC, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Carole Ludwig

Date: July 3, 2024

EXHIBIT 4

Composite Class *Representative* Declarations

PLOTTS DECLARATION

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DOMINICK VOLINO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:21-cv-6243-LGS

MICHAEL VERARDO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:22-cv-01714-LGS

**DECLARATION OF JOHN PLOTTS IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND APPLICATION FOR
ATTORNEYS' FEES, LITIGATION COSTS, AND SERVICE AWARDS**

I, JOHN PLOTTS, subject to 28 U.S.C. § 1746 and the penalties of perjury,
declare as follows:

1. I am one of the Named Plaintiffs and Class Representatives in this case that I, through my attorneys, brought against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company ("Progressive") in the above-captioned consolidated cases (the "Action").

2. I submit this declaration in support of Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Application for Attorneys' Fees, Litigation Costs, and Service Awards. I am over 18 years of age, make this declaration freely and voluntarily and based on my personal knowledge of the facts stated herein. If called upon as a witness, I could and would

competently testify thereto.

3. As set forth in the consolidated class action complaint (“CCAC”) (ECF No. 111), on April 28, 2017, I was involved in a car wreck and sustained physical damage to my vehicle. At the time of the car wreck, I was contracted with Progressive Max for automobile insurance, and suffered damages as a result of Progressive’s application of the Projected Sold Adjustments applied in connection with my total-loss claim.

4. I voluntarily undertook the burdens and risks associated with this lawsuit. I devoted substantial time, resources, and energy to litigating and settling this Action. Throughout this litigation, I committed to zealously represent the best interests of the Classes.

5. I have participated actively in this lawsuit. I have followed the status and progress of the case and regularly communicated with Class Counsel—typically attorneys at Shamis & Gentile—by zoom, phone, and/or email about strategy and major case developments and to stay abreast of case updates, including during the mediation and settlement negotiations. I will continue to do so during this settlement approval process, as needed. In addition, prior to entering into Settlement, I:

- assisted Class Counsel in their drafting of the complaints by describing to them my claim process and relevant facts and events. As part of that process, I reviewed and provided documents and information related to my total-loss claim. I also worked with counsel to investigate my underlying claim and reviewed and approved the complaints;
- reviewed or discussed with Class Counsel numerous other filings related to this case;
- searched for and produced numerous documents and information that were pertinent to this case to complete both fact and expert discovery,

understanding that Defendants might receive copies of documents or information to which they were entitled, including documents related to the total loss, purchase documents for the total-loss vehicle and other vehicles I've owned;

- preparing and sitting for my deposition which involved multiple meetings with my counsel via zoom and phone in preparation, as well as, of course, actually providing testimony at the lengthy deposition;
- engaging in trial preparation by meeting with trial counsel, participating in mock cross examinations, and making myself available to attend a five-day trial by clearing my work schedule.

6. All of the above-listed efforts were necessary for the successful prosecution and resolution of the Action. And the above-mentioned activities required a significant amount of hours to be expended so as to protect the interests of the Class Members and fulfill my role to act as their fiduciary representative.

7. As a representative plaintiff, I understood that, throughout these proceedings, I have the obligation to do my best to represent not only my own interests, but also to faithfully represent the best interests of all other members of the proposed Classes. I respectfully submit that I have discharged those duties to the best of my ability. I have actively participated in its prosecution, and, along with my co-Plaintiffs, worked regularly and diligently to fulfill my responsibilities to the Class.

8. I believe that the settlement is in the best interest of class members. I believe that the monetary relief provided by the settlement, which is described in detail in the settlement agreement, offers a fair resolution of the claims against Progressive, and that the proposed Settlement is preferable to continuing litigation, which could result in an unsuccessful result for

members of the Classes.

9. I have not received, nor was I ever promised or offered, any compensation for performing my duties as a plaintiff and class representative, including any service award, and am not aware of any interest of mine in this litigation that conflicts with the interests of other class members. I understand, however, that Class Counsel intends to request that the Court award me \$10,000.00 for my time and efforts on behalf of the settlement class.

10. This request is based on the significant time and efforts I have devoted to the prosecution and settlement of this Action described above, time that I would have otherwise spent on other matters.

11. I conservatively estimate that I have spent in excess of 75 hours in connection with my duties as a named Plaintiff in the Action. Of those 72 hours, at least 24 hours was time that I had to take off of work to attend to the demands of this case and lost \$900.00 of my salary. Moreover, I was fully prepared to attend trial and continue to fulfil my responsibility to protect the interests of Class Members.

12. My estimated hours is an aggregate of (i) time taken off work to attend to the demands of the case; (ii) actively and frequently communicating with Counsel about the case; (iii) researching the underlying facts of my claims against Defendants; (iv) searching for and collecting relevant documents; (v) participating in trial preparation; and (v) reviewing and considering the Settlement, and consulting with Class Counsel, before approving it.

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

Executed in Lyons, New York on 11 / 04 / 2024.

By:  _____
JOHN PLOTTS



Audit trail

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LUKASIK DECLARATION

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DOMINICK VOLINO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:21-cv-6243-LGS

MICHAEL VERARDO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:22-cv-01714-LGS

**DECLARATION OF KEVIN LUKASIK IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND APPLICATION FOR
ATTORNEYS' FEES, LITIGATION COSTS, AND SERVICE AWARDS**

I, KEVIN LUKASIK, subject to 28 U.S.C. § 1746 and the penalties of perjury,
declare as follows:

1. I am one of the Named Plaintiffs and Class Representatives in this case that I, through my attorneys, brought against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company ("Progressive") in the above-captioned consolidated cases (the "Action").

2. I submit this declaration in support of Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Application for Attorneys' Fees, Litigation Costs, and Service Awards. I am over 18 years of age, make this declaration freely and voluntarily and based on my personal knowledge of the facts stated herein. If called upon as a witness, I could and would

competently testify thereto.

3. As set forth in the consolidated class action complaint (“CCAC”) (ECF No. 111), on February 27, 2019, I was involved in a car wreck and sustained physical damage to my vehicle. At the time of the car wreck, I was contracted with Progressive Casualty for automobile insurance, and suffered damages as a result of Progressive’s application of the Projected Sold Adjustments applied in connection with my total-loss claim.

4. I voluntarily undertook the burdens and risks associated with this lawsuit. I devoted substantial time, resources, and energy to litigating and settling this Action. Throughout this litigation, I committed to zealously represent the best interests of the Classes.

5. I have participated actively in this lawsuit. I have followed the status and progress of the case and regularly communicated with Class Counsel—typically attorneys at Shamis & Gentile—by zoom, phone, and/or email about strategy and major case developments and to stay abreast of case updates, including during the mediation and settlement negotiations. I will continue to do so during this settlement approval process, as needed. In addition, prior to entering into Settlement, I:

- assisted Class Counsel in their drafting of the complaints by describing to them my claim process and relevant facts and events. As part of that process, I reviewed and provided documents and information related to my total-loss claim. I also worked with counsel to investigate my underlying claim, and reviewed and approved the complaints;
- reviewed or discussed with my counsel numerous other filings related to this case;
- searched for and produced numerous documents and information that were pertinent to this case to complete both fact and expert discovery,

understanding that Defendants might receive copies of documents or information to which they were entitled, including documents related to the total loss, purchase documents for the total-loss vehicle and other vehicles I've owned;

- preparing and sitting for my deposition which involved multiple meetings with my counsel via zoom and phone in preparation, as well as, of course, actually providing testimony at the lengthy deposition;
- engaging in trial preparation by meeting with trial counsel, participating in mock cross examinations, and making myself available to attend a five-day trial by clearing my work schedule.

6. All of the above-listed efforts were necessary for the successful prosecution and resolution of the Action. And the above-mentioned activities required a significant amount of hours to be expended so as to protect the interests of the Class Members and fulfill my role to act as their fiduciary representative.

7. As a representative plaintiff, I understood that, throughout these proceedings, I have the obligation to do my best to represent not only my own interests, but also to faithfully represent the best interests of all other members of the proposed Classes. I respectfully submit that I have discharged those duties to the best of my ability. I have actively participated in its prosecution, and, along with my co-Plaintiffs, worked regularly and diligently to fulfill my responsibilities to the Class.

8. I believe that the settlement is in the best interest of class members. I believe that the monetary relief provided by the settlement, which is described in detail in the settlement agreement, offers a fair resolution of the claims against Progressive, and that the proposed Settlement is preferable to continuing litigation, which could result in an unsuccessful result for

members of the Classes.

9. I have not received, nor was I ever promised or offered, any compensation for performing my duties as a plaintiff and class representative, including any service award, and am not aware of any interest of mine in this litigation that conflicts with the interests of other class members. I understand, however, that Class Counsel intends to request that the Court award me \$10,000.00 for my time and efforts on behalf of the settlement class.

10. This request is based on the significant time and efforts I have devoted to the prosecution and settlement of this Action described above, time that I would have otherwise spent on other matters.

11. I conservatively estimate that I have spent in excess of 90 hours in connection with my duties as a Named Plaintiff in the Action and to zealously advocate for the interests of Class Members. Of those 90 hours, at least 40 hours was time that I had to take off of work to attend to the demands of this case and lost \$400.00 of my salary. Moreover, I was fully prepared to attend trial and continue to fulfil my responsibility to protect the interests of Class Members.

12. My estimated hours is an aggregate of (i) time taken off work to attend to the demands of the case; (ii) arranging childcare to be available to fulfill my obligations in this case; (iii) actively and frequently communicating with Counsel about the case; (iv) researching the underlying facts of my claims against Defendants; (v) searching for and collecting relevant documents; (vi) participating in trial preparation; and (vii) reviewing and considering the Settlement, and consulting with Class Counsel, before approving it.

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

Executed in Clifton Park, New York on 11 / 04 / 2024.

By: 
KEVIN LUKASIK



Title	DECLARATION OF KEVIN LUKASIK IN SUPPORT OF PLAINTIFFS'.....
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COSTA DECLARATION

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DOMINICK VOLINO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:21-cv-6243-LGS

MICHAEL VERARDO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:22-cv-01714-LGS

**DECLARATION OF LORENZO COSTA IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND APPLICATION FOR
ATTORNEYS' FEES, LITIGATION COSTS, AND SERVICE AWARDS**

I, LORENZO COSTA, subject to 28 U.S.C. § 1746 and the penalties of perjury,
declare as follows:

1. I am one of the Named Plaintiffs and Class Representatives in this case that I, through my attorneys, brought against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company ("Progressive") in the above-captioned consolidated cases (the "Action").

2. I submit this declaration in support of Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Application for Attorneys' Fees, Litigation Costs, and Service Awards. I am over 18 years of age, make this declaration freely and voluntarily and based on my personal knowledge of the facts stated herein. If called upon as a witness, I could and would

competently testify thereto.

3. As set forth in the consolidated class action complaint (“CCAC”) (ECF No. 111), on May 28, 2020, I was involved in a car wreck and sustained physical damage to my vehicle. At the time of the car wreck, I was contracted with Progressive Specialty for automobile insurance, and suffered damages as a result of Progressive’s application of the Projected Sold Adjustments applied in connection with my total-loss claim.

4. I voluntarily undertook the burdens and risks associated with this lawsuit. I devoted substantial time, resources, and energy to litigating and settling this Action. Throughout this litigation, I committed to zealously represent the best interests of the Classes.

5. I have participated actively in this lawsuit. I have followed the status and progress of the case and regularly communicated with Class Counsel—typically attorneys at Shamis & Gentile—by zoom, phone, and/or email about strategy and major case developments and to stay abreast of case updates, including during the mediation and settlement negotiations. I will continue to do so during this settlement approval process, as needed. In addition, prior to entering into Settlement, I:

- assisted Class Counsel in their drafting of the complaints by describing to them my claim process and relevant facts and events. As part of that process, I reviewed and provided documents and information related to my total-loss claim. I also worked with counsel to investigate my underlying claim, and reviewed and approved the complaints;
- reviewed or discussed with Class Counsel numerous other filings related to this case;
- searched for and produced numerous documents and information that were pertinent to this case to complete both fact and expert discovery,

understanding that Defendants might receive copies of documents or information to which they were entitled, including documents related to the total loss, purchase documents for the total-loss vehicle and other vehicles I've owned;

- preparing and sitting for my deposition which involved multiple meetings with my counsel via zoom and phone in preparation, as well as, of course, actually providing testimony at the lengthy deposition;
- engaging in trial preparation by meeting with trial counsel, participating in mock cross examinations, and making myself available to attend a five-day trial by clearing my work schedule.

6. All of the above-listed efforts were necessary for the successful prosecution and resolution of the Action. And the above-mentioned activities required a significant amount of hours to be expended so as to protect the interests of the Class Members and fulfill my role to act as their fiduciary representative.

7. As a representative plaintiff, I understood that, throughout these proceedings, I have the obligation to do my best to represent not only my own interests, but also to faithfully represent the best interests of all members of the proposed Classes. I respectfully submit that I have discharged those duties to the best of my ability. I have actively participated in its prosecution, and, along with my co-Plaintiffs, worked regularly and diligently to fulfill my responsibilities to the Class.

8. I believe that the settlement is in the best interest of class members. I believe that the monetary relief provided by the settlement, which is described in detail in the settlement agreement, offers a fair resolution of the claims against Progressive, and that the proposed Settlement is preferable to continuing litigation, which could result in an unsuccessful result for

members of the Classes.

9. I have not received, nor was I ever promised or offered, any compensation for performing my duties as a plaintiff and class representative, including any service award, and am not aware of any interest of mine in this litigation that conflicts with the interests of other class members. I understand, however, that Class Counsel intends to request that the Court award me \$10,000.00 for my time and efforts on behalf of the settlement class.

10. This request is based on the significant time and efforts I have devoted to the prosecution and settlement of this Action described above, time that I would have otherwise spent on other matters.

11. I conservatively estimate that I have spent in excess of 50 hours in connection with my duties as a Named Plaintiff in the Action and to zealously advocate for the interests of Class Members. Of those 50 hours, at least 20 hours was time that I had to take off work to attend to the demands of this case and lost \$2,750.00 of my salary. Moreover, I was fully prepared to attend trial and continue to fulfil my responsibility to protect the interests of Class Members.

12. My estimated hours is an aggregate of (i) time taken off work to attend to the demands of the case; (ii) arranging childcare to be available to fulfill my obligations in this case; (iii) actively and frequently communicating with Counsel about the case; (iv) researching the underlying facts of my claims against Defendants; (v) searching for and collecting relevant documents; (vi) participating in trial preparation; and (vii) reviewing and considering the Settlement, and consulting with Class Counsel, before approving it.

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

Executed in Lindenhurst, New York on 11 / 04 / 2024.


By: 
LORENZO COSTA



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LIPPA DECLARATION

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DOMINICK VOLINO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:21-cv-6243-LGS

MICHAEL VERARDO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:22-cv-01714-LGS

**DECLARATION OF LORI LIPPA IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND APPLICATION FOR
ATTORNEYS' FEES, LITIGATION COSTS, AND SERVICE AWARDS**

I, LORI LIPPA, subject to 28 U.S.C. § 1746 and the penalties of perjury ,
declare as follows:

1. I am one of the Named Plaintiffs and Class Representatives in this case that I, through my attorneys, brought against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company ("Progressive") in the above-captioned consolidated cases (the "Action").

2. I submit this declaration in support of Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Application for Attorneys' Fees, Litigation Costs, and Service Awards. I am over 18 years of age, make this declaration freely and voluntarily and based on my personal knowledge of the facts stated herein. If called upon as a witness, I could and would

competently testify thereto.

3. As set forth in the consolidated class action complaint (“CCAC”) (ECF No. 111), on November 4, 2020, I was involved in a car wreck and sustained physical damage to my vehicle. At the time of the car wreck, I was contracted with Progressive Casualty for automobile insurance, and suffered damages as a result of Progressive’s application of the Projected Sold Adjustments applied in connection with my total-loss claim.

4. I voluntarily undertook the burdens and risks associated with this lawsuit. I devoted substantial time, resources, and energy to litigating and settling this Action. Throughout this litigation, I committed to zealously represent the best interests of the Classes.

5. I have participated actively in this lawsuit. I have followed the status and progress of the case and regularly communicated with Class Counsel—typically attorneys at Shamis & Gentile—by zoom, phone, and/or email about strategy and major case developments and to stay abreast of case updates, including during the mediation and settlement negotiations. I will continue to do so during this settlement approval process, as needed. In addition, prior to entering into Settlement, I:

- assisted Class Counsel in their drafting of the complaints by describing to them my claim process and relevant facts and events. As part of that process, I reviewed and provided documents and information related to my total-loss claim. I also worked with counsel to investigate my underlying claim, and reviewed and approved the complaints;
- reviewed or discussed with my Class Counsel numerous other filings related to this case; *Don A. Lira*
- searched for and produced numerous documents and information that were pertinent to this case to complete both fact and expert discovery,

understanding that Defendants might receive copies of documents or information to which they were entitled, including documents related to the total loss, purchase documents for the total-loss vehicle and other vehicles I've owned;

- preparing and sitting for my deposition which involved multiple meetings with my counsel via zoom and phone in preparation, as well as, of course, actually providing testimony at the lengthy deposition;
- engaging in trial preparation by meeting with trial counsel, participating in mock cross examinations, and making myself available to attend a five-day trial by clearing my work schedule.

6. All of the above-listed efforts were necessary for the successful prosecution and resolution of the Action. And the above-mentioned activities required a significant amount of hours to be expended so as to protect the interests of the Class Members and fulfill my role to act as their fiduciary representative.

7. As a representative plaintiff, I understood that, throughout these proceedings, I have the obligation to do my best to represent not only my own interests, but also to faithfully represent the best interests of all other members of the proposed Classes. I respectfully submit that I have discharged those duties to the best of my ability. I have actively participated in its prosecution, and, along with my co-Plaintiffs, worked regularly and diligently to fulfill my responsibilities to the Class.

8. I believe that the settlement is in the best interest of class members. I believe that the monetary relief provided by the settlement, which is described in detail in the settlement agreement, offers a fair resolution of the claims against Progressive, and that the proposed Settlement is preferable to continuing litigation, which could result in an unsuccessful result for

members of the Classes.

9. I have not received, nor was I ever promised or offered, any compensation for performing my duties as a plaintiff and class representative, including any service award, and am not aware of any interest of mine in this litigation that conflicts with the interests of other class members. I understand, however, that Class Counsel intends to request that the Court award me \$10,000.00 for my time and efforts on behalf of the settlement class.

10. This request is based on the significant time and efforts I have devoted to the prosecution and settlement of this Action described above, time that I would have otherwise spent on other matters.

11. I conservatively estimate that I have spent in excess of 60 hours in connection with my duties as a Named Plaintiff in the Action and to zealously advocate for the interests of Class Members. Of those 60 hours, at least 30 hours was time that I had to take off of work to attend to the demands of this case and lost \$350.00 of my salary. Moreover, I was fully prepared to attend trial and continue to fulfil my responsibility to protect the interests of Class Members

12. My estimated hours is an aggregate of (i) time taken off work to attend to the demands of the case; (ii) actively and frequently communicating with Counsel about the case; (iii) researching the underlying facts of my claims against Defendants; (iv) searching for and collecting relevant documents; (v) participating in trial preparation; and (vi) reviewing and considering the Settlement, and consulting with Class Counsel, before approving it.

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

Executed in Rochester, New York on 11 / 04 / 2024.

By: Lori A. Lipa
LORI LIPPA



Title	DECLARATION OF LORI LIPPA IN SUPPORT OF PLAINTIFFS'.....
File name	content
Document ID	6cda89d322161f91a7020676df9cd30e3fdfe44f
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VERARDO DECLARATION

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DOMINICK VOLINO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:21-cv-6243-LGS

MICHAEL VERARDO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:22-cv-01714-LGS

**DECLARATION OF MICHAEL VERARDO IN SUPPORT OF
PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND APPLICATION FOR ATTORNEYS' FEES,
LITIGATION COSTS, AND SERVICE AWARDS**

I, MICHAEL VERARDO, subject to 28 U.S.C. § 1746 and the penalties of perjury, declare as follows:

1. I am one of the Named Plaintiffs and Class Representatives in this case that I, through my attorneys, brought against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company ("Progressive") in the above-captioned consolidated cases (the "Action").

2. I submit this declaration in support of Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Application for Attorneys' Fees, Litigation Costs, and Service Awards. I am over 18 years of age, make this declaration freely and voluntarily and based on my personal knowledge of the facts stated herein. If called upon as a witness, I could and would

competently testify thereto.

3. As set forth in the consolidated class action complaint (“CCAC”) (ECF No. 111), on April 28, 2017, I was involved in a car wreck and sustained physical damage to my vehicle. At the time of the car wreck, I was contracted with Progressive Max for automobile insurance, and suffered damages as a result of Progressive’s application of the Projected Sold Adjustments applied in connection with my total-loss claim.

4. I voluntarily undertook the burdens and risks associated with this lawsuit. I devoted substantial time, resources, and energy to litigating and settling this Action. Throughout this litigation, I committed to zealously represent the best interests of the Classess.

5. I have participated actively in this lawsuit. I have followed the status and progress of the case and regularly communicated with Class Counsel—typically attorneys at Shamis & Gentile—by zoom, phone, and email about strategy and major case developments and to stay abreast of case updates, including during the mediation and settlement negotiations. I will continue to do so during this settlement approval process, as needed. In addition, prior to entering into Settlement, I:

- assisted Class Counsel in their drafting of the complaints by describing to them my claim process and relevant facts and events. As part of that process, I reviewed and provided documents and information related to my total-loss claim. I also worked with counsel to investigate my underlying claim, and reviewed and approved the complaints;
- reviewed or discussed with Class Counsel numerous other filings related to this case;
- searched for and produced numerous documents and information that were pertinent to this case to complete both fact and expert discovery,

understanding that Defendants might receive copies of documents or information to which they were entitled, including documents related to the total loss, purchase documents for the total-loss vehicle and other vehicles I've owned;

- preparing and sitting for my deposition which involved multiple meetings with my counsel via zoom and phone in preparation, as well as, of course, actually providing testimony at the lengthy deposition;
- engaging in trial preparation by meeting with trial counsel, participating in mock cross examinations, and making myself available to attend a five-day trial by clearing my work schedule.

6. All of the above-listed efforts were necessary for the successful prosecution and resolution of the Action. And the above-mentioned activities required a significant amount of hours to be expended so as to protect the interests of the Class Members and fulfill my role to act as their fiduciary representative.

7. As a representative plaintiff, I understood that, throughout these proceedings, I have the obligation to do my best to represent not only my own interests, but also to faithfully represent the best interests of all other members of the proposed Classes. I respectfully submit that I have discharged those duties to the best of my ability. I have actively participated in its prosecution, and, along with my co-Plaintiffs, worked regularly and diligently to fulfill my responsibilities to the Class.

8. I believe that the settlement is in the best interest of class members. I believe that the monetary relief provided by the settlement, which is described in detail in the settlement agreement, offers a fair resolution of the claims against Progressive, and that the proposed Settlement is preferable to continuing litigation, which could result in an unsuccessful result for

members of the Classes.

9. I have not received, nor was I ever promised or offered, any compensation for performing my duties as a plaintiff and class representative, including any service award, and am not aware of any interest of mine in this litigation that conflicts with the interests of other class members. I understand, however, that Class Counsel intends to request that the Court award me \$10,000.00 for my time and efforts on behalf of the settlement class.

10. This request is based on the significant time and efforts I have devoted to the prosecution and settlement of this Action described above, time that I would have otherwise spent on other matters.

11. I conservatively estimate that I have spent in excess of 75 hours in connection with my duties as a Named Plaintiff in the Action and to zealously advocate for the interests of Class Members. Of those 75 hours, at least 30 hours was time that I had to take off of work to attend to the demands of this case and lost \$900.00 of my salary. Moreover, I was fully prepared to attend trial and continue to fulfil my responsibility to protect the interests of Class Members.

12. My estimated hours is an aggregate of (i) time taken off work to attend to the demands of the case; (ii) actively and frequently communicating with Counsel about the case; (iii) researching the underlying facts of my claims against Defendants; (iv) searching for and collecting relevant documents; (v) participating in trial preparation; and (vi) reviewing and considering the Settlement, and consulting with Class Counsel, before approving it.

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

Executed in Poughkeepsie, New York on 11 / 04 / 2024.





By: 
MICHAEL VERARDO



Title	DECLARATION OF LORENZO COSTA IN SUPPORT OF PLAINTIFFS'.....
File name	content
Document ID	6bffeedb9ef94bcb0ade8113792f9afd7a130899
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GOODIER DECLARATION

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DOMINICK VOLINO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:21-cv-6243-LGS

MICHAEL VERARDO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:22-cv-01714-LGS

**DECLARATION OF ZACHARY GOODIER IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND APPLICATION FOR
ATTORNEYS' FEES, LITIGATION COSTS, AND SERVICE AWARDS**

I, ZACHARY GOODIER, subject to 28 U.S.C. § 1746 and the penalties of perjury, declare as follows:

1. I am one of the Named Plaintiffs and Class Representatives in this case that I, through my attorneys, brought against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company ("Progressive") in the above-captioned consolidated cases (the "Action").

2. I submit this declaration in support of Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Application for Attorneys' Fees, Litigation Costs, and Service Awards. I am over 18 years of age, make this declaration freely and voluntarily and based on my have personal knowledge of the facts stated herein. If called upon as a witness, I could and

would competently testify thereto.

3. As set forth in the consolidated class action complaint (“CCAC”) (ECF No. 111), on June 18, 2018 and again on February 8, 2019, I was involved in a car wreck and sustained physical damage to my vehicle. At the time of the car wreck, I was contracted with Progressive Advanced for automobile insurance, and suffered damages as a result of Progressive’s application of the Projected Sold Adjustments applied in connection with my total-loss claims.

4. I voluntarily undertook the burdens and risks associated with this lawsuit. I devoted substantial time, resources, and energy to litigating and settling this Action. Throughout this litigation, I committed to zealously represent the best interests of the Classes.

5. I have participated actively in this lawsuit. I have followed the status and progress of the case and regularly communicated with Class Counsel—typically attorneys at Shamis & Gentile—by zoom, phone, and/or email about strategy and major case developments and to stay abreast of case updates, including during the mediation and settlement negotiations. I will continue to do so during this settlement approval process, as needed. In addition, prior to entering into Settlement, I:

- assisted Class Counsel in their drafting of the complaints by describing to them my claim process and relevant facts and events. As part of that process, I reviewed and provided documents and information related to my total-loss claims. I also worked with counsel to investigate my underlying claim and reviewed and approved the complaints;
- reviewed or discussed with Class Counsel numerous other filings related to this case;
- searched for and produced numerous documents and information that were pertinent to this case to complete both fact and expert discovery,

understanding that Defendants might receive copies of documents or information to which they were entitled, including documents related to the total loss, purchase documents for the total-loss vehicle and other vehicles I've owned;

- preparing and sitting for my deposition which involved multiple meetings with my counsel via zoom and phone in preparation, as well as, of course, actually providing testimony at the lengthy deposition;
- engaging in trial preparation by meeting with trial counsel, participating in mock cross examinations, and making myself available to attend a five-day trial by clearing my work schedule.

6. All of the above-listed efforts were necessary for the successful prosecution and resolution of the Action. And the above-mentioned activities required a significant amount of hours to be expended so as to protect the interests of the Class Members and fulfill my role to act as their fiduciary representative.

7. As a representative plaintiff, I understood that, throughout these proceedings, I have the obligation to do my best to represent not only my own interests, but also to faithfully represent the best interests of all other members of the proposed Classes. I respectfully submit that I have discharged those duties to the best of my ability. I have actively participated in its prosecution, and, along with my co-Plaintiffs, worked regularly and diligently to fulfill my responsibilities to the Class.

8. I believe that the settlement is in the best interest of class members. I believe that the monetary relief provided by the settlement, which is described in detail in the settlement agreement, offers a fair resolution of the claims against Progressive, and that the proposed Settlement is preferable to continuing litigation, which could result in an unsuccessful result for

members of the Classes.

9. I have not received, nor was I ever promised or offered, any compensation for performing my duties as a plaintiff and class representative, including any service award, and am not aware of any interest of mine in this litigation that conflicts with the interests of other class members. I understand, however, that Class Counsel intends to request that the Court award me \$10,000.00 for my time and efforts on behalf of the settlement class.

10. This request is based on the significant time and efforts I have devoted to the prosecution and settlement of this Action described above, time that I would have otherwise spent on other matters.

11. I conservatively estimate that I have spent in excess of 72 hours in connection with my duties as a Named Plaintiff in the Action and to zealously advocate for the interests of Class Members. Of those 72 hours, at least 32 hours was time that I had to take off of work to attend to the demands of this case and lost \$800.00 of my salary. Moreover, I was fully prepared to attend trial and continue to fulfil my responsibility to protect the interests of Class Members.

12. Additionally, I have incurred approximately \$1,200.00 in expenses related to the Action, as a result of having to purchase necessary equipment, including a laptop and microphone, for my deposition that was conducted remotely.

13. My estimated hours is an aggregate of (i) time taken off work to attend to the demands of the case; (ii) arranging assistance for the care of my elderly father to be available to fulfill my obligations in this case; (iii) actively and frequently communicating with Counsel about the case; (iv) researching the underlying facts of my claims against Defendants; (v) searching for and collecting relevant documents; (vi) participating in trial preparation; (vii) researching equipment to purchase for the deposition; and (viii) reviewing and considering the Settlement, and consulting with Class Counsel, before approving it.

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

Executed in Depew, New York on 11 / 04 / 2024.

By: 
ZACHARY GOODIER



Title	DECLARATION OF ZACHARY GOODIER IN SUPPORT OF PLAINTIFFS'
File name	content
Document ID	84e3f14a4976e950c27c354703101480cb84e87d
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ENGLAND DECLARATION

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DOMINICK VOLINO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:21-cv-6243-LGS

MICHAEL VERARDO, ET AL.,
Plaintiff,

v.

PROGRESSIVE CASUALTY INSURANCE
COMPANY, ET AL.,
Defendants.

Civil Action No. 1:22-cv-01714-LGS

**DECLARATION OF JAMES ENGLAND IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND APPLICATION FOR
ATTORNEYS' FEES, LITIGATION COSTS, AND SERVICE AWARDS**

I, JAMES ENGLAND, subject to 28 U.S.C. § 1746 and the penalties of perjury,
declare as follows:

1. I am one of the Named Plaintiffs and Class Representatives in this case that I, through my attorneys, brought against Defendants Progressive Advanced Insurance Company, Progressive Specialty Insurance Company, Progressive Max Insurance Company, and Progressive Casualty Insurance Company ("Progressive") in the above-captioned consolidated cases (the "Action").

2. I submit this declaration in support of Plaintiffs' Unopposed Motion for Final Approval of Class Action Settlement and Application for Attorneys' Fees, Litigation Costs, and Service Awards. I am over 18 years of age, make this declaration freely and voluntarily and based on my personal knowledge of the facts stated herein. If called upon as a witness, I could and would

competently testify thereto.

3. As set forth in the consolidated class action complaint (“CCAC”) (ECF No. 111), on June 20, 2020, I was involved in a car wreck and sustained physical damage to my vehicle. At the time of the car wreck, I was contracted with Progressive Specialty for automobile insurance, and suffered damages as a result of Progressive’s application of the Projected Sold Adjustments applied in connection with my total-loss claim.

4. I voluntarily undertook the burdens and risks associated with this lawsuit. I devoted substantial time, resources, and energy to litigating and settling this Action. Throughout this litigation, I committed to zealously represent the best interests of the Classes.

5. I have participated actively in this lawsuit. I have followed the status and progress of the case and regularly communicated with Class Counsel—typically attorneys at Shamis & Gentile—by zoom, phone, and/or email about strategy and major case developments and to stay abreast of case updates, including during the mediation and settlement negotiations. I will continue to do so during this settlement approval process, as needed. In addition, prior to entering into Settlement, I:

- assisted Class Counsel in their drafting of the complaints by describing to them my claim process and relevant facts and events. As part of that process, I reviewed and provided documents and information related to my total-loss claim. I also worked with counsel to investigate my underlying claim, and reviewed and approved the complaints;
- reviewed or discussed with Class Counsel numerous other filings related to this case;
- searched for and produced numerous documents and information that were pertinent to this case to complete both fact and expert discovery,

understanding that Defendants might receive copies of documents or information to which they were entitled, including documents related to the total loss, purchase documents for the total-loss vehicle and other vehicles I've owned;

- preparing and sitting for my deposition which involved multiple meetings with my counsel via zoom and phone in preparation, as well as, of course, actually providing testimony at the lengthy deposition;
- engaging in trial preparation by meeting with trial counsel, participating in mock cross examinations, and making myself available to attend a five-day trial by clearing my work schedule.

6. All of the above-listed efforts were necessary for the successful prosecution and resolution of the Action. And the above-mentioned activities required a significant amount of hours to be expended so as to protect the interests of the Class Members and fulfill my role to act as their fiduciary representative.

7. As a representative plaintiff, I understood that, throughout these proceedings, I have the obligation to do my best to represent not only my own interests, but also to faithfully represent the best interests of all members of the proposed Classes. I respectfully submit that I have discharged those duties to the best of my ability. I have actively participated in its prosecution, and, along with my co-Plaintiffs, worked regularly and diligently to fulfill my responsibilities to the Class.

8. I believe that the settlement is in the best interest of class members. I believe that the monetary relief provided by the settlement, which is described in detail in the settlement agreement, offers a fair resolution of the claims against Progressive, and that the proposed Settlement is preferable to continuing litigation, which could result in an unsuccessful result for

members of the Classes.

9. I have not received, nor was I ever promised or offered, any compensation for performing my duties as a plaintiff and class representative, including any service award, and am not aware of any interest of mine in this litigation that conflicts with the interests of other class members. I understand, however, that Class Counsel intends to request that the Court award me \$10,000.00 for my time and efforts on behalf of the settlement class.

10. This request is based on the significant time and efforts I have devoted to the prosecution and settlement of this Action described above, time that I would have otherwise spent on other matters.


11. I conservatively estimate that I have spent in excess of 40 hours in connection with my duties as a Named Plaintiff in the Action and to zealously advocate for the interests of Class Members. Moreover, I was fully prepared to attend trial and continue to fulfil my responsibility to protect the interests of Class Members

12. My estimated hours is an aggregate of (i) time taken off work to attend to the demands of the case; (ii) actively and frequently communicating with Counsel about the case; (iii) researching the underlying facts of my claims against Defendants; (iv) searching for and collecting relevant documents; (v) participating in trial preparation; and (vi) reviewing and considering the Settlement, and consulting with Class Counsel, before approving it.

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

Executed in Johnston, New York on 11 / 04 / 2024 .

By: _____






JAMES ENGLAND



Title	DECLARATION OF JAMES ENGLAND IN SUPPORT OF PLAINTIFFS'
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