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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SCOTT GILMORE, et al.,

Plaintiffs,

vs.

MONSANTO COMPANY,

Defendant.

MDL No. 2741

Case No. 3:21-cv-08159

**NOTICE OF MOTION AND PLAINTIFFS'
MOTION FOR ATTORNEY'S FEES, COSTS,
AND INCENTIVE AWARDS**

Date: January 12, 2023

Time: 2:30

Place: Via Zoom Webinar

Judge: Hon. Vince G. Chhabria

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE THAT on January 12, 2023, at 2:30 p.m., via Zoom Webinar, Plaintiffs Scott Gilmore, James Weeks, Paul Taylor, Sherry Hanna, Amanda Boyette, Julio Ezcurra, Anthony Jewell, and Kristy Williams (“Plaintiffs”) jointly move this Court for an order approving Plaintiffs’ Motion for an Award of Attorneys’ Fees, Reimbursement of Costs and Expenses, and Incentive Awards for Class Representatives. This motion is made pursuant to the Court’s June 21, 2022 Order Granting Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement and for Certification of the Class for Purposes of Settlement (Dkt. No. 14966) and Fed. R. Civ. P. Rule 23. The Motion will be based on this Notice of Motion and the Memorandum of Points and Authorities in support thereof; the Second Amended Settlement Agreement (Dkt. 102-1, Ex. 1); the Corrected Declaration of Gillian L. Wade in Support of Motion for Preliminary Approval of Class Action Settlement and Certification of Class for Purposes of Settlement filed on February 16, 2022 (Dkt. 14610-1); the Declaration of Joel Oster in Support of Motion for Preliminary Approval of Class Action Settlement and Certification of Class for Purposes of Settlement (Dkt. 14486-2); and the concurrently-filed declarations of Gillian L. Wade, Joel Oster, Lydia Zbreznj, Spencer Sheehan, Steve Harrelson, Scott Gilmore, James Weeks, Paul Taylor, Sherry Hanna, Amanda Boyette, Julio Ezcurra, Anthony Jewell, and Kristy Williams, and Brandon Schwartz; the Motion for Final Approval of Class Action Settlement due on November 28, 2022 all evidence, papers, pleadings, and argument filed or presented in support thereof; the [Proposed] Order submitted herewith; and, all papers and pleadings on file in this Action, and upon such other and further evidence as may be presented to the Court at the time of the hearing, including oral argument.

Dated: October 31, 2022

/s/ Gillian L. Wade

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TABLE OF CONTENTS

TABLE OF AUTHORITIES iii

I. INTRODUCTION1

II. STATUS OF THE SETTLEMENT AND CLAIMS PROCESS.....4

A. Relevant Settlement Terms4

B. Claims Rate Assumptions in Floor / Ceiling Settlement Structure Versus Actual Claims Rate.....5

C. Total Cash Consideration Paid Based on Claim Rate, Administration Expenses, Incentive Awards, and Attorney’s Fees and Costs6

III. THE REQUESTED FEE AWARD IS FAIR AND REASONABLE7

A. The Court Should Apply the Percentage-of-the-Fund Method7

B. The Requested Fees are Reasonable Under the Percentage-of-the-Fund Method8

1. The total value of the settlement fund is \$45 million.....9

(a) The fund size is based on the total benefits made available to Class Members9

(b) Administrative costs, litigation expenses, incentive awards and attorney’s fees are benefits to the Class9

(c) The value of available benefit in claims payments assumes a reasonable claims rate range10

2. Twenty-five percent of the fund is reasonable13

(a) Twenty-five percent is the Ninth Circuit’s ‘benchmark’13

(b) The fund value does not rely on an injunctive relief component14

(c) The *Vizcaino* factors support a finding of reasonableness.....15

(i) Class counsel achieved excellent results for the Class15

(ii) Plaintiffs’ claims carried substantial litigation risk, and Class Counsel experienced significant burdens litigating the case17

(iii) The requested fee reflects the market rate in consumer class actions	17
(iv) This case was handled on a contingency basis	18
3. A lodestar cross-check further ensures the fee’s reasonableness	18
C. Alternatively, the Court May Grant the Requested Attorney’s Fee Under the Lodestar Method.....	19
1. Counsel expended a reasonable number of hours at a reasonable hourly rate	20
2. The <i>Hanlon</i> factors support the reasonableness of the fee request and lodestar multiplier	21
IV. CLASS COUNSEL SHOULD RECOVER \$210,888.10 IN REASONABLE AND NECESSARY LITIGATION EXPENSES.....	22
V. THE REQUESTED SERVICE AWARDS ARE FAIR AND REASONABLE	22
VI. CONCLUSION.....	23

TABLE OF AUTHORITIES

Cases	Page
<i>Allen v. Bedolla</i> , 787 F.3d 1218 (9th Cir. 2015)	11
<i>Blum v. Stenson</i> , 465 U.S. 886 (1984).....	21
<i>Boeing Co. v. Van Gemert</i> , 444 U.S. 472 (1980).....	13
<i>Broomfield v. Craft Brew All., Inc.</i> , No. 17-1027, 2020 WL 1972505 (N.D. Cal. Feb. 5, 2020)	9, 10
<i>Caudle v. Bristow Optical Co.</i> , 224 F.3d 1014 (9th Cir. 2000).....	18
<i>China Agritech, Inc. v. Resh</i> , 138 S. Ct. 1800 (2018).....	23
<i>Craft v. County of San Bernardino</i> , 624 F. Supp. 2d 1113 (C.D. Cal. 2008).....	19
<i>de Mira v. Heartland Emp. Serv., LLC</i> , No. 12-4092, 2014 WL 1026282 (N.D. Cal. Mar. 13, 2014)	14
<i>Edwards v. Nat'l Milk Producers Fed'n</i> , No. 11-4766, 2017 WL 3616638 (N.D. Cal. June 26, 2017)	22
<i>Ferrell v. Buckingham Prop. Mgmt.</i> , No. 119-332, 2022 WL 224025 (E.D. Cal. Jan. 25, 2022).....	8
<i>Galeener v. Source Refrigeration & HVAC, Inc.</i> , No. 13-4960, 2015 WL 12977077 (N.D. Cal. Aug. 21, 2015).....	23
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011 (9th Cir. 1998)	19, 20, 21
<i>Harris v. Marhoefer</i> , 24 F.3d 16 (9th Cir. 1994).....	22
<i>Hensley v. Eckerhart</i> , 461 U.S. 424 (1983).....	21

In re Activision Sec. Litig.,
723 F. Supp. 1373 (N.D. Cal. 1989)14

In re Anthem, Inc. Data Breach Litig.,
No. 15-2617, 2018 WL 3960068 (N.D. Cal. Aug. 17, 2018).....7, 13

In re Baby Prod. Antitrust Litig.,
708 F.3d 163 (3d Cir. 2013)12

In re Bluetooth Headset Prod. Liab. Litig.,
654 F.3d 935 (9th Cir. 2011)7, 8, 10, 11, 14, 19

In re Capacitors Antitrust Litig.,
No. 17-2801, 2018 WL 4790575 (N.D. Cal. Sept. 21, 2018)7

In re Comcast Corp. Set-Top Cable Television Box Antitrust Litig.,
333 F.R.D. 364 (E.D. Pa. 2019)13

In re Coordinated Pretrial Proceedings,
109 F.3d 602 (9th Cir. 1997)7

In re Facebook Biometric Info. Priv. Litig.,
522 F. Supp. 3d 617 (N.D. Cal. 2021)11

In re High-Tech Emp. Antitrust Litig.,
No. 11-2509, 2015 WL 5158730 (N.D. Cal. Sept. 2, 2015)21

In re Myford Touch Consumer Litig.,
No. 13-3072, 2018 WL 10539266 (N.D. Cal. June 14, 2018).....11

In re Nat’l Collegiate Athletic Ass’n Athletic Grant-in-Aid Cap Antitrust Litig.,
No. 14-2541, 2017 WL 6040065 (N.D. Cal. Dec. 6, 2017).....20

In re Omnivision Techs., Inc.,
559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2008)8, 14

In re Online DVD-Rental Antitrust Litig.,
779 F.3d 934 (9th Cir. 2015)10, 14, 15, 22, 23

In re Optical Disk Drive Prod. Antitrust Litig.,
959 F.3d 922 (9th Cir. 2020)15, 18

In re Pac. Enters. Sec. Litig.,
47 F.3d 373 (9th Cir. 1995)14

Johnson v. Gen. Mills, Inc.,
 No. 10-00061, 2013 WL 3213832 (C.D. Cal. June 17, 2013)17

Jones v. Monsanto Co.,
 No. 19-102, 2021 WL 2426126 (W.D. Mo. May 13, 2021).....12

Kerr v. Screen Extras Guild, Inc.,
 526 F.2d 67 (9th Cir. 1975).....20, 21

Kim v. Allison,
 8 F.4th 1170 (9th Cir. 2021)14

Lopez v. Youngblood,
 No. 07-0474, 2011 WL 10483569 (E.D. Cal. Sept. 2, 2011).....9

Morales v. City of San Rafael,
 96 F.3d 359 (9th Cir. 1996).....21

Morris v. Lifescan, Inc.,
 54 Fed. App’x 663 (9th Cir. 2003)14

Patel v. Trans Union, LLC,
 No. 14-522, 2018 WL 1258194 (N.D. Cal. Mar. 11, 2018)9

Paul, Johnson, Alston & Hunt v. Gaulty,
 886 F.2d 268 (9th Cir. 1989).....13

Rawa v. Monsanto Co.,
 No. 17-1252, 2018 WL 2389040 (E.D. Mo. May 25, 2018)12

Rodriguez v. W. Publ’g Corp.,
 563 F.3d 948 (9th Cir. 2009).....22

Singer v. Becton Dickinson & Co.,
 2010 WL 2196104 (S.D. Cal. June 1, 2010).....14

Six (6) Mexican Workers v. Arizona Citrus Growers,
 904 F.2d 1301 (9th Cir. 1990)13, 14

Spann v. J.C. Penney Corp.,
 211 F. Supp. 3d 1244 (C.D. Cal. 2016).....17

Staton v. Boeing Co.,
 327 F.3d 938 (9th Cir. 2003).....8, 14, 22

Steiner v. Am. Broad. Co., Inc.,
248 Fed. App’x. 780 (9th Cir. 2007).....19

Torrise v. Tucson Elec. Power Co.,
8 F.3d 1370 (9th Cir. 1993).....15

Van Skike v. Dir., Off. of Workers’ Comp. Programs,
557 F.3d 1041 (9th Cir. 2009).....20

Van Vranken v. Atl. Richfield Co.,
901 F. Supp. 294 (N.D. Cal. 1995)23

Vasquez v. Coast Valley Roofing, Inc.,
266 F.R.D. 482 (E.D. Cal. 2010)14

Vizcaino v. Microsoft Corp.,
290 F.3d 1043 (9th Cir. 2002).....7, 14, 15, 17, 18, 20, 21

Williams v. MGM-Pathe Communications Co.,
129 F.3d 1026 (9th Cir. 1997).....9, 14

Yamagata v. Reckitt Benckiser LLC,
No. 17-3529, 2021 WL 5909206 (N.D. Cal. Oct. 28, 2021).....10, 17

Other

H. Newberg, et al.,
NEWBERG ON CLASS ACTIONS.....9, 19, 21

Theodore Eisenberg et. al.,
Attorneys’ Fees in Class Actions: 2009-2013, 92 N.Y.U. L. Rev. 937 (2017)8

United States District Court for the Northern District of California,
Procedural Guidance for Class Action Settlements.....4, 22

United States Federal Trade Commission,
Consumers and Class Actions: Analysis of Settlement Campaigns (2019)11

I. INTRODUCTION

Plaintiffs, by and through undersigned counsel, respectfully submit this memorandum of points and authorities in support of their Motion for Attorney’s Fees, Costs, and Incentive Awards (the “Motion”) in connection with the classwide settlement of this action. The proposed Second Amended Settlement Agreement (“Settlement”),¹ which seeks to resolve on a nationwide basis this action and other cases brought in federal and state courts around the country (the “Related Actions”) against Monsanto and retailers of Roundup® Products² (the “Products”) concerning their failure to disclose the Products’ risks of cancer and other health effects. It releases only false advertising, consumer fraud, breach of warranty, and other economic-loss claims arising from Class Members’ purchases³; it does not release or resolve any personal-injury claims (including alleged economic losses, punitive damages, or attorney’s fees arising from personal injury) or medical-monitoring claims. The Settlement establishes a fund between \$23 million (the “Floor Amount”) and \$45 million (the “Ceiling Amount”) against which Class Members can claim approximately 20% of the average retail price of the Products they purchased. There is no injunctive component to the Settlement.

On June 21, 2022, the Court granted Plaintiffs’ Motion for Preliminary Approval (ECF No. 14486) (“MPA”), following rigorous analysis, substantial briefing (including objections to the MPA and responses thereto), and oral argument. *See* Order Granting MPA, ECF No. 14966 (“PA Order”). The Court’s assessment of the fairness, reasonableness, and adequacy of the Settlement was “as rigorous as at the final approval stage” and it found that the Settlement was “fair,

¹ *See* ECF No. 14610-1 at Ex. 1 (the “Settlement”). Unless otherwise specified, all capitalized terms herein have the meanings specified in the Settlement.

² The Products are listed as Exhibit A to the Settlement.

³ The “Settlement Class” is defined as “all Persons in the United States who, during the Class Period, purchased Products . . . in the United States other than for resale or distribution,” excluding (i) judicial officers and associated court staff assigned to this case, and their immediate family members; (ii) past and present (as of the Effective Date) officers, directors, and employees of Monsanto; (iii) all those otherwise in the Settlement Class who timely and properly exclude themselves from the Settlement Class. Settlement at § A(52).

reasonable, and adequate and merits preliminary approval.” PA Order at ¶ 2. Considering various factors, including the expected participation rate in low-value consumer settlements and the many risks inherent in this litigation, the Court found that the settlement amount was fair and the “floor/ceiling settlement structure [was] reasonable.” PA Order at ¶ 4.

If final approval is granted, the total cash consideration to be paid by Monsanto shall be an amount not less than the Floor Amount and not greater than the Ceiling Amount. The cash payments include all valid Class Member Claims, the costs of Class Notice and Claims Administration Expenses, Class Representative service awards, and Class Counsel’s Fees and Expenses. The current amounts comprising the cash consideration are \$446,449 (Class Notice costs), \$380,513 (anticipated Claims Administration Expenses), an estimated range of between \$14.2 million and \$12.4 million (current amount of valid claims, which are pending review), \$40,000 (requested Class Representative service awards), \$11.25 million (requested Class Counsel’s Fees), and \$210,888.10 (requested Class Counsel’s Expenses). *See* Schwartz Decl. at ¶ 5; Wade Decl. at ¶ 31.⁴

Following preliminary approval, the Court-appointed Claims Administrator, carried out the Notice Plan, including a successful 100-day notice period and 120 days to submit claims (the “Class Deadline”). PA Order at ¶ 21. Class Members could claim up to one Product for each year of the Class Period without proof of purchase, except for the largest and highest-priced concentrated Products, which required valid proofs of purchase. Settlement at § I(6). If a Class Member provided valid proofs of purchase, he or she could claim an unlimited number of units purchased during the Class Period. *Id.* § I(7). Depending on the Product, the Default Payment

⁴ References herein to “Schwartz Decl.” and “Wade Decl.” refer, respectively, to the declarations of Brandon Schwartz and Gillian L. Wade filed concurrently herewith. Additionally, references to “Oster Decl.,” “Williams Decl.,” “Casey Decl.,” “Sheehan Decl.,” “Harrelson Decl.,” and “Zbrzeznj Decl.” refer, respectfully, to the declarations of the concurrently-filed declarations of Joel Oster, Chandra Williams, M. Ryan Casey, Spencer Sheehan, Steve Harrelson, and Lydia Zbrzeznj. References to “Gilmore Decl.,” “Weeks Decl.,” “Taylor Decl.,” “Hanna Decl.,” “Boyette Decl.,” “Ezcurra Decl.,” “Jewell Decl.,” and “Kristy Williams Decl.” refer to the concurrently-filed declarations of the respective Plaintiffs.

Amount ranges from \$0.50 and \$33.00 per unit. *Id.* at § E(1).

The Claims Administrator is continuing to review the submitted claims, given the Class Deadline was October 19. As of October 28, 2022, the value of total valid claims made by Class Members ranges from \$12,399,326.50 on the low end (representing 227,527 total valid claims) and \$14,201,305.00 on the high end (representing 231,413 total valid claims), pending further review.⁵ *See* Schwartz Decl. at ¶ 4. The estimated average payment per individual Class Member will be between \$53.80 and \$61.37 on the high end (again, pending further review). *Id.* All claims information will be updated in Plaintiffs' Motion for Final Approval, which is due on November 28, 2022.

Class Counsel requests that the Court approve a total of \$11,250,000 in Class Counsel's Fees, which amounts to 25% of the Ceiling Amount, and \$210,888.10 in Class Counsel's Expenses. As explained below, the percentage-of-the-fund method for calculating fees is appropriate given counsel's efforts have created a common fund for the benefit of the class. The total value of the settlement fund is \$45 million: the total amount made available to Class Members per the Settlement's Ceiling amount. This includes the amounts allocated for Class Member Claims, Class Notice, Claims Administration Expenses, Class Representative service awards, Class Counsel's Fees, and Class Counsel's Expenses. It also includes the total amount made available for Class Members to claim, both literally (given the Ceiling Amount) and plausibly (given the reasonable claims rate projected at the time of settlement). Alternatively, Class Counsel requests approval of their fee request under the "lodestar" method with a modest 1.4 multiplier. This multiplier is within the range typically seen in the Ninth Circuit and justified by the quality of representation, the benefit obtained for the Settlement Class, the complexity and novelty of the issues presented, and

⁵ The actual value will depend on the Claims Administrator's review of certain claims yet to be reviewed and deficient claims (claims submitted with product values exceeding the threshold [one Product for each year of the Class Period] and/or with claimed purchases of the three Products that require proof of purchase, for which the documents submitted by the claimant did not substantiate the products claimed). Schwartz Decl. at ¶ 4. All deficient claims will be sent a deficiency notice with an opportunity to cure the defect. *Id.*

the risk of nonpayment.

Finally, Plaintiffs also request that the Court award each of the eight Class Representatives a service award in the amount of \$5,000 (for a total of \$40,000) to account for the time and effort they invested into this litigation on behalf of the Settlement Class.

II. STATUS OF THE SETTLEMENT AND CLAIMS PROCESS

Pursuant to this District’s Guidance, Plaintiffs incorporate in this motion the case history and background facts in Plaintiffs’ forthcoming motion for final approval, and will not repeat them here.⁶ However, Plaintiffs will summarize the salient features of the settlement bearing directly on the instant motion and provide statistics as to claims, fees, and costs.

A. Relevant Settlement Terms

Under the Settlement, Monsanto will pay total cash consideration in the amount of no less than \$23 million (the “Floor”) and no greater than \$45 million (the “Ceiling”). Settlement § D. Cash consideration includes Class Member payments, notice costs, claims administration expenses, incentive awards, and attorney’s fees and expenses. *Id.* § D(1). There is no injunctive relief component to the settlement.⁷

If the Floor is not reached, Class Members making claims would receive individual payments adjusted upward on a pro rata basis. *Id.* § D(3). If the Ceiling is exceeded, then the individual payments will be adjusted downward on a pro rata basis. *Id.* § D(2).

Regarding incentive awards and attorney’s fees, Monsanto will not contest a total of \$40,000 (\$5,000 for each named plaintiff) in requested incentive awards or Class Counsel’s request for attorney’s fees not exceeding \$11.25 million (25% of the \$45 million ceiling). *Id.* § F(1). Whether to award the requested amounts is in the Court’s discretion and does not impact the validity of the Settlement. *Id.*

⁶ United States District Court for the Northern District of California, *Procedural Guidance for Class Action Settlements* (“Guidance”), Final Approval § 2 (“[t]he motion for attorneys’ fees should refer to the history and facts set out in the motion for final approval”).

⁷ Unless otherwise stated, all capitalized terms refer to the terms defined in the Second Amended Class Action Settlement Agreement, ECF No. 14486-1.

B. Claims Rate Assumptions in Floor / Ceiling Settlement Structure Versus Actual Claims Rate

As explained by Monsanto, the retail sales of the Products amounted to approximately \$2.66 billion during the Class Period. Declaration of John Rosenthal, ECF No. 14486-3 (“Rosenthal Decl.”) at ¶ 12. Under the Settlement, each Authorized Claimant is eligible to receive cash payments equal to approximately 20% of the average retail price for each unit purchased during the applicable statute of limitations period. Settlement § E(1). Therefore, a 100% claims rate would translate to \$532 million in claims.⁸

Assuming the instant motion is granted, the non-claims cash portion of the settlement totals \$12,327,850.⁹ Thus (in the absence of a floor), \$10,672,150 in claims—reflecting a claims rate of 2%—would be needed to achieve a total cash payment of \$23 million by Monsanto. To hit the \$45 million Ceiling, \$32,672,150 in claims would have to be paid, reflecting a claims rate of 6.14%.¹⁰ Therefore, 2% to 6.14% is the claims rate range in which claimants would receive neither a pro-rata increase or deduction of their ‘20% of retail price’ payment.

Thus, when fashioning the ‘20% of retail price’ reimbursement amount, the Settlement assumes an approximate 2-6% claims rate range where claimants would expect to receive that amount (neither more nor less). As explained below, this assumed claims rate range is entirely consistent with other similar settlements in consumer class actions. *See infra* § III(B)(1)(c). This

⁸ As explained previously and in Plaintiffs’ forthcoming Motion for Final Approval, this number amounts to nearly *two-thirds* of Class Members’ best-case recovery at trial (\$824,600,000), based on Plaintiffs’ expert’s 31% price premium calculation. *See* Plaintiffs’ Motion for Preliminary Approval, ECF No. 14486 (“MPA”), at 3, 23; *see also* Sharp Expert Report, ECF No. 14486-1 at Ex. 2. Notably, Dr. Sharp’s analysis was not prepared in support of this Settlement, but was submitted as part of Plaintiffs’ expert disclosures in the *Ezcurra* action, where Plaintiffs had every incentive to calculate the maximum potential recovery. *Id.* at 2-3.

⁹ This amount derives from Monsanto’s agreement not to contest of \$11,250,000 in attorney’s fees and \$40,000 in incentive awards. The remainder of this amount consists of Monsanto’s agreement to pay notice costs (\$446,449), claims administrative costs (estimated \$380,513) and Plaintiff’s litigation expenses (currently \$210,888.10). Schwartz Decl. at ¶ 5; Wade Decl. at ¶ 28.

¹⁰ The claims rate is calculated by dividing \$10,672,150 or \$32,672,150 (the recovery in claims needed to achieve the floor or ceiling amount following deductions for non-claims payments) by \$532 million (the cash value assuming no ceiling and a 100% claims rate).

range is also consistent with the *actual* claims rate ultimately achieved in this litigation. Following the close of the claims period on October 19, 2022 Class Members will receive somewhere between \$12,399,326.50 and \$14,201,305.00 in claims payments, a claims rate of 2.33% to 2.67%.¹¹ Schwartz Decl. at ¶ 4; Wade Decl. at ¶ 6.

Important here is the fact that Plaintiffs' fee request is based on the Ceiling – the benefits made available under the Settlement. Plaintiffs' calculation of the total benefits made available (for the purpose of determining a reasonable fee) is not based on a 100% claims rate, but rather a modest 6.14% claims rate. Though on the high end of what might be expected in typical class action settlements, it is far from 'illusory' – this amount was plausibly made available to the Class. *See infra* § III(B)(1)(c).¹²

C. Total Cash Consideration Paid Based on Claim Rate, Administration Expenses, Incentive Awards, and Attorney's Fees and Costs

As of the date of this filing, and assuming the instant motion is granted, the cash consideration paid by Monsanto would be between \$24,727,177 and \$26,529,155, securely within the Settlement's \$23-45 million Floor / Ceiling. Wade Decl. ¶¶ 7-8. The current amounts comprising the cash consideration are between approximately \$12.4 million and \$14.2 million (payments to Class Members), \$446,449 (notice costs), \$380,513 (anticipated claims administration costs), \$40,000 (requested incentive awards), \$11.25 million (requested attorney's fees), and \$210,888.10 (sought litigation expenses). Schwartz Decl. at ¶ 5; Wade Decl. at ¶ 8.

¹¹ The range is based on claims pending review and deficient claims that may be cured. Schwartz Decl. at ¶ 4. Deficient claim submissions represent claims submitted with product values exceeding the threshold and/or with claimed purchases of the three Products that require proof of purchase, for which the documents submitted did not substantiate the Product claimed. *Id.* All deficient claims will be sent deficiency notice with an opportunity to cure the defect. *Id.*

¹² Even if the Court were to analyze the claims rate needed to achieve a \$45 million payment *before* a portion of which was to be deducted and allocated to Class Counsel in fees, this would require only an 8.26% claims rate (\$43,922,150 in paid claims).

III. THE REQUESTED FEE AWARD IS FAIR AND REASONABLE

Plaintiffs' requested attorneys' fee award is fair and reasonable. To date,¹³ excluding time spent on the fee application, counsel has expended 13,302.35 hours on this matter, for a total lodestar of \$7,947,522.50. *See* Wade Decl. ¶¶ 12-24, 34-52 (descriptions of work done by individual attorneys, hourly rates, and firm qualifications); *see also* Oster Decl. at ¶¶ 5-26 (same); Williams Decl. at ¶¶ 7-15 (same); Casey Decl. at ¶¶ 6-17 (same); Sheehan Decl. at ¶¶ 5-17 (same); Harrelson Decl. at ¶¶ 5-11, 13, 15 (same); and, Zbrzezny Decl. at ¶¶ 5-24 (same). The Court should award fees under the percentage-of-the-fund method and award 25% of the Ceiling Amount (\$11,250,000) in reasonable attorneys' fees. Alternatively, the Court may award fees under the lodestar method, applying a modest and reasonable 1.4 multiplier.

A. The Court Should Apply the Percentage-of-the-Fund Method

“Under Ninth Circuit law, the district court has discretion in common fund cases to choose either the percentage-of-the-fund or the lodestar method.” *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002). This “discretion must be exercised so as to achieve a reasonable result.” *In re Bluetooth Headset Prod. Liab. Litig.*, 654 F.3d 935, 942 (9th Cir. 2011) (citing *In re Coordinated Pretrial Proceedings*, 109 F.3d 602, 607 (9th Cir. 1997)).

Between the two methods, “the percentage-of-the-fund method is preferred when counsel’s efforts have created a common fund for the benefit of the class.” *In re Capacitors Antitrust Litig.*, No. 17-2801, 2018 WL 4790575, at *2 (N.D. Cal. Sept. 21, 2018) (collecting cases). There are two reasons for this. First, by “tying the award to the recovery of the Class, Class Counsel’s interests are aligned with the Class, and Class Counsel are incentivized to achieve the best possible result.” *In re Anthem, Inc. Data Breach Litig.*, No. 15-2617, 2018 WL 3960068, at *5 (N.D. Cal. Aug. 17, 2018). Second, in contrast to cases involving calculation of the value of injunctive relief,

¹³ Class Counsel anticipate significant additional fees that include the drafting of the final approval motion (and reply brief if necessary), attending the final approval hearing, responding to Class Member inquiries, and distribution of the Settlement. It is possible that Plaintiffs' counsel may also have to deal with an objector's appeal, which would further increase their lodestar.

“[b]ecause the benefit to the class is easily quantified in common-fund settlements, we have allowed courts to award attorneys a percentage of the common fund in lieu of the often more time-consuming task of calculating the lodestar.” *In re Bluetooth*, 654 F.3d at 942. Thus, it is no surprise that between the two methods, the percentage-of-the-fund is “dominant” in common fund cases. *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2008) (citing cases).¹⁴ The percentage method is even more appropriate where the fund’s value is not in large part dependent upon the value of purported injunctive relief. *See Staton v. Boeing Co.*, 327 F.3d 938, 974 (9th Cir. 2003) (“because the value of injunctive relief is difficult to quantify, its value is also easily manipulable by overreaching lawyers seeking to increase the value assigned to a common fund”).

The settlement at issue here creates a common fund, upon on which Plaintiffs’ attorney fee request is based. The fund’s value is not tied to a speculative valuation of injunctive relief. The policy and administrative reasons underlying the ‘dominance’ of the percentage-of-the-fund method are similarly present here. Further, as explained below, the percentage-of-the-fund method results in a reasonable result, resulting in a mere 1.4 multiplier when applying a lodestar cross-check.

B. The Requested Fees are Reasonable Under the Percentage-of-the-Fund Method

Here, Plaintiffs seek recovery under the percentage-of-the-fund method. There is a three-step process to apply the percentage-of-the-fund method:

First, the court will ascertain the size of the fund against which the percentage will be taxed.

Second, the court will review the percentage counsel seek, ensuring that the fee resulting from application of that percentage is reasonable.

Third, the court will sometimes undertake a lodestar cross-check, comparing the percentage award to the time counsel expended on the case at the prevailing hourly rates, to further ensure the fee’s reasonableness.

¹⁴ See also Theodore Eisenberg et. al., *Attorneys’ Fees in Class Actions: 2009-2013*, 92 N.Y.U. L. Rev. 937, 963 (2017) (“EMG Study”) (empirical study of attorneys’ fees in class action settlements found that from 2009–2013, the lodestar method was rarely used, but courts frequently used the percentage method with a lodestar cross check).

Ferrell v. Buckingham Prop. Mgmt., No. 119-332, 2022 WL 224025, at *2 (E.D. Cal. Jan. 25, 2022) (quoting H. Newberg, et al., *NEWBERG ON CLASS ACTIONS* § 15:68 (5th ed.)). As explained below, following this ‘three-step process,’ the Court will arrive at the conclusion that the requested fee is more than reasonable.

1. The total value of the settlement fund is \$45 million

The total value of the settlement fund is \$45 million: the total amount made available to Class Members per the Settlement’s Ceiling amount. This includes the amounts allocated for notice and claims administration, litigation expenses, incentive awards, and attorney’s fees. It also includes the total amount made *available* for Class Members to claim, both literally (given the Ceiling amount) and plausibly (assuming a reasonable 6.14% claims rate). This is explained in greater detail below.

(a) The fund size is based on the total benefits made available to Class Members

The first step for courts applying the percentage-of-the-fund method is to ascertain the size of the fund against which the percentage will be taxed. “Ninth Circuit precedent requires courts to award class counsel fees based on the total benefits being made available to class members rather than the actual amount that is ultimately claimed.” *Broomfield v. Craft Brew All., Inc.*, No. 17-1027, 2020 WL 1972505, at *16 (N.D. Cal. Feb. 5, 2020) (quoting *Patel v. Trans Union, LLC*, No. 14-522, 2018 WL 1258194, at *6 (N.D. Cal. Mar. 11, 2018)). The Ninth Circuit has held that a “district court abused its discretion by basing the fee on the class members’ claims against the fund rather than on a percentage of the entire fund or on the lodestar.” *Williams v. MGM-Pathe Communications Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997). Thus, “[i]t is well established that, in claims made...cases where there is a maximum fund, and unclaimed funds revert to the defendant, it is appropriate to award class fund attorneys’ fees based on the gross settlement fund.” *Lopez v. Youngblood*, No. 07-0474, 2011 WL 10483569, at *12 (E.D. Cal. Sept. 2, 2011) (citing *NEWBERG ON CLASS ACTIONS* § 14.6 (4th ed.); *see also Ferrell*, 2022 WL 224025, at *2 (“[n]otwithstanding the reversionary nature of the settlement agreement, the Court must use the maximum settlement

amount in step one”) (citing *Williams*, 129 F.3d at 1027).

(b) Administrative costs, litigation expenses, incentive awards and attorney’s fees are benefits to the Class

As to what is included in the ‘benefit to the Class,’ the key consideration is “the total amount defendants were willing to spend to settle the case[.]” *In re Bluetooth*, 654 F.3d at 945. Thus, when calculating the total available benefit, it is typical and appropriate to include administrative costs, litigation expenses, incentive awards and attorney’s fees as part of the benefit. *See, e.g., In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 940 (9th Cir. 2015) (district court did not err in awarding 25% of settlement fund in fees, where settlement fund value included “attorneys’ fees and expenses, costs of notice and administration, and incentive payments to class representatives”). This is precisely what this Court did in the recent settlement, including attorney’s fees, litigation expenses, incentive awards, and notice and settlement administration costs when determining the value of the fund. *Yamagata v. Reckitt Benckiser LLC*, No. 17-3529, 2021 WL 5909206, at *2 (N.D. Cal. Oct. 28, 2021) (Chhabria, J.); *see also In re Bluetooth*, 654 F.3d at 939, 945 (including costs of notice, documented case costs, incentive awards, *cy pres* award, and attorney’s fees in analysis of fund value); *Broomfield.*, 2020 WL 1972505, at *16 (fund value “may include settlement administration costs, litigation expenses, and the allotment for attorneys’ fees”).

Here, the fund is valued at \$45 million—the ‘total amount Defendant was willing to spend to settle the case.’ This includes \$446,449 (notice costs), \$380,513 (anticipated claims administration costs), \$210,888.10 in litigation expenses, \$40,000 in requested incentive awards, and \$11,250,000 in requested attorney’s fees. *See* Schwartz Decl. at ¶ 5; Wade Decl. at ¶ 28 (listing Class Counsel expenses); Oster Decl. at ¶¶ 27-34; Williams Decl. at ¶¶ 16-18; Casey Decl. at ¶¶ 18-19; and Harrelson Decl. at ¶¶ 12, 14.

(c) The value of available benefit in claims payments assumes a reasonable claims rate range

After the cash consideration paid by Monsanto for administrative expenses, incentive awards, and attorney’s fees and costs, the remaining amount made available to the Class in claim payments totals \$32,672,150. The entirety of this amount is an available benefit to be included in

the fund’s valuation given the reasonable assumptions regarding claims rates. When calculating the fund size, a court should not ignore the “economic reality” regarding claims rates in similar cases. *Allen v. Bedolla*, 787 F.3d 1218, 1224 (9th Cir. 2015) (citing *In re Bluetooth*, 654 F.3d at 943). To do so may result in inequitable situations where an attorney fee award dwarfs the amount actually payable to the Class. *See id.* (when examining fees in terms of ‘economic reality’, “the award exceeds the maximum possible amount of class monetary relief by a factor of three”). Thus, where the ‘benefit to the Class’ (in terms of the amount potentially payable in claims) assumes “a 100% claims rate[.]” such purported value is largely “illusory.” *In re Myford Touch Consumer Litig.*, No. 13-3072, 2018 WL 10539266, at *1-2 (N.D. Cal. June 14, 2018).

Here, this is not an uncapped claims-made settlement, where class counsel are seeking 25% of a common fund value that is ‘theoretically possible’ with a 100% claims rate. If that were the case (and absent a cap Plaintiffs sought 25% of all theoretical payments), Plaintiffs’ fees would be \$133 million.¹⁵ Rather, Plaintiffs’ estimation of the total *available* benefit—reflected by the \$45 million Ceiling Amount—utilizes the upper end of a reasonable estimated claims rate range: approximately 6 percent.¹⁶ As Plaintiffs previously explained, “the Ceiling Amount will cover a claims rate on the high end of likely claims.” MPA at 30. Where a modest 6% claims rate is assumed, the resulting potential payout in claims is hardly ‘illusory’—it is clearly an ‘available benefit’ to the Class.¹⁷

Using a 6 percent claims rate to calculate a (plausible best-case scenario) *available* Class benefit is more than reasonable. A claims “rate of 4-9%...is typical for consumer class actions.” *In re Facebook Biometric Info. Priv. Litig.*, 522 F. Supp. 3d 617, 622 (N.D. Cal. 2021), *aff’d*, No. 21-

¹⁵ This represents 25% of \$532,000,000 (20% of the total retail sales figure of \$2.66 billion)

¹⁶ With a claims rate of 6.14%, \$32,672,150 would be paid to the Class. When proposed fees, expenses, notice, claims administration, and incentive awards are added, the result is the \$45 million cap.

¹⁷ For example, where “claims rates are often in the range of 1 to 10%, trending towards the lower end”, a court should utilize the higher end of that range. *In re Myford Touch*, 2018 WL 10536266, at *1-3 (calculating fund size based on higher end of claims rate range instead of class counsel’s proposed 100% claims rate).

15553, 2022 WL 822923 (9th Cir. Mar. 17, 2022) (citing Fed. Trade Comm'n, *Consumers and Class Actions: A Retrospective and Analysis of Settlement Campaigns* (2019) at 11). This is further underscored by the testimony of the notice administrator and comparison to similar actions. As the notice administrator observed, “[t]here is no formula to project response rates with certainty[.]” Declaration of Brandon Schwartz, ECF No. 14486-4 (“MPA Schwartz Decl.”) at ¶ 10. And while typical low-value retail item claims rates average between 1% and 5%, “[i]t is also instructive to look to comparable settlements with Monsanto related to Roundup® products, such as the *Rawa* and *Jones* settlements.” *Id.* ¶ 12. The claims rates in those two cases were 13% and 2-3%, respectively.¹⁸ See *Rawa v. Monsanto Co.*, No. 17-1252, 2018 WL 2389040, at *3 (E.D. Mo. May 25, 2018), *aff'd*, 934 F.3d 862 (8th Cir. 2019); *Jones v. Monsanto Co.*, No. 19-102, 2021 WL 2426126, at *3 (W.D. Mo. May 13, 2021), *aff'd*, 38 F.4th 693 (8th Cir. 2022). “Given that this case shares similar class products and likely purchasers as *Rawa* and *Jones*, it is reasonable to expect that claims volumes in this case may fall within this range, though it is possible that there could be an increased claims volume in light of factors such as the level of press coverage of this matter and the nature of Plaintiffs’ allegations.” MPA Schwartz Decl. ¶ 12.¹⁹

It is true that the actual claims rate in this action appears to be around a range of 2.33% to 2.67%. See Schwartz Decl. at ¶ 4; Wade Decl. at ¶ 6.²⁰ But this is not the measure of the total available benefit – which is \$45 million based on a very realistic claims rate. “Class counsel should not be penalized for these or other legitimate reasons [for a low claims rate] unrelated to the quality

¹⁸ The average of the *Rawa* and *Jones* settlement was between 7.5% and 8%, which is *above* the ‘higher end’ claims rate assumed by Plaintiffs, further underscoring the reasonableness of Plaintiffs’ calculation of the total available benefit.

¹⁹ This is precisely the approach mandated by this District’s Guidance directing parties seeking preliminary approval to provide “an estimate of the number and/or percentage of class members who are expected to submit a claim in light of the experience of the selected claims administrator and/or counsel from other recent settlements of similar cases, the identity of the examples used for the estimate, and the reason for the selection of those examples.” Guidance § (1)(g).

²⁰ Notably, this results in an average approximate payment of \$53.80 - \$61.37 per claimant. Schwartz Decl. at ¶ 4.

of representation they provided.” *In re Baby Prod. Antitrust Litig.*, 708 F.3d 163, 178 (3d Cir. 2013). As the Supreme Court has observed, “a lawyer who recovers a common fund for the benefit of [a class] is entitled to a reasonable attorney’s fee from the fund as a whole,” even if part reverts to the defendant. *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478, 480 (1980); *see also In re Comcast Corp. Set-Top Cable Television Box Antitrust Litig.*, 333 F.R.D. 364, 385-87 (E.D. Pa. 2019) (“it is now known that only 20,262 individuals filed claims for a total of \$211,255.00 in cash payments. . .[however] the low level of distribution of benefits to the Class does not reflect a failure of Class Counsel to adequately represent the interests of the Class.”); *Jones v. Monsanto Co.*, 38 F.4th 693, 699 (8th Cir. 2022) (“But the funds that are ultimately allocated *cy pres* were available for class members to claim. If the court affirms the adequacy of the notice to the class, then the court cannot fault plaintiff’s counsel for the fact that class members, for myriad possible reasons, did not submit enough claims to exhaust the Common Fund.”), *reh’g en banc denied*, No. 21-2292, 2022 U.S. App. LEXIS 22803 (8th Cir. Mo., Aug. 16, 2022).

In calculating the total available benefit, the \$45 million payment ceiling is achieved where approximately 6 percent of Class Members make claims. This is a more than reasonable estimation of potential claims rate, given not only the statistics on consumer class actions generally but with respect to other Monsanto cases with similar products.

Having valued the fund at \$45 million, Plaintiffs turn to the reasonableness of awarding 25% of that fund—the Ninth Circuit’s benchmark—in attorney’s fees.

2. Twenty-five percent of the fund is reasonable

Plaintiffs now turn to the second step in the percentage-of-the-fund inquiry: the reasonableness of the percentage sought.

(a) Twenty-five percent is the Ninth Circuit’s ‘benchmark’

The Ninth Circuit has “established 25 percent of the fund as the ‘benchmark’ award that should be given in common fund cases.” *Six (6) Mexican Workers v. Arizona Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990) (*citing Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268, 272 (9th Cir. 1989)); *see also In re Anthem*, 2018 WL 3960068, at *4 (when applying the

percentage-of-the-fund method, “it is well established that 25% of a common fund is a presumptively reasonable amount of attorneys’ fees”).

Here, 25% of the fund (\$11,250,000) comports with the Ninth Circuit’s benchmark and is the presumptively reasonable amount of attorneys’ fees.

(b) The fund value does not rely on an injunctive relief component

However, though “a helpful ‘starting point[,]’...the benchmark is not per se valid[.]” *In re Online DVD*, 779 F.3d at 955 (quoting *Vizcaino*, 290 F.3d at 1048. Thus, “courts typically calculate 25% of the fund as the ‘benchmark’ for a reasonable fee award, providing adequate explanation in the record of any ‘special circumstances’ justifying a departure.” *In re Bluetooth*, 654 F.3d at 942 (quoting *Six (6) Mexican Workers*, 904 F.2d at 1311). The fund can be adjusted up or down, and “in most common fund cases, the award exceeds the benchmark.” *de Mira v. Heartland Emp. Serv., LLC*, No. 12-4092, 2014 WL 1026282, at *1 (N.D. Cal. Mar. 13, 2014) (quoting *In re Omnivision*, 559 F. Supp. 2d at 1047).²¹

The most typical ‘special circumstance’ warranting a downward departure from the 25% standard is where the settlement’s ‘benefit’ to the class is largely injunctive, because “[i]njunctive relief is inherently difficult to monetize.” *Kim v. Allison*, 8 F.4th 1170, 1181 (9th Cir. 2021). There is a risk that the value may be manipulated “by overreaching lawyers seeking to increase the value assigned to a common fund.” *Staton*, 327 F.3d at 974.

²¹ For example, when awarding 32.8% of the settlement fund for fees and costs, one court explained: “absent extraordinary circumstances that suggest reasons to lower or increase the percentage, the rate should be set at 30%[.]” as this will “encourage plaintiffs’ attorneys to move for early settlement, provide predictability for the attorneys and the class members, and reduce the time consumed by counsel and court in dealing with voluminous fee petitions.” *In re Activision Sec. Litig.*, 723 F. Supp. 1373, 1378-79 (N.D. Cal. 1989); *see also In re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 378-79 (9th Cir. 1995) (affirming attorneys’ fee of 33% of the recovery); *Williams*, 129 F.3d at 1027 (33.33% of total fund awarded); *Morris v. Lifescan, Inc.*, 54 Fed. App’x 663 (9th Cir. 2003) (affirming fee award of 33% of the recovery); *Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482, 492 (E.D. Cal. 2010) (citing to five class actions where federal district courts approved attorney fee awards ranging from 30% to 33%); *Singer v. Becton Dickinson & Co.*, 2010 WL 2196104, at *8 (S.D. Cal. June 1, 2010) (approving attorney fee award of 33.33% of the common fund and holding that award was similar to awards in three other cases where fees ranged from 33.33% to 40%).

Here, the value to the Class is not tied to a non-monetary injunctive component. Therefore, a downward adjustment from the Ninth Circuit’s benchmark is not appropriate. As explained below, Plaintiffs’ calculation of the fund size is entirely monetary, and further takes into account real world assumptions regarding claims rates in determining the total available benefit to Class Members. *See supra* § III(B)(1).

(c) The *Vizcaino* factors support a finding of reasonableness

“In *Vizcaino*, [the Ninth Circuit] identified several factors courts may consider when assessing requests for attorneys’ fees calculated pursuant to the percentage-of-recovery method: (1) the extent to which class counsel achieved exceptional results for the class; (2) whether the case was risky for class counsel; (3) whether counsel’s performance generated benefits beyond the cash settlement fund; (4) the market rate for the particular field of law; (5) the burdens class counsel experienced while litigating the case; (6) and whether the case was handled on a contingency basis.” *In re Optical Disk Drive Prod. Antitrust Litig.*, 959 F.3d 922, 930 (9th Cir. 2020) (citing *Vizcaino*, 290 F.3d at 1048–50; *Online DVD-Rental*, 779 F.3d at 954–55). When assessing the *Vizcaino* factors, it is important to “take into account all of the circumstances of the case.” *Vizcaino*, 290 F.3d at 1048.

As explained above, 25% is the Ninth Circuit benchmark in percentage-of-the-fund cases, and the circumstances typically justifying a departure from the benchmark are not present here. Even if the Court found that that such circumstances existed, an analysis of the *Vizcaino* factors also confirms the reasonableness of the requested award. Indeed, the *Vizcaino* factors—which are typically used to justify an *upwards* departure from the 25% benchmark—would actually justify such an upwards departure in this case (which Plaintiffs do not seek).

(i) Class counsel achieved excellent results for the Class

The first *Vizcaino* factor supports the reasonableness of the instant fee request. Courts look at the settlement’s terms on their face, and also weight the results in light of a case’s particular circumstances. These circumstances include, *inter alia*: whether “counsel pursued this case in the absence of supporting precedents”; whether defendants put forth “vigorous opposition throughout

the litigation”; and “counsel’s ‘expert handling of the case.’” *Vizcaino*, 290 F.3d at 1048 (quoting *Torrise v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1377 (9th Cir. 1993)).

The benefits obtained for the Class are excellent. As noted above, based on Plaintiffs’ price premium expert model, Settlement would provide Class Members with direct cash payments of approximately *two-thirds* of their estimated best-case damages were they to succeed at trial, and the estimated average individual Class Member recovery is over \$50.00 per person. There is no pro rata deduction of individual claims as the Ceiling Amount was not exceeded. Further, Class Members are not releasing any claims for personal injury or medical monitoring. This is an excellent result on its face, and even more so given the fact-intensive nature of Plaintiffs’ claims, Monsanto’s and retailers’ success in several Related Actions,²² and the other risks, costs, and uncertainties of litigating those claims. As this Court noted, on its face “the settlement amount appears to be fair. Given the low participation rate that can be expected in low-value consumer settlements such as this, the floor/ceiling settlement structure is reasonable.” PA Order at ¶ 4 (language added by Court). The claims rate is such that claimants will not suffer a pro rata deduction due to either the cap being exceeded or the award of attorney’s fees sought herein.

The circumstances of this case also underscore the excellent results obtained. Counsel pursued this matter in the absence of supporting precedents, and even continued to pursue the case after early setbacks. Further, based on the record and history of Related Actions, it is beyond doubt that Monsanto and the retailers put forth vigorous opposition throughout the litigation.

Counsel for Plaintiffs have also demonstrated expert handling of this case. As noted by Monsanto, Plaintiff’s litigation strategy was complex and multi-faceted, with Plaintiffs filing “a series of actions in various jurisdictions against both Monsanto and key retailers in order to exert leverage over Monsanto in terms of either liability or settlement.” Def. Reply to Opp. to Prelim. Approval, ECF 14710, at 2. As described previously by Plaintiffs, this settlement only occurred

²² While ‘Related Actions’ is used in the Settlement Agreement, it is somewhat of a misnomer. The Settlement Agreement actually included and encompassed these actions, and represents a settlement of those actions as well.

after Plaintiff pressured Monsanto through more than a dozen actions in courts around the country since July 2019. MPA at 2-7.

Class Counsel achieved excellent results for the Class.

(ii) Plaintiffs' claims carried substantial litigation risk, and Class Counsel experienced significant burdens litigating the case

The second and fifth *Vizcaino* factors also support the reasonableness of the requested fee.

It is beyond doubt that Plaintiffs' claims carried substantial litigation risk. As this Court observed:

The settlement amount and compensation rates appear to be adequate given the many risks inherent in this litigation. Were this litigation to proceed, Monsanto would have colorable defenses available to it (such as preemption) that may wholly absolve it of liability. Additionally, there is a real risk that the plaintiffs would not be able to demonstrate that they are entitled to any damages as the "price premium" calculation would be heavily contested.

PA Order ¶ 5 (language added by Court). Further, Plaintiffs experienced significant burdens litigating this matter. This settlement required a nationwide strategy, with contemporaneous suits against Defendant and its retail partners in multiple jurisdictions at once. Plaintiffs also doubled down on their litigation efforts despite early setbacks. *See* MPA at 2-7; Plaintiffs' Reply in Support of MPA, ECF No. 14709 ("MPA Reply") at 2-6.

The second and fifth *Vizcaino* factors weigh in favor of approving the fee request.

(iii) The requested fee reflects the market rate in consumer class actions

The fourth *Vizcaino* factor also weighs in favor of granting the requested fee. As explained above, the Ninth Circuit has established a benchmark of 25%, and it is not uncommon for courts in this Circuit to award fees even *higher* than 25% in common fund cases. *See supra* fn. 21. The same holds true for fee awards in common fund settlements of consumer fraud actions. *See, e.g., Yamagata*, 2021 WL 5909206, at *4 (Chhabria, J.) (awarding 25% of common fund in action relating to misleadingly labeled glucosamine joint health dietary supplements); *Johnson v. Gen. Mills, Inc.*, No. 10-00061, 2013 WL 3213832, at *6 (C.D. Cal. June 17, 2013) (awarding 30% of an \$8.5 million common fund in an action about the health benefit labeling of probiotic yogurt);

Spann v. J.C. Penney Corp., 211 F. Supp. 3d 1244, 1261 (C.D. Cal. 2016) (awarding 27% of a \$50 million common fund in an action challenging deceptive advertising of “on sale” pricing of retail products). The benchmark makes even more sense in this case given that the requested fee would result in a modest 1.4 multiplier, in line with other consumer class actions. *See infra* § III(C)(2).

(iv) This case was handled on a contingency basis

Finally, the sixth *Vizcaino* factor supports the fee request. To date, Class Counsel and Plaintiffs’ counsel have worked for 13,302.35 hours (excluding work on the fee petition) with no payment, and no guarantee of payment absent a successful outcome. Wade Decl. ¶ 19, 36-52; Oster Decl. at ¶¶ 5-26; Williams Decl. at ¶¶ 6-15; Casey Decl. at ¶¶ 8-17; Sheehan Decl. at ¶¶ 8-17; Harrelson Decl. at ¶¶ 8-11, 13, 15; and, Zbrzezny Decl. ¶¶ 7-24. They further advanced \$210,888.10 in out-of-pocket expenses, again with no guarantee of repayment. Wade Decl. ¶ 28; Oster Decl. at ¶¶ 27-34; Williams Decl. at ¶¶ 16-18; Casey Decl. at ¶¶ 18-19; Harrelson Decl. at ¶¶ 12, 14. If the case had advanced through discovery, class certification, summary judgment and trial, these expenses would have increased many-fold, and counsel would have been required to advance these expenses potentially for several years of litigation through judgment and appeals. Wade Decl. at ¶ 33.

In all, five of the six *Vizcaino* factors underscore the reasonableness of Plaintiffs’ petition for attorney’s fees, with the third factor being neutral (as there is no injunctive component of the settlement). The weighs heavily in favor of approving the instant motion.

3. A lodestar cross-check further ensures the fee’s reasonableness

While discretionary, the Ninth Circuit has “encouraged courts using the percentage-of-recovery method to perform a cross-check by applying the lodestar method to confirm that the percentage-of-recovery amount is reasonable.” *In re Optical Disk Drive*, 959 F.3d at 930 (citing *In re Online DVD*, 779 F.3d at 949). The cross-check analysis is a two-step process. First, the lodestar is determined by multiplying the number of hours reasonably expended by the reasonable rates requested by the attorneys. *See Caudle v. Bristow Optical Co.*, 224 F.3d 1014, 1028 (9th Cir. 2000). Second, the Court determines the multiplier required to match the lodestar to the percentage-of-

the-fund request made by counsel, and determines whether the multiplier falls within the accepted range for such a case. Here, the lodestar cross-check confirms the reasonableness of the requested fee.

As of this filing, counsel for Plaintiffs have worked 13,302.35 hours on this matter (excluding this fee application) for a total lodestar, at current billing rates, of \$7,947,522.50. Wade Decl. ¶ 19. This represents a blended hourly rate of less than \$600, which is well within the bounds of reasonable hourly rates in this District. Wade Decl. ¶ 21; *see also infra* § III(C)(1) (discussing hourly rates in this District).

A fee award of 25%, or \$11,250,000 would represent a modest 1.4 multiplier over the base lodestar fee. Wade Decl. ¶ 22; *see also infra* § III(C)(2) (discussing the factors supporting the application of a multiplier to Plaintiff Counsel's lodestar). This multiplier falls well within the accepted range in the Ninth Circuit, where positive multipliers are routinely awarded, and is reasonable. *See, e.g., Vizcaino*, 290 F.3d at 1051 (noting district court cases in the Ninth Circuit approving multipliers as high as 19.6); *Craft v. County of San Bernardino*, 624 F. Supp. 2d 1113, 1125 (C.D. Cal. 2008) (approving fee award resulting in a multiplier of 5.2, and collecting similar cases); *Steiner v. Am. Broad. Co., Inc.*, 248 Fed. App'x. 780, 783 (9th Cir. 2007) (approving multiplier of 6.85); NEWBERG ON CLASS ACTIONS § 14.7 (courts typically approve percentage awards based on lodestar cross-checks of 1.9 to 5.1 or even higher). The modest multiplier provided by the lodestar cross-check here demonstrates that the percentage fee sought is fair and reasonable.

C. Alternatively, the Court May Grant the Requested Attorney's Fee Under the Lodestar Method

Under Ninth Circuit standards, a District Court may also award attorneys' fees under the "lodestar" method. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998). The lodestar figure is calculated by multiplying the hours spent on the case by reasonable hourly rates for the region and attorney experience. *See, e.g., In re Bluetooth*, 654 F.3d at 941-42; *Hanlon*, 150 F.3d at 1029. The resulting lodestar figure may be adjusted upward or downward by use of a multiplier to

account for factors including, but not limited to: (i) the quality of the representation; (ii) the benefit obtained for the class; (iii) the complexity and novelty of the issues presented; and (iv) the risk of nonpayment. *Hanlon*, 150 F.3d at 1029; *see also Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir. 1975). Courts typically apply a multiplier or enhancement to the lodestar to account for the substantial risk that class counsel undertook by accepting a case where no payment would be received if the lawsuit did not succeed. *Vizcaino*, 290 F.3d at 1051.

1. Counsel expended a reasonable number of hours at a reasonable hourly rate

Class Counsel and Plaintiffs' Counsel expended a reasonable number of hours at a reasonable hourly rate. Plaintiff counsel's declarations describe the extensive work performed in connection with this litigation since its inception. Counsel carefully coordinated its work throughout this litigation to avoid any internal duplication of effort, and was thereby able to work very efficiently. Wade Decl. ¶ 11. To support this request, Class Counsel and Plaintiffs' Counsel are separately submitting billing summaries showing what work was done and by whom. *Id.* at ¶ 36-52; *see also* Oster Decl. at ¶¶ 8-26; Williams Decl. at ¶¶ 8-15; Casey Decl. at ¶¶ 8-17; Sheehan Decl. at ¶¶ 8-17; Harrelson Decl. at ¶¶ 8-11, 13, 15; and, Zbrzezny Decl. ¶¶ 7-24. These records confirm the efficient billing.

The number of hours expended by Class Counsel and Plaintiffs' Counsel is also extremely reasonable given the complications involved in litigating this matter. *See* Wade Decl. at ¶¶ 36-52 (summarizing hours expended litigating this matter). As the procedural history indicates, this matter was resolved only after a multi-state litigation strategy which involved, *inter alia*, bringing claims against various retailers (with which Monsanto had indemnity clauses) to exert settlement pressure on the Defendant. Plaintiffs engaged experts, had several rounds of pleadings, and participated in protracted settlement negotiations in order to achieve this result for the Class.

Plaintiff counsel's hourly rates, ranging between \$350 and \$795, are also within "the prevailing market rates in the relevant community." *Van Skike v. Dir., Off. of Workers' Comp. Programs*, 557 F.3d 1041, 1046 (9th Cir. 2009) (quotations omitted). *See, e.g., In re Nat'l*

Collegiate Athletic Ass'n Athletic Grant-in-Aid Cap Antitrust Litig., No. 14-2541, 2017 WL 6040065, at *8-9 (N.D. Cal. Dec. 6, 2017), *aff'd*, 768 Fed App'x 651 (9th Cir. 2019) (finding rates between \$295 and \$1035 are “well within the range of \$200 to \$1,080 charged by attorneys in California in 2015”); *see also In re High-Tech Emp. Antitrust Litig.*, No. 11-2509, 2015 WL 5158730, at *9 (N.D. Cal. Sept. 2, 2015) (finding attorney rates of \$310 to \$975 and paralegal rates of \$190 to \$430 were market in 2015).

2. The *Hanlon* factors support the reasonableness of the fee request and lodestar multiplier

The lodestar analysis is not limited to the simple mathematical calculation of Plaintiff counsel's fee. *See Morales v. City of San Rafael*, 96 F.3d 359, 363-64 (9th Cir. 1996). Rather, Plaintiff counsel's actual lodestar may be enhanced according to those factors that have not been “subsumed within the initial calculation of hours reasonably expended at a reasonable rate.” *Hensley v. Eckerhart*, 461 U.S. 424, 434 n.9 (1983) (citation omitted); *see also Morales*, 96 F.3d at 364.

Here, Plaintiff counsel is requesting an award resulting in a modest 1.4 multiplier. This is well within the range typically seen in the Ninth Circuit. In a historical review of numerous class action settlements, the Ninth Circuit found that lodestar multipliers normally range from 0.6 to 19.6, with most (83%) falling between 1 and 4. *See Vizcaino*, 290 F.3d at 1051, n.6; *see also* NEWBERG ON CLASS ACTIONS § 14:03 (3d ed. 1992) (recognizing that multipliers of 1 to 4 are frequently awarded). In considering the reasonableness of attorneys' fees and any requested multiplier, the Ninth Circuit has directed district courts to consider the time and labor required, the novelty and complexity of the litigation, the skill and experience of counsel, the results obtained, and awards in similar cases. *Kerr*, 526 F.2d at 70; *Blum v. Stenson*, 465 U.S. 886, 898-900 (1984).

Further, the *Hanlon* factors overwhelmingly support the reasonableness of the requested fee and modest multiplier. With respect to the four *Hanlon* factors, rather than repeat previous argument, Plaintiffs respectfully refer the Court to its analysis of the (nearly identical) *Vizcaino* factors. *See supra* § III(B)(2)(c).

IV. CLASS COUNSEL SHOULD RECOVER \$210,888.10 IN REASONABLE AND NECESSARY LITIGATION EXPENSES

The Ninth Circuit allows recovery of litigation expenses in the context of a class action settlement. *See Staton*, 327 F.3d at 974. Class Counsel is entitled to reimbursement for standard out-of-pocket expenses that an attorney would ordinarily bill a fee-paying client. *See, e.g., Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994). These expenses include court fees, mediation fees, printing costs, legal research costs, expert fees, and other related expenses. Wade Decl. at ¶¶ 26-27. Here, Class Counsel and Plaintiffs' Counsel incurred out-of-pocket costs and expenses in the aggregate amount of \$210,888.10 in prosecuting this litigation on behalf of the Class. Wade Decl. at ¶ 28; Oster Decl. at ¶¶ 27-34; Williams Decl. at ¶¶ 16-18; Casey Decl. at ¶¶ 18-19; Harrelson Decl. at ¶¶ 12, 14. Notably, the majority of these costs incurred at expert fees totaling \$188,561. Wade Decl. at ¶ 28. Each of these expenses was necessary and reasonably incurred to bring this case to a successful conclusion, and they reflect market rates for various categories of expenses incurred. *Id.* at ¶ 30.

V. THE REQUESTED SERVICE AWARDS ARE FAIR AND REASONABLE

The Court should grant \$40,000 in service awards to the Plaintiffs (\$5,000 for each Class Representative). Plaintiffs have provided declarations supporting the service awards they intend to seek in light of their contribution to the ultimate resolution of this case. See Guidance § 7; *see also* Declarations of Class Representatives, ECF Nos. 14486-5 through 14486-12.

As the Ninth Circuit has recognized, “incentive awards that are intended to compensate class representatives for work undertaken on behalf of a class are fairly typical in class action cases.” *In re Online DVD*, 779 F.3d at 943. Service awards “are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general.” *Rodriguez v. W. Publ’g Corp.*, 563 F.3d 948, 958-59 (9th Cir. 2009); *see also Edwards v. Nat’l Milk Producers Fed’n*, No. 11-4766, 2017 WL 3616638, at *11 (N.D. Cal. June 26, 2017) (“[s]ervice awards for class representatives are provided to encourage individuals to undertake the responsibilities of representing the class and to recognize the time and effort spent

on the case.”). Service awards are committed to the sound discretion of the trial court and should be awarded based upon the court’s consideration of, inter alia, the amount of time and effort spent on the litigation, the duration of the litigation and the degree of personal gain obtained by the class representative as a result of the litigation. *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995).

Plaintiffs have each devoted substantial time and effort to this action, including checking for and providing requested documents, participating in periodic telephone conferences and exchanging correspondence with Class Counsel and Plaintiffs’ Counsel, and reviewing and approving pleadings, including the complaint and the Settlement Agreement. *See* Gilmore Decl. at ¶ 6 (approximately 10 hours); Weeks Decl. at ¶ 7 (approximately 22 hours); Taylor Decl. at ¶ 6 (approximately 9 hours); Hanna Decl. at ¶ 6 (approximately 11 hours); Boyette Decl. at ¶ 6 (approximately 8 hours); Ezcurra Decl. at ¶ 6 (approximately 32 hours); Jewell Decl. at ¶ 6 (approximately 10 hours); Kristy Williams Decl. at ¶ 6 (approximately 9 hours). The requested service awards also fall squarely in line with amounts awarded in comparable cases. *See, e.g., China Agritech, Inc. v. Resh*, 138 S. Ct. 1800, 1811 n.7 (2018) (class representative may obtain incentive award of up to \$25,000); *In re Online DVD*, 779 F.3d 934, 943 (9th Cir. 2015) (affirming \$5,000 award); *Galeener v. Source Refrigeration & HVAC, Inc.*, No. 13-4960, 2015 WL 12977077, at *2 (N.D. Cal. Aug. 21, 2015) (Chhabria, J.) (collecting cases and holding that service awards of \$27,000, \$25,000, \$15,000, and \$2,000 were “fair and reasonable”). Accordingly, the requested Class Representative service awards should be approved.

VI. CONCLUSION

For all of the aforementioned reasons, Plaintiffs’ Motion for Attorney’s Fees, Costs, and Incentive Awards should be granted in its entirety.

Dated: October 31, 2022

/s/ Gillian L. Wade

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SCOTT GILMORE, et al.,

Plaintiffs,

vs.

MONSANTO COMPANY,

Defendant.

MDL No. 2741

Case No. 3:21-cv-08159

**DECLARATION OF GILLIAN L. WADE IN
SUPPORT OF MOTION FOR AN AWARD OF
ATTORNEYS' FEES, REIMBURSEMENT
OF COSTS AND EXPENSES, AND
INCENTIVE AWARDS FOR CLASS
REPRESENTATIVES**

Date: January 12, 2023

Time: 2:30

Place: Via Zoom Webinar

Judge: Hon. Vince G. Chhabria

I, Gillian L. Wade, declare as follows:

1. I am admitted to the bar of this state and am a partner at Milstein Jackson Fairchild & Wade, LLP (“MJFW”), Class Counsel and counsel of record for Plaintiffs Scott Gilmore, Julio Ezcurra, Sherry Hanna, James Weeks, Paul Taylor, Kristy Williams, Amanda Boyette, and Anthony Jewell. I have personal knowledge of the facts set forth in this declaration, and, if called as a witness, could and would competently testify thereto under oath.

2. This declaration is submitted in support of Plaintiff’s Motion for an Award of Attorneys’ Fees, Reimbursement of Costs and Expenses, and Incentive Awards for Class Representatives, filed concurrently herewith.

3. This action and the Related Actions allege substantially similar claims asserting violations of state consumer-protection and false-advertising statutes related to the marketing and sale of Monsanto’s Roundup® Products without warning of their alleged potential carcinogenicity and health risks. These cases include various federal and state class actions against Monsanto and retailers that sell Monsanto’s Roundup® Products, as well as individual state actions against retailers.

4. On June 21, 2022 the Court granted preliminary approval of the proposed class action settlement. ECF 14966 (the “Preliminary Approval Order”).

5. Unless otherwise specified, references to capitalized terms have the same meaning as ascribed in the Settlement Agreement and Release (the “Settlement”), which was attached to the Corrected Declaration of Gillian L. Wade filed on February 16, 2022 (“Wade MPA Dec.”). ECF 14610-1 at pages 18-105.

6. As explained in the concurrently-filed declaration of Brandon Schwartz on behalf of the Claims Administrator, following the close of the claims period on October 19th, between

227,527 and 231,413 Class Members will receive between approximately \$12.399 million to \$14.2 million in claims payments, depending on how many claimants cure the defective claim submissions. This will result in a claims rate of between 2.33% (on the low end) and 2.67% (on the high end).

7. As of the date of this filing, and assuming the instant motion is granted, the cash consideration paid by Monsanto would be between approximately \$24,727,177 and \$26,529,155, securely within the Settlement's \$23-45 million Floor / Ceiling.

8. The current amounts comprising the cash consideration are: between \$14.2 million and \$12.4 million (estimated range of payments to Class Members), \$446,449 (notice costs), \$380,513 (estimated claims administration costs), \$40,000 (total requested incentive awards), \$11.25 million (requested attorney's fees), and \$210,888.10 (sought litigation expenses).

9. Based on my understanding of the number or claims received to date, the current claims rate is between approximately 2.33% and 2.67%.¹

10. Notably, it is my understanding based on my communications with the Claims Administrator that this results in an average payment of between \$53.80 and \$61.37 per claimant.

11. I am thoroughly familiar with the quality and quantity of work done in this case by all lawyers representing Plaintiffs and the Class. I have endeavored to ensure there was no unnecessary work or duplication of effort. In the situations in which two or more attorneys participated in any matter, the participation was reasonable because of the complexity of the issues involved and the time constraints which existed. Tasks were delegated appropriately among senior attorneys, junior attorneys, and paralegals according to their complexity.

¹ The claims rate is calculated by dividing \$12.399 million and \$14.2 million by \$532 million (the cash value assuming no ceiling and a 100% claims rate).

12. As of October 28, 2022, MJFW expended 11,464.75 hours on this litigation. MJFW's lodestar fee in this case, based on current billing rates, is \$6,958,037.50. As the managing attorney supervising the litigation and delegating all tasks within my firm, I am personally aware of the work performed and billed by Ms. Avila, Mr. Castaneda, and Mr. Marin. I have used billing judgment to ensure that duplicative or unnecessary time has been excluded. The number of hours spent on various categories of activities related to each biller at MJFW is described in paragraphs 37 through 52 below.

13. Based on my co-counsel's concurrently-filed declarations in this case, I calculate that Class Counsel and Plaintiffs' Counsel have expended a total of 13,302.35 hours on this litigation for a total lodestar of \$7,947,522.50.

14. In addition to the time enumerated above, I estimate that Class Counsel will incur an additional 60-100 hours of future work in this Action handling issues that may arise with Class Notice, answering class member questions, responding to any objections, filing approval papers, preparing for and appearing at the final approval hearing, and handling any appeals.

15. To date, Class Counsel has expended \$209,750.34 in out-of-pocket expenses in connection with the prosecution of this Action. Based on my co-counsel's concurrently-filed declarations in this Action, I calculate that Class Counsel and Plaintiffs' Counsel have collectively expended a total of \$4,829.80 in out-of-pocket expenses and costs in connection with the prosecution of this Action. These costs are explained in Paragraphs 28 below.

16. The lodestar calculation for MJFW is based on MJFW's current billing rates. These rates have been determined to be reasonable by other courts in class action litigations. A sample of courts who have approved MJFW's standard billing rates and attorneys' fees as reasonable include: *Whitfield et al., v. Yes To, Inc.*, C.D. Cal. No. Case No. 2:20-cv-00763-AB-AS (approving

\$700.00 per hour for Ms. Wade, \$550.00 for Ms. Avila in 2021); *Elkies, et al., v. Johnson & Johnson Services, Inc., et al.*, C.D. Cal. No. Case No. 2:17-CV-7320-GW-JEM (approving \$700.00 per hour for Ms. Wade, \$550.00 for Ms. Avila in 2020); *In re Dollar General Motor Corp. Motor Oil Marketing and Sales Practices Litigation*, W.D. Mo., MDL 2709 (approving \$700.00 per hour for Ms. Wade, \$600.00 for Ms. Avila, and \$425.00 for Mr. Castaneda in 2021); *Barba et al., v. Shire U.S. Inc.*, S.D. Fla. No. 1:13-cv-21158-JAL (approving \$550.00 per hour for Ms. Wade and \$450.00 for Ms. Avila). In January 1, 2022 my rate increased to \$795 after being \$700 for approximately two years. Likewise, Ms. Avila's hourly rate increased to \$680 after being \$600 for approximately one year and Mr. Castaneda's increased to \$550 after being \$425 for approximately three years.

17. The hourly rates of the lawyers at MJFW who worked on this case as well as co-Class Counsel and Plaintiffs' Counsel are well within the bounds of hourly rates in this District. *See Yamagata, et al., v. Reckitt Benckiser LLC*, No. 3:17-cv-03529-VC, Dkt. No. 238, ¶15 (N.D. Cal. October 28, 2021) (Chhabria, V.) (approving hourly rates of \$215 to \$960); *Schneider v. Chipotle Mexican Grill, Inc.*, 336 F.R.D. 588, 601 (N.D. Cal. Nov. 4, 2020) (\$830 to \$1,275 for partners and \$425 to \$695 for associates); *Carlotti v. Asus Comput. Int'l*, No. 18-cv-03369-DMR, 2020 U.S. Dist. LEXIS 108917, at *15 (N.D. Cal. June 22, 2020) (\$950-\$1,025 for partners); *In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prods. Liab. Litig.*, No. 2672 CRB (JSC), 2017 U.S. Dist. LEXIS 39115 (N.D. Cal. Mar. 17, 2017) (\$275 to \$1,600 for partners, \$150 to \$790 for associates, \$80 to \$490 for paralegals). Further, based on my knowledge of the class action plaintiffs' bar nationwide, the rates charged by my firm are in line with or lower than the rates charged by other firms that handle class actions of this size and complexity. Each of the MJFW attorneys who have worked on this Action and the Related Cases has practiced for the

following number of years: Ms. Wade—19 years; Ms. Avila—14 years; Mr. Castaneda—8 years. The senior paralegal, Mr. Marin, has ten years of experience, as explained below. Based on the years and depth of experience of each of the attorneys and staff, the hourly rates of \$195 to \$795 are reasonable.

18. Below is a chart setting forth the hourly rates charged for lawyers and staff at my firm in this Action and the Related Cases. Based on my knowledge and experience, the hourly rates charged by my firm are within the range of market rates charged by attorneys of equivalent experience, skill, and expertise.

Attorneys/ Paralegal	Bar Admission	Hourly Rate	Hours	Lodestar
Gillian L. Wade (Partner)	2003	\$795	2,609	\$2,074,155.00
Sara D. Avila (Senior Associate)	2009	\$680	2,969	\$2,018,920.00
Marc A. Castaneda (Associate)	2014	\$550	4,836.75	\$2,660,212.50
David Marin (Paralegal)		\$195	1,050	\$204,750.00
TOTAL:			11,464.75	\$6,958,037.50

19. To date, Class Counsel and Plaintiff's Counsel's Lodestar is \$7,947,522.50.²

This is based on the time expended in this Action and the Related Cases as follows:

Firm	Case Name	Hourly Rate Range	Total Hours	Total Lodestar
Milstein Jackson Fairchild & Wade, LLP	<i>Ezcurra v. Monsanto</i> , No. 9:20-cv-80524 (S.D. Fla.) (" <i>Ezcurra</i> ")	\$195-\$795	2,385	\$1,459,125.00

² The Wade MPA Dec. inadvertently omitted hours for the work performed by the Law Offices of Howard W. Rubinstein for the work performed while the matters *Biddle*, *Ezcurra*, *Fagundes*, *Gregorio*, *Lamerson*, *Morley*, *Shelly*, and *Waters* were pending in Florida State Court. See the concurrently-filed Oster Dec. at for further details.

Milstein Jackson Fairchild & Wade, LLP	<i>Gilmore v. Monsanto</i> , No. 3:21-cv-08159 (N.D. Cal.) (“ <i>Gilmore</i> ”)	\$195-\$795	3,230.75	\$1,979,612.50
Milstein Jackson Fairchild & Wade, LLP	<i>Weeks v. Home Depot</i> , No. 2:19-cv-6780 (C.D. Cal.) (“ <i>Weeks</i> ”)	\$195-\$795	2,270	\$1,341,175.00
Milstein Jackson Fairchild & Wade, LLP	<i>Jewell et al v. Walmart, Inc.</i> , No. 4:19-cv-04088 (W.D. Ark.) (“ <i>Jewell</i> ”)	\$195-\$795	88	\$46,070.00
Milstein Jackson Fairchild & Wade, LLP	<i>Boyette et al v. Lowe’s Companies, Inc.</i> , No. 4:19-cv-04119 (W.D. Ark.) (“ <i>Boyette</i> ”)	\$195-\$795	56.5	\$27,480.00
Milstein Jackson Fairchild & Wade, LLP	<i>Taylor et al v. Costco Wholesale Corp.</i> , No. 20-cv-00655 (E.D. Cal.) (“ <i>Taylor</i> ”)	\$195-\$795	1,015	\$616,150.00
Milstein Jackson Fairchild & Wade, LLP	<i>Hanna et al v. Walmart Inc.</i> , No. 5:20-cv-01075 (C.D. Cal.) (“ <i>Hanna</i> ”)	\$195-\$795	1,360	\$833,100.00
Milstein Jackson Fairchild & Wade, LLP	<i>Williams et al v. Lowe’s Home Centers, LLC</i> , No. 5:20-cv-01356 (C.D. Cal.) (“ <i>Williams</i> ”)	\$195-\$795	810	\$496,125.00
Milstein Jackson Fairchild & Wade, LLP	<i>Thomas v. Costco Wholesale Corporation</i> , No. 1:19-cv-05278 (E.D. New York) (“ <i>Thomas</i> ”)	\$195-\$795	249.50	\$159,200.00
Rhodunda Williams & Kondraschow	<i>Gilmore v. Monsanto</i> , No. 3:21-cv-08159 (N.D. Cal.)	\$400	31.5	\$12,600.00
The Casey Law Firm, LLC	<i>Gilmore v. Monsanto</i> , No. 3:21-cv-08159 (N.D. Cal.)	\$700	469.7	\$328,790
Sheehan & Associates, P.C.	<i>Thomas v. Costco Wholesale Corporation</i> , No. 1:19-cv-05278 (E.D. New York)	\$350	46	\$16,100.00
Sheehan & Associates, P.C.	<i>Hanna et al v. Walmart Inc.</i> , No. 5:20-cv-01075 (C.D. Cal.)	\$350	5	\$1,750.00

Sheehan & Associates, P.C.	<i>Taylor et al v. Costco Wholesale Corp.</i> , No. 20-cv-00655 (E.D. Cal.)	\$350	5	\$1,750.00
Sheehan & Associates, P.C.	<i>Williams et al v. Lowe's Home Centers, LLC</i> , No. 5:20-cv-01356 (C.D. Cal.)	\$350	4	\$1,400.00
Law Offices of Howard Rubinstein, P.A.	<i>Biddle v. Lowe's Home Centers LLC</i> , No. 50-2019-CC-011405 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.) (" <i>Biddle</i> ")	\$750	3.2	\$2400
Law Offices of Howard Rubinstein, P.A.	<i>Ezcurra v. Monsanto</i> , No. 9:20-cv-80524 (S.D. Fla.)	\$690-\$750	212.3	\$146,625.00
Law Offices of Howard Rubinstein, P.A.	<i>Fagundes v. The Home Depot</i> , No. 0:20-cv-61035 (S.D. Fla.) (" <i>Fagundes</i> ")	\$750	3.3	\$2,475.00
Law Offices of Howard Rubinstein, P.A.	<i>Gilmore v. Monsanto</i> , No. 3:21-cv-08159 (N.D. Cal.)	\$690	126	\$86,940.00
Law Offices of Howard Rubinstein, P.A.	<i>Gregorio et al v. Home Depot U.S.A., Inc.</i> , No. CACE-21-002428 (Cty. Ct. 17th Cir. In and for Broward Cty., Fla.) (" <i>Gregorio</i> ")	\$750	2.1	\$1,575.00
Law Offices of Howard Rubinstein, P.A.	<i>Lamerson v. Walmart Stores, Inc.</i> , No. 50-2019-CC-009139 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.) (" <i>Lamerson</i> ")	\$750	2.4	\$1,800.00
Law Offices of Howard Rubinstein, P.A.	<i>Morley v. Ace Hardware Corp.</i> , No. CONO-19-010648 (Cty. Ct. 17th Cir. In and for Broward Cty., Fla.) (" <i>Morley</i> ")	\$750	3.2	\$2,400.00
Law Offices of Howard Rubinstein, P.A.	<i>Shelly v. Target Corp.</i> , No. 50-2019-CC-010718 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.) (" <i>Shelly</i> ")	\$750	3.4	\$2,550.00
Law Offices of Howard	<i>Waters v. Home Depot USA, Inc.</i> , No. 50-2019-	\$750	4.2	\$3,150.00

Rubinstein, P.A.	CC-009140 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.) (“Waters”)			
Law Offices of Howard Rubinstein, P.A.	<i>Weeks v. Home Depot</i> , No. 2:19-cv-6780 (C.D. Cal.)	\$690	84	\$57,960.00
Southern Atlantic Law Group, PLLC	<i>Ezcurra v. Monsanto</i> , No. 9:20-cv-80524 (S.D. Fla.)	\$125-\$400	390.2	\$136,830.00
Southern Atlantic Law Group, PLLC	<i>Lamerson v. Walmart Stores, Inc.</i> , No. 50-2019-9139 (Cty. Ct. 15th Cir., Fla.)	\$125-\$400	31.2	\$10,280.00
Southern Atlantic Law Group, PLLC	<i>Shelly v. Target Corp.</i> , No. 50-2019-CC-010718 (Cty. Ct. 15th Cir., Fla.)	\$125-\$400	35.9	\$12,435.00
Southern Atlantic Law Group, PLLC	<i>Biddle v. Lowe’s Home Centers LLC</i> , No. 50-2019-CC-011405 (Cty. Ct. 15th Cir., Fla.)	\$125-\$400	45.8	\$16,395.00
Southern Atlantic Law Group, PLLC	<i>Morley v. Ace Hardware Corp.</i> , No. CONO-19-010648 (Cty. Ct. 17th Cir., Fla.)	\$125-\$400	37.2	\$12,405.00
Southern Atlantic Law Group, PLLC	<i>Fagundes v. The Home Depot</i> , No. 20-61035 (S.D. Fla.)	\$125-\$400	48.3	\$17,670.00
Southern Atlantic Law Group, PLLC	<i>Waters v. Home Depot USA, Inc.</i> , No. 50-2019-CC-009140 (Cty. Ct. 15th Cir., Fla.)	\$125-\$400	36.8	\$13,345.00
Southern Atlantic Law Group, PLLC	<i>Gregorio et al v. Home Depot U.S.A., Inc.</i> , No. 21-2428 (Cty. Ct. 17th Cir., Fla.)	\$125-\$400	19.4	\$6,110.00
Harrelson Law Firm	<i>Jewell et al v. Walmart, Inc.</i> , No. 4:19-cv-04088 (W.D. Ark.)	\$500	111	\$55,500.00
Harrelson Law Firm	<i>Boyette et al v. Lowe’s Companies, Inc.</i> , No. 4:19-cv-04119 (W.D. Ark.)	\$500	76.5	\$38,250.00
TOTAL:			13,302.35	\$7,947,522.50

20. Thus, Class Counsel and Plaintiffs' counsel have collectively worked for 13,302.35 hours (excluding work on the fee petition) with no payment, and no guarantee of payment absent a successful outcome.

21. Given the total lodestar, this represents a blended hourly rate of less than \$600, which is well within the bounds of reasonable hourly rates in this District.

22. Twenty-five percent of the Ceiling Amount is \$11.25 million, which is a multiplier of 1.4 over the base lodestar fee.

23. I, along with MJFW attorneys Sara D. Avila and Marc Castaneda, have extensive experience litigating consumer class action matters. I have led MJFW's class action and complex litigation group for over ten years. MJFW has extensive experience in class action and complex litigation and lawyers in its class action department have served as Lead or Co-Lead Counsel in numerous class actions protecting the rights of consumers, with a particular emphasis on consumer fraud and protection matters. The backgrounds and qualifications of attorneys at MJFW who worked on this Action and the Related Cases are outlined set forth in my previously filed declaration in support of preliminary approval. *See* ECF 14610-1 at ¶¶ 22-24.

24. In addition to the attorneys at MJFW listed in my previous declaration, MJFW's senior paralegal, David Marin, has extensive experience. He has twelve years of experience at MJFW, focusing almost entirely on class action litigation. Mr. Marin earned his bachelor's degree from the University of California, Berkeley in 2009.

25. The out-of-pocket litigation expenses incurred by Class Counsel (and Plaintiffs' Counsel) are reasonable in amount and necessary for the effective and efficient prosecution of the litigation. In addition, I believe the expenses are of the type that have been charged by my firm to fee-paying clients. They are also the categories of expenses that have been awarded to my firm

and other plaintiff's counsel in other class action settlements, including in the following recent cases: *Whitfield et al., v. Yes To, Inc.*, No. 2:20-cv-00763-AB-AS (C.D. Cal. 2021); *Elkies, et al., v. Johnson & Johnson Services, Inc., et al.*, No. 2:17-CV-7320-GW-JEM (C.D. Cal. 2019); *In re Dollar General Motor Corp. Motor Oil Marketing and Sales Practices Litigation*, MDL 2709 (W.D. Mo. 2019); *Barba, et al., v. Shire U.S. Inc.*, No. 1:13-cv-21158-JAL (S.D. Fla. 2016).

26. As of October 28, 2022, Class Counsel's out-of-pocket litigation expenses are \$206,482.30:

CASE NAME	TOTAL COSTS
Court / Filing Fees	\$9,888.00
Attorney Service	\$617.90
Postage / Overnight Delivery / Messenger	\$ 909.11
Photocopying / Printing	\$ 214.75
Experts / Consultants	\$188,561.50
Online Research	\$ 44.09
Conference Calls	\$ 122.95
Mediation Fees	\$5,700.00
TOTAL	\$206,482.30

27. The following is additional information regarding these expenses:

a. Court / Filing Fees: These costs include necessary court and filing fees in connection with this Action and the Related Actions.

b. Attorney Service: These costs relate to fees paid to attorney services to file pleadings, deliver court documents as required by the courts in this Action and the Related Cases.

c. Postage/ Overnight Delivery/ Messenger: These costs relate to postage, delivery (e.g. FedEx), and messenger services.

d. Photocopying/ Printing: The requested copy costs were incurred in connection with providing in-house copies, printing case law when necessary, analyzing certain documents produced in discovery, and printing copies of documents to prepare for the motion

hearings in *Weeks* and mediation in this Action. Each time our copy machine is used, MJFW requires that a case code be entered. For each page copied or printed, my firm charges 25 cents.

e. Experts/ Consultants: This cost includes fees charged by Plaintiffs' expert economist, Dave Sharp, Ph.D., and a marketing consultant (who was not formally disclosed in litigation) retained by Class Counsel and relied upon on in prosecuting this litigation. We retained Dr. Sharp, an economic expert and formerly tenured Associate Professor of Economics and Business Advisory Council Research Professor at the University of Southern Mississippi. Dr. Sharp performed extensive research and analyzed nationwide sales data for settlement purposes to assist us with confirming and interpreting the sales data and calculating the price premium. *See* ECF 14610-1 at ¶¶7, 13, 14, and Ex. 2.

f. Conference Calls: Conference call charges were incurred to make or host conference calls in this litigation. The conference call charges are allocated to each case by punching in a case code after accessing the conference call number. The case code is mandatory to host a conference call. At the end of each billing cycle, the conference call charges are assigned to the appropriate case.

g. Online Research: PACER was used to obtain access to legal research, factual databases, and for cite-checking briefs. The expense amount detailed herein represents the out-of-pocket costs incurred by Class Counsel in connection with the use of these services in connection with this litigation.

h. Mediation Fees: These costs were paid by Class Counsel for the mediation session before retired United States Magistrate Judge Diane Welsh in February 2021.

28. As explained above and in the concurrently filed declarations of Joel Oster, M. Ryan Casey, Chandra Williams, and Steve Harrelson, the following is summary of the total costs incurred in *Gilmore* and the Related Actions, per case, with any expert fees specified.³

CASE NAME	TOTAL COSTS	EXPERT FEES (if any)
<i>Weeks v. Home Depot</i>	\$12,515.82	\$10,296.50
<i>Jewell et al v. Walmart, Inc.</i>	\$789.96	
<i>Boyette et al v. Lowe's Companies, Inc.</i>	\$845.00	
<i>Thomas v. Costco Wholesale Corporation</i>	\$850.00	
<i>Ezcurra v. Monsanto</i>	\$126,785.46	\$126,515.00
<i>Taylor et al v. Costco Wholesale Corp.</i>	\$488.13	
<i>Hanna et al v. Walmart Inc.</i>	\$1,506.64	
<i>Williams et al v. Lowe's Home Centers, LLC</i>	\$400.00	
<i>Gilmore v. Monsanto</i>	\$64,749.09	\$51,750.00
<i>Biddle v. Lowe's Home Centers LLC</i>	\$310.00	
<i>Ezcurra v. Monsanto (Florida State Case)</i>	\$431.00	
<i>Fagundes v. The Home Depot</i>	\$411.00	
<i>Gregorio et al v. Home Depot U.S.A., Inc.</i>	\$411.00	
<i>Lamerson v. Walmart Stores, Inc.</i>	\$310.00	
<i>Morley v. Ace Hardware Corp.</i>	\$310.00	
<i>Shelly v. Target Corp.</i>	\$310.00	
<i>Waters v. Home Depot</i>	\$310.00	
TOTAL	\$210,888.10	\$188,561.50

29. These expenses were necessary to prosecute this Action and the Related Cases. They are extremely reasonable given the complications involved in litigating this matter.

30. All expenses were carefully and reasonably expended, and they reflect market rates for various categories of expenses incurred. Expense items are billed separately and such charges are not duplicative of my firm's billing rates.

31. Collectively, Class Counsel and Plaintiffs' Counsel seek reimbursement of \$210,888.10 in out-of-pocket expenses from this Action and the Related Cases. Of this expended

³ The Wade MPA Dec. previously stated the costs in *Gregorio* and *Morley* were \$822 and in \$620. However, there was an inadvertent duplication of the court fees for each case. The corrected amounts are reflected here and in Mr. Oster's concurrently filed declaration.

amount, the vast majority \$206,058.30 was paid by Class Counsel and the remaining costs \$4,829.80, as set forth in detail in their respective declarations were borne by Plaintiffs' Counsel. *See* the concurrently filed declarations of M. Ryan Casey (\$3,358), Steve Harrelson (\$800), and Chandra Williams (\$671.80).

32. Below is a summary of the out-of-pocket expenses, by category, incurred in this Action and the Related Actions by Class Counsel and Plaintiffs' Counsel.

CASE NAME	TOTAL COSTS
Court / Filing Fees	\$11,738.00
Attorney Service	\$681.70
Postage / Overnight Delivery / Messenger	\$1,017.11
Photocopying / Printing	\$638.75
Experts / Consultants	\$188,561.50
Online Research (LexisNexis / PACER)	\$2,428.55
Conference Calls	\$ 122.95
Mediation Fees	\$5,700.00
TOTAL	\$210,888.10

33. If the case had advanced through discovery, class certification, summary judgment and trial, these expenses would have increased many-fold, and counsel would have been required to advance these expenses potentially for several years of litigation through judgment and appeals.

34. My firm has been involved in every material aspect of the concerted efforts in pursuing this Action and the Related Cases in federal and state courts across the country, against both Monsanto and the retailers of Roundup®. I oversaw each aspect of the litigation and had primary responsibility for overall litigation strategy and coordinating with co-Class Counsel and Plaintiffs' Counsel. Ultimately, in addition to the categories of actions described below, I also oversaw and took the lead on negotiating the Settlement, seeking and obtaining preliminary approval of the Settlement, and overseeing the class notice and claims process following preliminary approval. Ms. Avila and Mr. Castaneda also played primary roles in this Action and

the Related Cases listed in Paragraph 5, including but not limited to the day-to-day litigation tasks and preparing for and participating in mediation. Mr. Castaneda also worked on the preliminary approval briefing and helped to oversee and monitor the class notice and claims process. In all of the cases listed in Paragraph 5, Ms. Avila, Mr. Castaneda, and I all reviewed and analyzed the Standing Orders for the assigned judges and magistrates, as well as the case-specific orders and relevant Local Rules. We also reviewed publicly available information from the personal-injury litigation and *Nat'l Ass'n of Wheat Growers v. Becerra*, No. 2:17-cv-2401 (E.D. Cal.). Ms. Avila was on maternity leave beginning July 2021, and during her absence Ryan Casey of The Casey Law Firm stepped in to help with the preliminary approval briefing and related tasks.

35. As instructed and overseen by Mr. Castaneda, Ms. Avila and myself, senior paralegal David Marin played an integral role in this Action and the Related Actions. He performed all administrative tasks necessary to effectively litigate this Action and the Related Actions. Mr. Marin conducted relevant factual research; organized thousands of documents produced in discovery by defendants Monsanto and Home Depot in *Ezcurra* and *Weeks*, respectively; formatted, and finalized documents for filing with various courts and ensured courtesy copies were delivered; formatted and served discovery requests and responses; reviewed documents; calendared deadlines; coordinated and communicated with the attorney service and the court clerks; communicated with several clients; and communicated with us regularly about litigation.

36. The total number of hours spent by professional staff at my firm on *Ezcurra* as of October 28, 2022 was 1,128 hours. The total lodestar for the professional staff on this case is \$1,461,768.75.

Attorneys/ Paralegal	Hourly Rate	Hours	Lodestar	Bar Admission
Gillian L. Wade (Partner)	\$795	491.25	\$390,543.75	2003

Sara D. Avila (Senior Associate)	\$680	770	\$523,600.00	2009
Marc A. Castaneda (Associate)	\$550	923	\$507,650.00	2014
David Marin (Paralegal)	\$195	205	\$39,975.00	
TOTALS		1128	\$1,461,768.75	

37. MJFW's time on *Ezcurra* was spent on the following categories of activities:

a. I was personally involved in drafting amended complaints, opposing the motion to dismiss (including the court-mandated supplemental briefing), and the appeal to the Eleventh Circuit in *Ezcurra*. I was also personally involved in preparing discovery responses on behalf of Mr. Ezcurra, propounding discovery on defendants, extensively preparing for and arguing plaintiff's opposition to the motion to dismiss, and preparing for mediation. I also worked with economics expert Dr. David Sharp to prepare his Rule 26(a)(2) expert report measuring class-wide damages under a price premium model (which was disclosed within the timing proscribed by Judge Middlebrook's scheduling order). I also worked closely with Mr. Ezcurra in preparing for his deposition (which was set to begin just one business day before the case was dismissed on Florida-specific safe-harbor grounds). I worked on the class certification briefing and strategy (the class certification motion was due one week after the case was dismissed). I also worked on the briefing for the Eleventh Circuit in Mr. Ezcurra's appeal following dismissal, and coordinated closely with co-counsel regarding same. I closely coordinated with Mr. Oster, Mr. Castaneda and Ms. Avila about litigation strategy to efficiently delegate and allocate responsibilities, and I had primary responsibility for communicating with defense counsel regarding all aspects of the case.

b. Ms. Avila also played a primary role in prosecuting this litigation and was also responsible for day-to-day litigation. Ms. Avila took the lead on drafting and responding to discovery and preparing Mr. Ezcurra for his deposition, and was in regular and constant

communication with Mr. Ezcurra. Ms. Avila was also involved in drafting the amended complaints, the opposition to the motion to dismiss and supplemental briefing, preparing for the hearing on the motion to dismiss, drafting, reviewing and revising the motion for class certification, communicating with experts and reviewing documents. Ms. Avila also worked on the appellate brief.

c. Mr. Castaneda also played a primary role in prosecuting this litigation and was responsible for day-to-day litigation. Mr. Castaneda took the lead on drafting complaints, conducting significant legal and factual research and took the lead on drafting the opposition to the motion to dismiss and the court-ordered supplemental briefing. Mr. Castaneda extensively prepared for and presented oral argument at the hearing on the motion to dismiss. Mr. Castaneda also participated in meeting and conferring with defense counsel; drafting and responding to discovery; preparing Mr. Ezcurra for his deposition; reviewing documents; and, contributing significantly to the appellate brief, including but not limited to conducting research, assisting with the drafting of the opening and reply briefs, and reviewing and analyzing Monsanto's responding brief.

38. The total number of hours spent by professional staff at my firm on *Gilmore* as of October 28, 2022 was 3,224.75 hours. The total lodestar for the professional staff on this case is \$1,975,883.75.

Attorneys/ Paralegal	Hourly Rate	Hours	Lodestar	Bar Admission
Gillian L. Wade (Partner)	\$795	971.25	\$772,143.75	2003
Sara D. Avila (Senior Associate)	\$680	435.5	\$296,140.00	2009
Marc A. Castaneda (Associate)	\$550	1,558	\$856,900.00	2014
David Marin (Paralegal)	\$195	260	\$50,700.00	

TOTALS	3,224.75	\$1,975,883.75	
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39. MJFW's time spent on *Gilmore* was spent on the following categories of activities:

a. I was personally involved in the drafting of the Oregon and Delaware complaints, initial proceedings in Oregon, strategy and drafting of amended pleadings in Delaware, briefing on the motion to dismiss, briefing on the motion for preliminary approval (including the motion to intervene and objections to the preliminary approval motion), and briefing the motion to transfer the Action to this Court and coordinate proceedings with the cases in the personal injury MDL. I prepared diligently for the mediation in this Action, and took the lead on settlement strategy and negotiation, including before, during and after mediation. I took the lead on negotiating, editing, and finalizing the Settlement Agreement and all amendments thereto. I took the lead with seeking and obtaining preliminary approval of the Settlement (which included a rigorous analysis, supplemental briefing, and addressing objections to the motion for preliminary approval and related motions for discovery and prepared for and argued the motion for preliminary approval) in this forum. I also regularly performed and analyzed legal and factual research, worked with local counsel to ensure local rules were followed in both Oregon and Delaware, regularly communicated with defense counsel and counsel for the class members objecting at preliminary approval (in both Delaware and California), and communicated with co-Class Counsel and Plaintiffs' Counsel. Since the Preliminary Approval Order was entered, I have been monitoring the notice and claims process, answering questions from class members, and communicating with the Claims Administrator and defense counsel about the process. Following mediation, Ms. Avila, Mr. Castaneda, and myself worked with Monsanto to solicit bids from several settlement administrators, and vetted the Settlement Administrator. Prior to notice of the settlement going out, I carefully analyzed, revised and edited the notice documents, draft claim forms, and the proposed Settlement website and was

in regular communication with the Claims Administrator.

b. Ms. Avila worked on the original and amended complaints in Oregon and Delaware and the briefing related to the motion to dismiss and the motion to transfer and coordinate proceedings. She also performed and analyzed legal and factual research, and communicated with defense counsel, co-counsel and Plaintiffs' Counsel. Since her recent return from maternity leave she has also been monitoring the claims process and communicating with the Claims Administrator.

c. Mr. Castaneda also played a primary role in prosecuting this litigation and was responsible for day-to-day litigation tasks. Mr. Castaneda took the lead on drafting complaints, and conducting legal and factual research on complex issues including, but not limited to, those related to variations in state law, preemption, multidistrict litigation and transfer, issues concerning settlement, nationwide damages calculations and class notice. He also worked on the briefing on the motion to dismiss in the Delaware action. He also had a primary role in briefing the motion to transfer and the motion for preliminary approval of the Settlement and related motions in both California and Delaware. Since the Preliminary Approval Order was entered, he has been monitoring the notice and claims process and communicating with the Claims Administrator and defense counsel about the process. Mr. Castaneda also assisted with the drafting, analysis and revision of the Settlement notice documents and took the lead on communicating with clients in regards to the Settlement Agreement and related documents, and continues to communicate with our clients about this case.

40. The total number of hours spent by professional staff at my firm on *Weeks v. Home Depot* as of October 28, 2022 was 2, 271.75 hours. The total lodestar for the professional staff on this case is \$1,342,260.00.

Attorneys/ Paralegal	Hourly Rate	Hours	Lodestar	Bar Admission
Gillian L. Wade (Partner)	\$795	420.5	\$334,297.50	2003
Sara D. Avila (Senior Associate)	\$680	645	\$438,600.00	2009
Marc A. Castaneda (Associate)	\$550	941.25	\$517,687.50	2014
David Marin (Paralegal)	\$195	265	\$51,675.00	
TOTALS		2,271.75	\$1,342,260.00	

41. MJFW's time on *Weeks* was spent on the following categories of activities:

a. I was personally involved in drafting the complaint and amended complaints, opposing the three motions to dismiss and reviewing and analyzing the orders on those motions, and the Ninth Circuit appeal following dismissal. I also participated in the comprehensive Local Rule 7-3 pre-motion conferences with defense counsel about their motions to dismiss. Additionally, I was involved with the detailed discovery-related correspondence required by C.D. Cal. Local Rule 37, analyzed factual and legal research, reviewed the draft discovery requests and responses, communicated with co-counsel and defense counsel, and reviewed documents. I also reviewed, analyzed, and revised the appellate brief filed with the Ninth Circuit following dismissal, worked closely with Mr. Oster on the appeal, and communicated directly with the Ninth Circuit mediator appointed to the *Weeks* appeal.

b. Ms. Avila handled the (pre-pandemic) in-person Rule 26(f) conference and preparing the Rule 26(f) Report. She also took the lead on responding to written discovery propounded by Home Depot, drafting discovery, corresponding with defense counsel as required by C.D. Cal. Local Rule 37, and conducting many extensive C.D. Cal. Local Rule 37 conferences of counsel regarding the perceived deficiencies with Home Depot's discovery responses and document production, even starting the process to move to compel. Ms. Avila also participated in

the comprehensive Local Rule 7-3 pre-motion conferences with defense counsel about their motions to dismiss, communicated with the client regularly (including when responding to discovery), co-counsel, and defense counsel; worked on the complaint and the amended complaints; performed and analyzed factual and legal research; worked on the oppositions to the three motions to dismiss filed and reviewed and analyzed the courts' orders on those motions; and reviewing the third-party subpoena. Ms. Avila also reviewed and revised the appellate brief filed with the Ninth Circuit following dismissal, worked with Mr. Oster on the appeal, and communicated directly with the Ninth Circuit mediator appointed to the *Weeks* appeal.

c. Mr. Castaneda drafted the complaint and amended complaints and took the lead on drafting the oppositions to the motions to dismiss, including extensive legal and factual research. Mr. Castaneda participated in the Rule 26(f) conference, the comprehensive C.D. Cal. Local Rule 7-3 pre-motion conferences with defense counsel about their motions to dismiss and contributed to the many discovery-related meet and confer letters and conferences of counsel. He also worked on responding to and drafting written discovery and assisting with research related to motions to compel. Mr. Castaneda also drafted portions of the appellate brief filed with the Ninth Circuit following dismissal, worked with Mr. Oster on the appeal, and has been the regular point of contact with the Ninth Circuit mediator appointed to the *Weeks* appeal since July 2021, continuing to keep the mediator apprised of the status of the Settlement.

42. The total number of hours spent by professional staff at my firm on *Jewell* as of October 28, 2022 was 88 hours. The total lodestar for the professional staff on this case is \$46,070.00.

Attorneys/ Paralegal	Hourly Rate	Hours	Lodestar	Bar Admission
Gillian L. Wade (Partner)	\$795	7	\$5,565.00	2003

Sara D. Avila (Senior Associate)	\$680	23.5	\$15,980.00	2009
Marc A. Castaneda (Associate)	\$550	37.5	\$20,625.00	2014
David Marin (Paralegal)	\$195	20	\$3,900.00	
TOTALS		88	\$46,070.00	

43. MJFW's time on *Jewell* was spent on the following categories of activities:

a. I reviewed the pleadings and analyzed the motions to dismiss, communicated with co-counsel and Plaintiff's counsel, and analyzed legal research. I also reviewed the Initial Scheduling Order and Final Scheduling Order and the draft Rule 26(f) Report and communicated with local counsel regarding overall litigation strategy and local rules and practice.

b. Ms. Avila worked on the amended complaint, reviewed and analyzed the motions to dismiss, communicated with co-counsel and Plaintiff's counsel, and analyzed legal research. Ms. Avila also reviewed the Initial Scheduling Order and took the lead on ensuring compliance with the deadlines. She also participated in the Rule 26(f) conference, prepared a draft of the Rule 26(f) Report, and reviewed the Final Scheduling Order.

c. Mr. Castaneda drafted the amended complaint and motion to dismiss, communicated with co-counsel and Plaintiff's counsel, and performed legal research related to Arkansas law. Mr. Castaneda also participated in the Rule 26(f) conference, prepared an unopposed motion for leave to file an amended complaint, assisted with the drafting of the Rule 26(f) Report, and reviewed and monitored the scheduling orders.

44. The total number of hours spent by professional staff at my firm on *Boyette*, as of October 28, 2022 was 56.5 hours. The total lodestar for the professional staff on this case is \$27,480.00.

Attorneys/ Paralegal	Hourly Rate	Hours	Lodestar	Bar Admission
Gillian L. Wade (Partner)	\$795	9	\$7,155.00	2003
Sara D. Avila (Senior Associate)	\$680	10	\$6,800.00	2009
Marc A. Castaneda (Associate)	\$550	17.5	\$ 9,625.00	2014
David Marin (Paralegal)	\$195	20	\$3,900.00	
TOTALS		56.5	\$27,480.00	

45. In *Boyette*, Ms. Avila, Mr. Castaneda, and I each reviewed the pleadings, analyzed factual and legal research, and communicated with co-counsel. Mr. Castaneda also communicated with Ms. Boyette.

46. The total number of hours spent by professional staff at my firm on *Taylor* as of October 28, 2022 was 1,015 hours. The total lodestar for the professional staff on this case is \$616,150.00.

Attorneys/ Paralegal	Hourly Rate	Hours	Lodestar	Bar Admission
Gillian L. Wade (Partner)	\$795	195	\$ 155,025.00	2003
Sara D. Avila (Senior Associate)	\$680	310	\$210,800.00	2009
Marc A. Castaneda (Associate)	\$550	425	\$233,750.00	2014
David Marin (Paralegal)	\$195	85	\$16,575.00	
TOTALS		1,015	\$616,150.00	

47. The total number of hours spent by professional staff at my firm on *Hanna* as of October 28, 2022 was 1,360 hours. The total lodestar for the professional staff on this case is \$833,100.00.

Attorneys/ Paralegal	Hourly Rate	Hours	Lodestar	Bar Admission
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Gillian L. Wade (Partner)	\$795	295	\$234,525.00	2003
Sara D. Avila (Senior Associate)	\$680	440	\$299,200.00	2009
Marc A. Castaneda (Associate)	\$550	500	\$275,000.00	2014
David Marin (Paralegal)	\$195	125	\$24,375.00	
TOTALS		1,360	\$833,100.00	

48. MJFW's time on *Hanna* was spent on the following categories of activities:

a. I was involved in drafting the original and amended complaints in both federal and state court (which included reviewing and analyzing one of Walmart's two motions to dismiss before amendment), and took the lead on several of the extensive meet and confers with defense counsel about their two motions to dismiss and the viability of plaintiff's claims. I also performed, reviewed, and analyzed factual and legal research, and communicated with defense counsel regularly. I prepared extensively for and appeared for the hearing on the motion to dismiss, and participated in the Rule 26(f) conference and the initial status conference and worked on the Rule 26(f) Report.

b. Ms. Avila also worked on the complaints and reviewed and analyzed both motions to dismiss. Ms. Avila worked on the opposition to Walmart's second motion to dismiss. She also prepared for and participated in the C.D. Cal. Local Rule 7-3 conferences of counsel and the Rule 26(f) conference. Ms. Avila also worked on the Rule 26(f) Report and appeared at the Initial Status Conference, and assisted with preparation for oral argument on the motion to dismiss. She also performed, reviewed, and analyzed factual and legal research.

c. Mr. Castaneda drafted the complaints and reviewed, analyzed, and briefed both motions to dismiss. He also prepared for and participated in the C.D. Cal. Local Rule 7-3 conferences of counsel and the Rule 26(f) conference. Mr. Castaneda took the lead at oral argument

on the motion to dismiss hearing, and appeared at the Initial Status Conference. He also performed, reviewed, and analyzed a significant amount of factual and legal research.

49. The total number of hours spent by professional staff at my firm on *Williams* as of October 28, 2022 was 810 hours. The total lodestar for the professional staff on this case is \$496,125.00.

Attorneys/ Paralegal	Hourly Rate	Hours	Lodestar	Bar Admission
Gillian L. Wade (Partner)	\$795	165	\$131,175.00	2003
Sara D. Avila (Senior Associate)	\$680	215	\$146,200.00	2009
Marc A. Castaneda (Associate)	\$550	380	\$209,000.00	2014
David Marin (Paralegal)	\$195	50	\$9,750.00	
TOTALS		810	\$496,125.00	

50. MJFW's time on *Williams* was spent on the following categories of activities: Ms. Avila and I were involved in drafting the original and amended complaints, opposing the motion to dismiss, and Mr. Castaneda took the lead on these activities. All three of us also performed, reviewed, and analyzed factual and legal research and participated in multiple meet and confers with defense counsel regarding the allegations. Mr. Castaneda also communicated with Mr. Williams.

51. The total number of hours spent by professional staff at my firm on *Thomas* as of October 28, 2022 was 249.5 hours. The total lodestar for the professional staff on this case is \$159,200.00.

Attorneys/ Paralegal	Hourly Rate	Hours	Lodestar	Bar Admission
Gillian L. Wade (Partner)	\$795	55	\$43,725.00	2003
Sara D. Avila	\$680	120	\$81,600.00	2009

(Senior Associate)				
Marc A. Castaneda (Associate)	\$550	54.5	\$29,975.00	2014
David Marin (Paralegal)	\$195	20	\$3,90.00	
TOTALS		249.5	\$159,200.00	

52. MJFW's time on *Thomas* was spent on the following categories of activities:

a. I was involved in reviewing, revising and editing the original and amended complaints and reviewed and analyzed both of Costco's letter motions. I also worked on the response to Costco's second letter motion for a Pre Motion Conference regarding a planned motion to dismiss the First Amended Class Action Complaint under Fed. R. Civ. P. Rule 12(b)(6) and (12)(b)(1), which required the parties to address the issues that would be raised in a motion to dismiss (Judge Cogan denied the first letter motion before we had an opportunity to file a response). I took the lead on strategizing and preparing for the pre-Motion Conference. I also performed, reviewed and analyzed factual and legal research and regularly communicated with opposing counsel and co-counsel.

b. Ms. Avila was also involved in drafting the complaints and responding to the letter motion. She also performed, reviewed and analyzed factual and legal research and communicated with opposing counsel and co-counsel. Ms. Avila also assisted with preparation for the Pre Motion Conference and worked on the motion for an extension of time regarding the schedule.

c. Mr. Castaneda took the lead in drafting the original and amended complaints and responding to the letter motion. He also conducted, reviewed, and analyzed factual and legal research relating specifically to New York's General Business Law. He also extensively prepared for and appeared at the Pre Motion Conference and communicated with opposing counsel

and co-counsel.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed on October 31, 2022 in Los Angeles, California.



Gillian L. Wade

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SARA D. AVILA (State Bar No. 263213)
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Attorneys for Plaintiffs and the proposed Settlement Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SCOTT GILMORE, et al.,

Plaintiffs,

vs.

MONSANTO COMPANY,

Defendant.

MDL No. 2741

Case No. 3:21-cv-08159

**DECLARATION OF CHANDRA J.
WILLIAMS IN SUPPORT OF MOTION
FOR AN AWARD OF ATTORNEYS' FEES,
REIMBURSEMENT OF COSTS AND
EXPENSES, AND INCENTIVE AWARDS
FOR CLASS REPRESENTATIVES**

Date: January 12, 2023

Time: 2:30

Place: Via Zoom Webinar

Judge: Hon. Vince G. Chhabria

I, Chandra J. Williams, declare as follows:

1. I am admitted to the Delaware bar and am a founding partner at Rhodunda Williams & Kondraschow (RWK), and counsel of record for Plaintiff Scott Gilmore. I have personal knowledge of the facts set forth in this declaration, and, if called as a witness, could and would competently testify thereto under oath.
2. This declaration is submitted in support of Plaintiff's Motion for an Award of Attorneys' Fees, Reimbursement of Costs and Expenses, and Incentive Awards for Class Representatives, filed concurrently herewith.
3. Unless otherwise specified, references to capitalized terms have the same meaning as ascribed in the Settlement Agreement and Release (the "Settlement"), which was attached to the Declaration of Gillian L. Wade ("Wade Decl.") filed on January 20, 2022. Dkt. No. 94-1 at pages 18-105.
4. On June 21, 2022 the Court granted preliminary approval of the proposed class action settlement. Dkt. 121 (the "Preliminary Approval Order").
5. RWK was local counsel while the case was pending in the District Court of Delaware.
6. My firm assisted with the prosecution of this Action on a contingent basis with no guarantee of recovery. My firm, along with Class Counsel, incurred 100% of the risk in pursuing this Action. My firm advanced expenses with the understanding that we would be paid a reasonable fee for our work in this Action, and receive reimbursement for expenses only if successful. My firm also passed on other employment opportunities in order to devote the time and resources necessary to pursue this Action.

7. The backgrounds and qualifications for RWK, as well as the attorneys who worked on the matter are set forth in the Firm Resume, which is attached hereto as **Exhibit 1**.

8. I have extensive experience litigating cases in the District Court of Delaware, as well as Delaware State Court and other Federal Courts. I have been practicing law for 16 years, and my practice currently focuses on civil litigation, among other areas. As local counsel for Plaintiff Gilmore while the case was pending in Delaware, I assisted Class Counsel with local issues and was responsible for ensuring all of Plaintiff's pleadings, filings, and procedural actions complied with the Local Rules for the District Court of Delaware. For example, I consulted and communicated with co-counsel and my law partner, local counsel for Monsanto, and the Court's staff; formatted and finalized pleadings and other documents; filed documents with the Court; and, performed research regarding local practices.

9. William J. Rhodunda, Jr. is a founding partner at RWK. He has a strong background in civil litigation, and before entering private practice he held several government positions. Mr. Rhodunda contributed to handling local issues in this Action while it was pending in Delaware. As local counsel for Plaintiff Gilmore while the case was pending in Delaware, Mr. Rhodunda also assisted Class Counsel with local issues and helped to ensure Plaintiff's procedural actions complied with the Local Rules for the District Court of Delaware. For example, he consulted and communicated with co-counsel and me and performed research regarding local practices.

10. I am thoroughly familiar with the quality and quantity of work done in this case while it was pending in Delaware by attorneys and professionals at RWK.

11. I believe the work expended by my firm in this litigation was reasonable and necessary considering the amount of work required to litigate this Action. This work contributed to resolving this Action. There has been no unreasonable duplication of services for which my firm

now seeks compensation. I have endeavored to ensure there was no unnecessary work or duplication of effort. In the situations in which two or more attorneys participated in any matter, the participation was reasonable because of the complexity of the issues involved and the time constraints which existed.

12. The following information regarding my firm's time and out-of-pocket expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of business. Time records were prepared by each attorney or paralegal working on the litigation. The expense records are prepared from receipts, invoices, expense vouchers, check records and other documents, and are an accurate record of the expenses. Throughout the litigation of the Action, I reviewed and approved for payment all out-of-pocket expenses. I also reviewed the printouts and backup documentation where necessary. The purpose of these reviews was to confirm the accuracy of the entries on the printouts as well as the reasonableness of the time and expenses committed to this litigation.

13. The lodestar calculation is based on my firm's current billing rates. These rates have been determined to be reasonable by other courts in class action litigations. The schedule below provides a summary of the hours expended, the resulting lodestar, and the bar passage year for each timekeeper.

14. The total number of hours spent on this litigation by professional staff at my firm on this Action as of October 1, 2022 was 31.50 hours. The total lodestar for the professional staff is \$12,600.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
William J. Rhodunda, Jr. (Partner)	5.3	\$400.00	\$2,120.00	1989
Chandra J. Williams (Partner)	26.2	\$400.00	\$10,480.00	2006
TOTALS	31.5		\$12,600.00	

15. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

16. As detailed below, my firm has incurred a total of \$671.87 in unreimbursed expenses in connection with the prosecution of this action from its inception through October 1, 2022. The expenses incurred in those cases are reflected in the books and records of my firm. These books and records are prepared from expense vouchers, receipts, invoices, check records, and other source materials and are an accurate record of the expenses incurred.

17. The out-of-pocket litigation expenses incurred by my firm are reasonable in an amount and were necessary for the effective and efficient prosecution of this Action. In addition, I believe the expenses are of a type that normally would be charged to a fee-paying client in the private legal marketplace and have been charged by my firm to fee-paying clients.

18. Below is an itemized listing of each out-of-pocket expense my firm incurred in the Action:

Expense Category	Total
Service of Process	\$63.80
Court Costs	\$500.00
Postage / Overnight Delivery / Messenger	\$108.00
TOTAL	\$671.80

I declare under penalty of perjury under the laws of the United States and the State of Delaware that the foregoing is true and correct. Executed on October 25, 2022 in Wilmington, DE.



Chandra J. Williams

EXHIBIT 1

Rhodunda Williams & Kondraschow

www.RAWLAW.com *Established 2009*

William J. Rhodunda, Jr.
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Nicholas G. Kondraschow
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Since 2009, Rhodunda, Williams & Kondraschow, LLC has provided quality legal services at reasonable rates. As a general practice law firm in Wilmington, Delaware, RAWLAW concentrates on civil litigation, real estate, family law, criminal defense, business law and landlord/tenant matters, representing individuals and businesses throughout all Delaware Courts.

SERVICES

❖ **Civil Litigation**

With cases in both the State and Federal courts, from the Justice of the Peace to Delaware Supreme Court, RAWLAW has years of experience in providing comprehensive and personal representation in a wide-array of practice areas, including:

- Business and commercial litigation
- Contract and lease disputes
- Land Use / Land Development litigation
- Insurance disputes and Personal Injury
- Class action suits
- Local Counsel

We represent a variety of clients, ranging from large corporations, small family-owned businesses to individuals. RAWLAW prosecutes and defends civil actions from the investigation stage, through trial or settlement, and including appeals.

RAWLAW understands the practical and legal aspects of all litigation. Each matter is personal to the client, and therefore it is personal to us. We handle each case based on its unique circumstances and the client's goals, and we are committed to reaching the best and most cost-effective resolution for you.

❖ **Commercial and Residential Real Estate Settlements, Refinances and Leasing**

RAWLAW has countless years of experience in real estate and provides their clients with a variety of services in the purchase, sale, refinancing or leasing of property. RAWLAW prepares and reviews Agreements of Sale, addenda, and leases, oversees the execution of

title searches to ensure clear title to real estate; satisfies mortgages and partakes in any other aspect necessary to ensure settlement occurs timely and correctly. RAWLAW has conducted hundreds of residential and commercial real estate closings and re-financings using cost-effective measures that benefit the client. Often your home is your most valuable asset, and RAWLAW will take the time and necessary steps to protect it.

RAWLAW drafts, reviews and revises commercial and residential leases for both landlords and tenants to ensure the clients' needs are met. Our experience in handling commercial and residential lease disputes provides RAWLAW with special insight in drafting, negotiating and enforcing commercial leases.

❖ **Commercial and Residential Land Development Approvals and Variances**

Because Bill was involved in the development of the New Castle County zoning and subdivision code, which is currently the governing Land Use Code in New Castle County, he has an insider perspective in handling land development approvals. Bill was County Attorney for New Castle County for many years during which time he managed the County Law Department. Bill has successfully represented clients before the Board of Adjustment of governments throughout New Castle, Kent and Sussex Counties; before the County Councils, Levy Court and other entities; and before the various Courts throughout the State. Bill has a great understanding of the approval process, and will work with you from beginning to end to ensure your project is successful.

❖ **Criminal Defense**

Bill is a former Deputy Attorney General for the State of Delaware and has handled hundreds of jury trials over the years. He knows the prosecutors and the system, and he will work tirelessly to ensure your rights are protected whether you are charged with a traffic citation, code violation, misdemeanor or felony in any part of Delaware.

❖ **Family Law**

Family matters are often emotional and trying. Chandra has handled a wide variety of cases, assisting clients in protecting their family's rights. As our client, we will remain compassionate, yet we will fight for you. RAWLAW handles a wide array of domestic relations issues including:

- Separation / Divorce
- Custody / Visitation
- Child support
- Spousal support and alimony
- Protection from abuse
- Adoptions / Guardianship
- Enforcement of separation agreements.

ATTORNEYS

❖ WILLIAM J. RHODUNDA, JR.

As a founding partner of RAWLAW, Bill's practice focuses on civil litigation and residential and commercial real estate transactions - closings and refinances, zoning issues, and plan approvals. He has extensive experience in zoning and subdivision law, real estate and regulatory matters in private practice. He also has a strong background in civil and criminal litigation, as well as government relations.

Prior to entering private practice, Bill held several government positions. He was appointed the County Attorney for New Castle County, Delaware and managed the County Law Department. In that capacity, he was extensively involved with the development of the New Castle County zoning and subdivision code, the current governing land use code in New Castle County. In addition, Bill handled legal matters relating to pending land use applications, and matters before the New Castle County Board of Adjustment and Planning Board. As County Attorney, Bill also prepared and lobbied for legislation on behalf of the County at both the state and local levels.

Bill served as the Chief Litigator for the City of Wilmington's City Solicitor's Office where he defended actions filed against the City of Wilmington. He successfully defended the City in all six cases that proceeded to trial during his tenure. He was a Deputy Attorney General for the State of Delaware, where he handled more than 60 jury trials in which he prosecuted a wide range of criminal cases, including first-degree murder, cocaine trafficking, and other major felonies.

Bill graduated from Concord High School and the University of Delaware. He received his law degree from the Dickinson School of Law. Bill is admitted to practice in all Delaware courts and Federal courts, including the United States Supreme Court.

❖ CHANDRA J. WILLIAMS

Chandra is a founding member of RAWLAW. Chandra's practice focuses on civil and domestic litigation. She has extensive experience litigating cases in each of the Delaware State Courts as well as Federal Courts. Chandra received her law degree from Widener University School of Law and her undergraduate degree from the University of Delaware. Before entering private practice, Chandra served as a Judicial Law Clerk for the Honorable William C. Carpenter, Jr. in the Superior Court for the State of Delaware for two years.

Chandra is a member of the Delaware Bar Association, the American Bar Association, The Delaware Association of Criminal Defense Lawyers, and the prestigious Richard S. Rodney Inn of Court. Chandra is licensed to practice law in Delaware, Pennsylvania, and New Jersey, and is admitted to practice in all Delaware courts, the United States District Court and the Third Circuit Court of Appeals.

❖ **NICHOLAS G. KONDRASCHOW**

Nick is a member of RAWLAW. Nick's practice focuses on business transactions and planning and civil litigation. Prior to joining RAWLAW in 2012, Nick had five years prior experience handling corporate matters at Delaware's largest corporate law firm and handling civil litigation in the Wilmington office of a national law firm. While attending law school, Nick clerked for two years for a Delaware civil litigation/criminal defense law firm.

Nick received his undergraduate degree from the University of Delaware and his law degree from the Villanova University School of Law where he graduated magna cum laude and was a Dean's Merit Scholar. He is admitted to practice in the State and Federal courts of Delaware.

❖ **BRIAN T. MURRAY, Of Counsel**

Brian joined the firm in an of counsel capacity on October 1, 2018. Prior to that he was a sole practitioner for 25 years with an office in Newark. Brian's practice focuses on residential and commercial real estate transactions whether purchasing, refinancing or selling. He has extensive experience representing real estate investors and in sheriff Sales in all three counties. He also has a strong background in Landlord/Tenant law.

Prior to entering private practice, Brian was an Assistant City Solicitor for the City of Wilmington where he worked with the Departments of Real Estate and Housing, Finance and Commerce. He was also a Deputy Attorney General and prosecuted criminal cases in the Municipal Court. As Assistant City Solicitor, he was involved on helping to bring numerous businesses to the City of Wilmington and was the City's attorney for the Tour DuPont bike race as well as the building of the Daniel S. Frawley Stadium for the Wilmington Blue Rocks.

Brian graduated from St. Marks High School and the University of Delaware. He received his law degree from Western New England University. He is admitted to practice in all Delaware courts and the United States District Court.

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Attorneys for Plaintiffs and the proposed Settlement Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SCOTT GILMORE, et al.,

Plaintiffs,

vs.

MONSANTO COMPANY,

Defendant.

MDL No. 2741

Case No. 3:21-cv-08159

**DECLARATION OF JOEL OSTER IN
SUPPORT OF MOTION FOR AN AWARD
OF ATTORNEYS' FEES, REIMBURSEMENT
OF COSTS AND EXPENSES, AND
INCENTIVE AWARDS FOR CLASS
REPRESENTATIVES**

Date: January 12, 2023

Time: 2:30

Place: Via Zoom Webinar

Judge: Hon. Vince G. Chhabria

I, Joel Oster, declare as follows:

1. I am admitted to this court *pro hac vice* and admitted to the bar in Kansas, Missouri, and Florida. I am of counsel at the Law Offices of Howard Rubenstein, P.A. (“LOHR”). I am counsel of record for Plaintiffs Scott Gilmore, Julio Ezcurra, and James Weeks, and I was also appointed Class Counsel, along with counsel at Milstein Jackson Fairchild and Wade, LLP, by this Court as part of the Settlement in this Action. I have personal knowledge of the facts set forth in this declaration, and, if called as a witness, could and would competently testify thereto under oath.

2. This declaration is submitted in support of Plaintiff’s Motion for an Award of Attorneys’ Fees, Reimbursement of Costs and Expenses, and Incentive Awards for Class Representatives, filed concurrently herewith.

3. Unless otherwise specified, references to capitalized terms have the same meaning as ascribed in the Settlement Agreement and Release (the “Settlement”), which was attached to Corrected Declaration of Gillian L. Wade filed on February 16, 2022 (“Wade MPA Dec.”). Dkt. No. 102-1.

4. On June 21, 2022 the Court granted preliminary approval of the proposed class action settlement. Dkt. 121 (the “Preliminary Approval Order”).

5. I am counsel of record for the plaintiffs in the following Related Cases: *Ezcurra v. Monsanto*, No. 9:20-cv-80524 (S.D. Fla.) (“Ezcurra”), *Gilmore v. Monsanto*, No. 3:21-cv-08159 (N.D. Cal.) (“Gilmore” or “this Action”), and *Weeks v. Home Depot*, No. 2:19-cv-6780 (C.D. Cal.) (“Weeks v. Home Depot”). LOHW was also counsel for the plaintiffs in the following Related Cases while they were pending in Florida State Court: *Biddle v. Lowe’s Home Centers LLC*, No. 50-2019-CC-011405 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.), *Gregorio et al v. Home Depot U.S.A., Inc.*, No. CACE-21- 002428 (Cty. Ct. 17th Cir. In and for Broward Cty., Fla.),

Lamerson v. Walmart Stores, Inc., No. 50-2019-CC-009139 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.), *Morley v. Ace Hardware Corp.*, No. CONO-19-010648 (Cty. Ct. 17th Cir. In and for Broward Cty., Fla.), *Shelly v. Target Corp.*, No. 50-2019-CC-010718 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.), and *Waters v. Home Depot*, No. 50-2019-CC-009140 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.).

6. LOHWR assisted with the prosecution of the Related Cases listed in paragraph 5 and in this Action on a contingent basis with no guarantee of recovery. LOHWR, along with co-Class Counsel, incurred 100% of the risk in pursuing those cases. LOHWR advanced expenses with the understanding that we would be paid a reasonable fee for our work in the Related Cases and receive reimbursement for expenses only if successful. LOHWR also passed on other employment opportunities in order to devote the time and resources necessary to pursue these Related Cases.

7. I have extensive experience in appellate matters and complex litigation in federal courts. *See Galloway v. Town of Greece*, 572 U.S. 565 (2014), reversing 681 F.3d 20 (2d Cir. 2012), reversing 732 F. Supp.2d 195 (W.D.N.Y. 2010); *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. ___ (2017), reversing 788 F.3d 779 (8th Cir. 2015), reversing 976 F.Supp.2d 1137 (W.D.Mo. 2013); *EEOC v. Hosanna-Tabor Evangelical Lutheran Church and School*, (E.D.Mi 2009); *Word of Life Church of El Paso v. State Farm Lloyds*, Case No. 18-50108 (5th Cir. Mar. 22, 2019); *Wigg v. Sioux Falls School District*, 382 F.3d 807 (8th Cir. 2004); *Roach v. Stouffer*, 560 F.3d 860 (8th Cir. 2009); *Green v. Haskell County Board of Commissioners*, 568 F.3d 784 (10th Cir. 2009); *Felix v. The City of Bloomfield, New Mexico*, 269 F.Supp.3d 1133 (D.N.M. 2014), *Adler v. Duval County Sch. Bd.*, 250 F.3d 1330 (11th Cir. 2001). Further details about my background and qualifications are set forth in paragraphs 11 through 13 of the Declaration of Joel

Oster in Support of Motion for Preliminary Approval of Class Action Settlement and for Certification of Class for Purposes of Settlement, which was filed in this Action on January 20, 2022. *See* Dkt. No. 14486-2.

8. I was involved in various aspects of *Ezcurra*, *Weeks*, and this Action, though the majority of my time was spent working on appellate issues. In particular, in *Ezcurra* and *Weeks v. Home Depot*, I was responsible for ensuring all of the filings and procedural actions complied with the Local Rules for the Eleventh and Ninth Circuits, respectively; took the lead on briefing the appeals; reviewing the district court records to ascertain best appellate strategies, researching the legal issues presented throughout the country in preparation for a circuit split if needed, communicated with the appellate courts; formatted and filed documents with the Eleventh and Ninth Circuits, organized and assembled the appendix, participated in mediation of the appellate issues in the Eleventh Circuit, and kept the court apprised of the status of the settlement and the efforts to get the settlement approved. In this Action, I reviewed the pleadings; performed legal research; assisted in drafting and editing the pleadings concerning possible appellate challenge, prepared for and attended mediation; worked with co-Class Counsel on matters related to the Settlement; reviewed and edited the drafts of the settlement agreement; and monitored the claims process.

9. LOHWR also handled the litigation in *Biddle*, *Ezcurra* (state case), *Fagundes*, *Gregorio*, *Lamerson*, *Morley*, *Shelly*, *Waters* while they were pending in Florida state court. LOHWR's work on these cases included communicating with the clients; performing investigative and factual research; drafting and reviewing the pleadings; and, communicating with defense counsel.

10. I am thoroughly familiar with the quality and quantity of work done in this case by attorneys and professionals at Law Offices of Howard Rubinstein, P.A.. I have endeavored to ensure there was no unnecessary work or duplication of effort.

11. I believe the work expended by LOHWR in this Action and the Related Cases listed in paragraph 5 was reasonable and necessary considering the amount of work required to litigate them. This work contributed to resolving this Action. There has been no unreasonable duplication of services for which LOHWR and my co-Class Counsel now seek compensation. In the situations in which two or more attorneys participated in any matter, the participation was reasonable because of the complexity of the issues involved and the time constraints which existed.

12. The following information regarding LOHWR's time and out-of-pocket expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of business. Time records were prepared by each attorney or paralegal working on the litigation. The expense records are prepared from receipts, invoices, expense vouchers, check records and other documents, and are an accurate record of the expenses. During the litigation of the Related Cases in which LOHWR was involved, I reviewed the payment of all out-of-pocket expenses. I also reviewed the printouts and backup documentation where necessary. The purpose of these reviews was to confirm the accuracy of the entries on the printouts as well as the reasonableness of the time and expenses committed to the Related Cases listed in paragraph 5.

13. LOHWR's time on *Lamerson, Shelly, Biddle, Moreley, Fagundes, Waters, and Gregorio* while they were pending in Florida State Court were inadvertently omitted from the summary of hours in the Wade MPA Dec., and have been added below. This results in an additional 24.1 hours of time spent by LOHWR's principal/founder, Howard W. Rubinstien, at the hourly rate of \$750.00 for a total of \$18,075.

14. The lodestar calculation is based on the firm's current billing rates.

15. The total number of hours I spent on *Weeks* as of October 26, 2022 was 84 hours.

The total lodestar for LOHWR on *Weeks* is \$57,960.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Joel Oster	84	\$690	\$57,960.00	1998
TOTALS	84		\$57,960.00	

16. The total number of hours I spent on *Ezcurra* as of October 26, 2022 was 210 hours.

The total lodestar for LOHWR on *Ezcurra* is \$144,900.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Joel Oster	211	\$690	\$145,590.00	1998
TOTALS	211		\$144,900.00	

17. The total number of hours I spent on this Action as of October 26, 2022 was 126 hours.

The total lodestar for LOHWR on this Action is \$86,940.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Joel Oster	126	\$690	\$86,940.00	1998
TOTALS	126		\$86,940.00	

18. The total number of hours spent on *Biddle* by professional staff at the firm as of October 26, 2022 was 3.2 hours. The total lodestar for LOHWR on *Biddle* is \$2,400.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Howard W. Rubinstein	3.2	\$750	\$2,400	1978

(Partner)				
TOTALS	3.2		\$2,400	

19. The total number of hours spent on *Ezcurra* during the state court proceedings by professional staff at the firm as of October 26, 2022 was 2.3 hours. The total lodestar for LOHWR on *Ezcurra* is 1,725.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Howard W. Rubinstein (Partner)	2.3	\$750	\$1,725	1978
TOTALS	2.3		\$1,725	

20. The total number of hours spent on *Fagundes* by professional staff at the firm as of October 26, 2022 was 3.3 hours. The total lodestar for LOHWR on *Fagundes* is \$2,475.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Howard W. Rubinstein (Partner)	3.3	\$750	\$2,475	1978
TOTALS	3.3		\$2,475	

21. The total number of hours spent on *Gregorio* by professional staff at the firm as of October 26, 2022 was 2.1 hours. The total lodestar for LOHWR on *Gregorio* is \$1,575.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Howard W. Rubinstein (Partner)	2.1	\$750	\$1,575	1978
TOTALS	2.1		\$1,575	

22. The total number of hours spent on *Lamerson* by professional staff at the firm as of October 26, 2022 was 2.4 hours. The total lodestar for LOHWR on *Lamerson* is \$1,800.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Howard W. Rubinstein (Partner)	2.4	\$750	\$1,800	1978
TOTALS	2.4		\$1,800	

23. The total number of hours spent on *Morley* by professional staff at the firm as of October 26, 2022 was 3.2 hours. The total lodestar for LOHWR on *Morley* is \$2,400.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Howard W. Rubinstein (Partner)	3.2	\$750	\$2,400	1978
TOTALS	3.2		\$2,400	

24. The total number of hours spent on *Shelly* by professional staff at the firm as of October 26, 2022 was 3.4 hours. The total lodestar for LOHWR on *Shelly* is \$2,550.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Howard W. Rubinstein (Partner)	3.4	\$750	\$2,550	1978
TOTALS			\$2,550	

25. The total number of hours spent on *Waters* by professional staff at the firm as of October 26, 2022 was 4.2 hours. The total lodestar for LOHWR on *Waters* is \$3,150.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Howard W. Rubinstein (Partner)	4.2	\$750	\$3,150	1978
TOTALS	4.2		\$3,150	

26. LOHWR's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in LOHWR's billing rates. Expenses incurred by Class Counsel are detailed in the concurrently-filed declaration of co-Class Counsel, Gillian Wade.

27. Below is an itemized listing of the out-of-pocket expense the firm incurred in *Biddle v. Lowe's Home Centers LLC*:

Expense Category	Total
Court Filing Fees	\$310.00
TOTAL	\$310.00

28. Below is an itemized listing of the out-of-pocket expense my firm incurred in the *Ezcurra v. Monsanto* (Florida State Case):

Expense Category	Total
Court Filing Fees	\$431.00
TOTAL	\$431.00

29. Below is an itemized listing of the out-of-pocket expense my firm incurred in *Fagundes v. The Home Depot*:

Expense Category	Total
Court Filing Fees	\$411.00
TOTAL	\$411.00

30. The Wade MPA Declaration stated that the costs incurred in *Gregorio et al v. Home Depot U.S.A., Inc.* were \$822. However, upon review it appears that there was an inadvertent duplication, and the correct itemized listing of the out-of-pocket expense the firm incurred in that case is reflected below:

Expense Category	Total
Court Filing Fees	\$411.00
TOTAL	\$411.00

31. Below is an itemized listing of the out-of-pocket expense the firm incurred in *Lamerson v. Walmart Stores, Inc.*:

Expense Category	Total
Court Fees	\$310.00
TOTAL	\$310.00

32. The Wade MPA Declaration stated that the costs incurred in *Morley v. Ace Hardware Corp* were \$620. However, upon review it appears that there was an inadvertent duplication, and the correct itemized listing of the out-of-pocket expense the firm incurred in that case is reflected below:

Expense Category	Total
Court Fees	\$310.00
TOTAL	\$310.00

33. Below is an itemized listing of the out-of-pocket expense the firm incurred in *Shelly v. Target Corp.*:

Expense Category	Total
Court Fees	\$310.00
TOTAL	\$310.00

34. Below is an itemized listing of the out-of-pocket expense the firm incurred in *Waters v. Home Depot*:

Expense Category	Total
Court Fees	\$310.00
TOTAL	\$310.00

I declare under penalty of perjury under the laws of the United States and the State of Kansas that the foregoing is true and correct. Executed on October 27, 2022 in Shawnee, Kansas



Joel Oster

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Attorneys for Plaintiffs and the proposed Settlement Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SCOTT GILMORE, et al.,

Plaintiffs,

vs.

MONSANTO COMPANY,

Defendant.

MDL No. 2741

Case No. 3:21-cv-08159

**DECLARATION OF LYDIA STURGIS
ZBRZEZNJ IN SUPPORT OF MOTION FOR
AN AWARD OF ATTORNEYS' FEES,
REIMBURSEMENT OF COSTS AND
EXPENSES, AND INCENTIVE AWARDS
FOR CLASS REPRESENTATIVES**

Date: January 12, 2023

Time: 2:30

Place: Via Zoom Webinar

Judge: Hon. Vince G. Chhabria

I, Lydia Sturgis Zbrzezni, declare as follows:

1. I am admitted to the Florida bar and am a Managing Member at Southern Atlantic Law Group, PLLC, and counsel for several plaintiffs in the Related Cases, as specified in paragraph 5 below. I have personal knowledge of the facts set forth in this declaration, and, if called as a witness, could and would competently testify thereto under oath.

2. This declaration is submitted in support of Plaintiff's Motion for an Award of Attorneys' Fees, Reimbursement of Costs and Expenses, and Incentive Awards for Class Representatives, filed concurrently herewith.

3. Unless otherwise specified, references to capitalized terms have the same meaning as ascribed in the Settlement Agreement and Release (the "Settlement"), which was attached to the Corrected Declaration of Gillian L. Wade ("Wade Decl.") filed on February 16, 2022 ("Wade Dec."). Dkt. No. 102-1.

4. On June 21, 2022 the Court granted preliminary approval of the proposed class action settlement. Dkt. 121 (the "Preliminary Approval Order").

5. I am an attorney for the plaintiffs in the following Related Cases: *Biddle v. Lowe's Home Centers LLC*, No. 50-2019-CC-011405 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.) ("*Biddle*"); *Ezcurra v. Monsanto*, No. 9:20-cv-80524 (S.D. Fla.) ("*Ezcurra*"); *Fagundes v. The Home Depot*, No. 0:20-cv-61035 (S.D. Fla.) ("*Fagundes*"); *Gregorio et al v. Home Depot U.S.A., Inc.*, No. CACE-21- 002428 (Cty. Ct. 17th Cir. In and for Broward Cty., Fla.) ("*Gregorio*"); *Lamerson v. Walmart Stores, Inc.*, No. 50-2019-CC-009139 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.) ("*Lamerson*"); *Morley v. Ace Hardware Corp.*, No. CONO-19-010648 (Cty. Ct. 17th Cir. In and for Broward Cty., Fla.) ("*Morley*"); *Shelly v. Target Corp.*, No. 50-2019-CC-

010718 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.) (“*Shelly*”); and, *Waters v. Home Depot*, No. 50-2019-CC-009140 (Cty. Ct. 15th Cir. In and for Palm Beach Cty., Fla.) (“*Waters*”).

6. The backgrounds and qualifications from the Southern Atlantic Law Group, PLLC attorneys who worked on the matter are set forth in the Firm Resume, which is attached hereto as **Exhibit 1**.

7. My firm was involved in the Related Cases listed in paragraph 5. As set forth above, I am a Managing Member of my firm, and was responsible for the tasks in each matter that are outlined below.

8. Nicholas Zbrzezny is a Managing Member at Southern Atlantic Law Group, PLLC also worked on prosecuting *Ezcurra* and *Fagundes*, as described below.

9. Kara Hatmaker is a paralegal at Southern Atlantic Law Group, PLLC also played a primary role in prosecuting the cases listed in Paragraph 5 above. Ms. Hatmaker graduated from the University of North Florida in 2010, and has been a paralegal for over five years. She was responsible for assisting with discovery, compilation of exhibits for court filings, ensuring all court-filings were calendared appropriately and communicated to all counsel for Plaintiffs, and ensured that the necessary filings were served and/or filed within the applicable deadlines.

10. I am thoroughly familiar with the quality and quantity of work done by attorneys and professionals at Southern Atlantic Law Group, PLLC in the Related Actions listed in Paragraph 5 above. I have endeavored to ensure there was no unnecessary work or duplication of effort.

11. I believe the work expended by my firm in these Related Actions was reasonable and necessary considering the amount of work required to litigate in them. This work contributed

to resolving this Action. There has been no unreasonable duplication of services for which my firm and Class Counsel now seek compensation.

12. The following information regarding my firm's time is taken from time records prepared and maintained by the firm in the ordinary course of business. Time records were prepared by each attorney or paralegal working on the litigation.

13. My firm represented the plaintiffs in *Biddle, Gregorio, Lamerson, Morley, Shelly, Waters*. In those cases, I took the lead in drafting pleadings; communicating with co-counsel; addressing the removal to federal court; communicating with opposing counsel in the removal proceedings; preparing the motions for remand; handling all filings and deadlines for these cases once we were in federal court; reviewing orders remanding the matters back to state court and ensuring the matter was appropriately remanded under the order. Additionally, in *Fagundes* Mr. Zbrzeznj's also helped draft pleadings; handled issues related to responding to the Notice of Removal; communicated with opposing counsel in the removal proceedings; worked on the motion for remand; and, handled filings and deadlines in federal court.

14. The total number of hours spent by professional staff at my firm on *Biddle* as of October 19, 2022 was 45.8 hours. The total lodestar for the professional staff is \$16,395.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Lydia Sturgis Zbrzeznj (Managing Member)	38.8	\$400.00	\$15,520.00	2012
Kara Hatmaker (Paralegal)	7	\$125.00	\$875.00	N/A
TOTALS	45.8		\$16,395.00	

15. In *Ezcurra* my firm was counsel of record for the plaintiff and I was involved in nearly every aspect of the litigation. Mr. Zbrzeznj and I performed a number of tasks in that case,

including: performing legal research, drafting pleadings, communicating with Mr. Ezcurra, opposing counsel, and co-counsel; drafting discovery requests and responses to discovery propounded on the plaintiff; ensuring compliance with court deadlines; and, drafting subpoenas.

16. The total number of hours spent by professional staff at my firm on *Biddle* as of October 19, 2022 was 45.8 hours. The total lodestar for the professional staff is \$16,395.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Lydia Sturgis Zbrzezni (Managing Member)	38.8	\$400.00	\$15,520.00	2012
Kara Hatmaker (Paralegal)	7	\$125.00	\$875.00	N/A
TOTALS	45.8		\$16,395.00	

17. The total number of hours spent by professional staff at my firm on *Ezcurra* as of October 19, 2022 was 390.2 hours. The total lodestar for the professional staff is \$136,830.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Lydia Sturgis Zbrzezni (Managing Member)	272.2	\$400.00	\$108,880.00	2012
Nicholas Zbrzezni (Managing Member)	48	\$400.00	\$19,200.00	2012
Kara Hatmaker (Paralegal)	70	\$125.00	\$8,750.00	N/A
TOTALS	390.2		\$136,830.00	

18. The total number of hours spent by professional staff at my firm on *Fagundes* as of October 19, 2022 was 48.3 hours. The total lodestar for the professional staff is \$17,670.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Lydia Sturgis Zbrzezni (Managing Member)	36.2	\$400.00	\$14,480.00	2012
Nicholas Zbrzezni (Managing Member)	6.1	\$400.00	\$2,440.00	2012
Kara Hatmaker	6	\$125.00	\$750.00	N/A

(Paralegal)				
TOTALS	48.3		\$17,670.00	

19. The total number of hours spent by professional staff at my firm on *Gregorio* as of October 19, 2022 was 19.4 hours. The total lodestar for the professional staff is \$17,670.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Lydia Sturgis Zbrzezni (Managing Member)	13.4	\$400.00	\$5,360.00	2012
Kara Hatmaker (Paralegal)	6	\$125.00	\$750.00	N/A
TOTALS	19.4		\$6,110.00	

20. The total number of hours spent by professional staff at my firm on *Lamerson* as of October 19, 2022 was 31.2 hours. The total lodestar for the professional staff is \$10,280.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Lydia Sturgis Zbrzezni (Managing Member)	23.2	\$400.00	\$9,280.00	2012
Kara Hatmaker (Paralegal)	8	\$125.00	\$1,000.00	N/A
TOTALS	31.2		\$10,280.00	

21. The total number of hours spent by professional staff at my firm on *Morley* as of October 19, 2022 was 37.2 hours. The total lodestar for the professional staff is \$12,405.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Lydia Sturgis Zbrzezni (Managing Member)	28.2	\$400.00	\$11,280.00	2012
Kara Hatmaker (Paralegal)	9	\$125.00	\$1,125.00	N/A
TOTALS	37.2		\$12,405.00	

22. The total number of hours spent by professional staff at my firm on *Shelly* as of October 19, 2022 was 35.9 hours. The total lodestar for the professional staff is \$12,435.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Lydia Sturgis Zbrzezni (Managing Member)	28.9	\$400.00	\$11,560.00	2012
Kara Hatmaker (Paralegal)	7	\$125.00	\$875.00	N/A
TOTALS	35.9		\$12,435.00	

23. The total number of hours spent by professional staff at my firm on *Waters* as of October 19, 2022 was 36.8 hours. The total lodestar for the professional staff is \$13,345.00.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Lydia Sturgis Zbrzezni (Managing Member)	31.8	\$400.00	\$12,720.00	2012
Kara Hatmaker (Paralegal)	5	\$125.00	\$625.00	N/A
TOTALS	36.8		\$13,345.00	

24. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

I declare under penalty of perjury under the laws of the United States and the State of Florida that the foregoing is true and correct. Executed on October 28, 2022 in Winter Haven, FL.

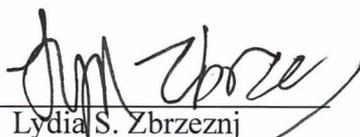

Lydia S. Zbrzezni

EXHIBIT 1

Southern Atlantic Law Group, PLLC

Lydia Sturgis Zbrzeznj was born in Fort Lauderdale, Florida on February 21, 1984. She graduated from Florida Coastal School of Law, summa cum Laude, and was admitted to the Florida Bar in 2012. Thereafter, she immediately entered private practice, beginning with the civil litigation firm Frost Van den Boom & Smith, P.A., managed by a past Florida Bar President. Ms. Zbrzeznj's practice has involved class litigation as well as commercial, contract, products liability, and personal injury litigation. Ms. Zbrzeznj has been appointed class counsel in *Becker v. Massimo Zanetti Beverage, USA, Inc., et. al.*, Case NO. 20ph-cv00569, in the Circuit Court of Phelps County, Missouri; *Ferron v. Kraft Heinz Foods Company*, Case NO. 20-cv-62136 in the District Court for the Southern District of Florida; and *Wacker, et al. v. Mead Johnson & Company, LLC*, Case NO. 22ph-cv00808, in the Circuit Court of Phelps County, Missouri.

Ms. Zbrzeznj is admitted to practice before the courts of Florida as well as the Federal Courts for the Middle and Southern Districts of Florida and the United States Court of Appeals for the Eleventh Circuit. She is a member of the Florida Association for Women Lawyers, Polk Association for Women Lawyers, Polk County Trial Lawyers Association, Tenth Circuit Judicial Nominating Commission, and serves as the Chair for the Tenth Circuit Judicial Nominating Commission, and serves on the Florida Bar Standing Committee on Professionalism and the Florida Bar Voluntary Bar Liaison Committee.

Ms. Zbrzeznj graduated with a B.A. in government from the College of William and Mary in 2006. During college, Ms. Zbrzeznj was a four-year starter on the women's soccer team. While at Florida Coastal School of Law, Ms. Zbrzeznj was a Dean's Scholar for all six semesters of law school, served as an editor of the Florida Coastal Law Review, a research assistant, and received "book awards" in Constitutional Law I, Constitutional Law II, Criminal Procedure, Lawyers Process I & II (legal research and writing), Comprehensive Law Practice III, Florida Constitutional Law, Media Law, Sports Law Seminar, and Torts I. Ms. Zbrzeznj also received a Sport's Law Certificate and a Pro Bono Honors award, and was ranked first in her class for all six semesters of law school. Ms. Zbrzeznj was selected to speak at the Second District Court of Appeal fall 2012 induction ceremony based on her score on the July 2012 Florida bar exam.

Nicholas Thaddeus Zbrzeznj was born in Erie, Pennsylvania on November 1, 1985. He graduated from Florida Coastal School of Law, summa cum Laude, and was admitted to the Florida Bar in 2012. Thereafter, he began working as an assistant state attorney at the State Attorney's Office for the Tenth Judicial Circuit. During the majority of his time as an assistant state attorney Mr. Zbrzeznj worked in the special prosecution division, which focused on prosecuting internet crimes against children. Subsequently, Mr. Zbrzeznj entered private practice, beginning with the civil litigation firm Frost Van den Boom, P.A., managed by a past Florida Bar President. Mr. Zbrzeznj's private practice has involved class action litigation as well as complex commercial, contract, insurance, and personal injury litigation. Mr. Zbrzeznj has been appointed class counsel in *Becker v. Massimo Zanetti Beverage, USA, Inc., et. al.*, Case NO. 20ph-cv00569, in the Circuit Court of Phelps County, Missouri; *Ferron v. Kraft Heinz Foods Company*, Case NO. 20-cv-62136

in the District Court for the Southern District of Florida; and *Wacker, et al. v. Mead Johnson & Company, LLC*, Case NO. 22ph-cv00808, in the Circuit Court of Phelps County, Missouri.

Mr. Zbrzezny is admitted to practice before the courts of Florida as well as the Federal Courts for the Middle and Southern Districts of Florida. He serves as a member of the Tenth Circuit Judicial Nominating Commission and Polk County Trial Lawyers Association and is the Tenth Circuit Representative on the Florida Bar Young Lawyer's Division Board of Governors. Mr. Zbrzezny also serves on the Florida Bar Consumer Protection Law Committee.

Mr. Zbrzezny graduated with a B.S. in Business, Liberal Arts, and Science, and minors in Management Information Systems and Political Science from Pennsylvania State University in 2008 with honors. While at Penn State, Mr. Zbrzezny was selected to the Beta Gamma Sigma international honors society for collegiate schools of business and was the recipient of the Delta Sigma Pi Scholarship Key Award, as well the Penn State Evan Pugh Scholar Award for Seniors, which is given to Seniors in the upper 0.5 percent of their class. While at Florida Coastal School of Law, Mr. Zbrzezny was a Dean's Scholar for all six semesters of law school, served as an editor of the Florida Coastal Law Review, was a research assistant, and received "book awards" in Amateur Sports Law, Comprehensive Law Practice III, Contracts I, Contracts II, Evidence, Entertainment Law, Lawyering Process II (research and writing), Media Law, Professional Sports Law, Property II, Torts II, and Trusts & Estates. Mr. Zbrzezny also received a Sport's Law Certificate and a Pro Bono Honors award, and graduated with a class rank of two. Mr. Zbrzezny was selected to speak at the Florida Supreme Court fall 2012 induction ceremony based on his score on the July 2012 Florida Bar Exam.

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Attorneys for Plaintiffs and the proposed Settlement Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SCOTT GILMORE, et al.,

Plaintiffs,

vs.

MONSANTO COMPANY,

Defendant.

MDL No. 2741

Case No. 3:21-cv-08159

**DECLARATION OF M. RYAN CASEY IN
SUPPORT OF MOTION FOR AN AWARD OF
ATTORNEYS' FEES, REIMBURSEMENT
OF COSTS AND EXPENSES, AND
INCENTIVE AWARDS FOR CLASS
REPRESENTATIVES**

Date: January 12, 2023

Time: 2:30

Place: Via Zoom Webinar

Judge: Hon. Vince G. Chhabria

I, Ryan Casey, declare as follows:

1. I am admitted to the bars of Colorado, Louisiana, and Oregon, and am a founding partner at The Casey Law Firm, LLC, and counsel for Plaintiff Scott Gilmore. I have personal knowledge of the facts set forth in this declaration, and, if called as a witness, could and would competently testify thereto under oath.

2. This declaration is submitted in support of Plaintiff's Motion for an Award of Attorneys' Fees, Reimbursement of Costs and Expenses, and Incentive Awards for Class Representatives, filed concurrently herewith.

3. Unless otherwise specified, references to capitalized terms have the same meaning as ascribed in the Settlement Agreement and Release (the "Settlement"), which was attached to Corrected Declaration of Gillian L. Wade filed on February 16, 2022 ("Wade Dec."). Dkt. No. 102-1.

4. On June 21, 2022 the Court granted preliminary approval of the proposed class action settlement. Dkt. 121 (the "Preliminary Approval Order").

5. I am counsel of record for Plaintiff Scott Gilmore in the following Related Cases: *Gilmore v. Monsanto*, No. 3:19-cv-1123 (D. Or.).

6. My firm assisted with the prosecution of the Related Case listed in paragraph 5, and has continued to assist with the prosecution of Mr. Gilmore's claims in this Action on a contingent basis with no guarantee of recovery. My firm, along with Class Counsel, incurred 100% of the risk in pursuing those cases. My firm advanced expenses with the understanding that we would be paid a reasonable fee for our work in the Related Cases and receive reimbursement for expenses only if successful. My firm also passed on other employment opportunities in order to devote the time and resources necessary to pursue these Related Cases.

7. My background and qualifications are set forth in the Firm Resume, which is attached hereto as **Exhibit 1**.

8. Since May 2019, my firm has been involved in various aspects of this Action and the related *Gilmore v. Monsanto* action that was filed in District of Oregon, and subsequently re-filed in the District of Delaware and transferred to the instant court.

9. As counsel for Mr. Gilmore in the District of Oregon action, I communicated with the client, performed legal research regarding Oregon's Unfair Trade Practices Act, assisted with drafting the Complaint, reviewed and analyzed Monsanto's motion to dismiss, and performed factual and legal research in response to same. I also served as local counsel in that case, assisting Class Counsel with local issues, communicating with local defense counsel, and was responsible for ensuring all of Plaintiff's pleadings, filings, and procedural actions complied with the Local Rules for the District Court of Oregon.

10. Starting in July 2020, I took on a more active role in this Action and other related actions. In the *Ezcurra* Related Action, I was asked to perform legal research with respect to Monsanto's motion to dismiss and issues relating to class certification. I also assisted in the drafting of a putative motion for class certification as part of that research.

11. With respect to this Action, I assisted with drafting the Complaint filed in the District of Delaware, legal research related to same, and factual research relating to jurisdiction. After the motion to dismiss the amended complaint was filed, I performed legal research related to same and assisted with the drafting of the opposition brief. While Ms. Avila, one of the attorneys appointed as Class Counsel, was on maternity leave starting in July 2021, I also performed legal research and assisted with drafting with respect to motions for preliminary approval (in Delaware and in this Court and in this Court), motions to intervene (in Delaware and in this Court), the

motion to transfer to the instant Court, and objectors' motion for discovery. I also reviewed the Settlement Agreement, had discussions regarding the settlement terms with Class Counsel, and continued to communicate with Mr. Gilmore throughout the process.

12. I also performed legal research and assisted with drafting Plaintiffs' fee application – though this time is *not* included in my firm's lodestar.

13. I believe the work expended by my firm in this litigation was reasonable and necessary considering the amount of work required to litigate this and the Related Action listed in paragraph 5. This work contributed to resolving this Action.

14. The following information regarding my time and my firm's out-of-pocket expenses is taken from time and expense records prepared and maintained by the firm in the ordinary course of business. Time records were prepared by each attorney or paralegal working on the litigation. The expense records are prepared from receipts, invoices, expense vouchers, check records and other documents, and are an accurate record of the expenses. Throughout the litigation of the Related Cases in which my firm was involved, I reviewed and approved for payment all out-of-pocket expenses. I also reviewed the printouts and backup documentation where necessary. The purpose of these reviews was to confirm the accuracy of the entries on the printouts as well as the reasonableness of the time and expenses committed to the Related Case and this Action.

15. The lodestar calculation is based on the firm's current billing rates. The most recent approval of my hourly rate was \$550, which was based on my firm's 2020 hourly rate which I adjusted downward for the Western District of Missouri. *See In re: Dollar General Corp. Motor Oil Mktg. & Sales Prac. Litig.*, MDL No. 2709 at ECF No. 265-2 (W.D. Mo. filed 4/26/21) and ECF. No. 277 (W.D. Mo. filed 6/22/21) (finding hourly rate requested to be reasonable).

16. The total number of hours spent by myself on this matter as of October 25, 2022 was 469.7 hours (excluding hours spent on the fee application). Applying the hourly rate of \$700, the total lodestar is \$328,790.

17. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

18. As detailed below, my firm has incurred a total of \$3358.46 in unreimbursed expenses in connection with the prosecution of this Action and the Related Cases described above from inception through October 25, 2022. The expenses incurred in those cases are reflected in the books and records of my firm. These books and records are prepared from expense vouchers, receipts, invoices, check records, and other source materials and are an accurate record of the expenses incurred.

19. Below is an itemized listing of each out-of-pocket expense my firm incurred in the Action:

Expense Category	Total
Filing / Service of Process fees	\$550
Printing Costs (\$0.25 / page)	\$424
Legal Research (Westlaw) / PACER	\$2384.46
TOTAL	\$3358.46

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on October 25, 2022.


 M. Ryan Casey

EXHIBIT 1

THE CASEY LAW FIRM LLC

PO Box 4577
Frisco, CO 80443

(970) 372-6509
(970) 372-6482 FAX

FIRM BIOGRAPHY

The Casey Law Firm, LLC is a multi-faceted civil litigation firm headquartered in Frisco, Colorado that litigates on behalf of consumers. Founded in 2016, the firm quickly developed a national practice in the areas of class actions and complex litigation. The firm litigates cases throughout the country, in both federal and state courts, and prides itself in providing personal and professional service.

RYAN CASEY

Ryan Casey has more than 16 years of experience representing plaintiffs in the areas of consumer protection, class actions, complex litigation and insurance coverage litigation. Prior to founding the Casey Law Firm, Mr. Casey was Of Counsel to a boutique Miami litigation firm since 2011. Before that, he was an associate at an established New Orleans firm well-known for its successful representation of plaintiffs in national complex litigation and class actions. He has participated in leadership positions in numerous MDLs since beginning his career.

Mr. Casey is licensed in Colorado, Louisiana and Oregon. His national practice has led to his admission *pro hac vice* in numerous other federal or state courts, including those in Alabama, California, Connecticut, Florida, Georgia, Illinois, Maryland, Mississippi, Missouri, Pennsylvania, Texas, and New York.

Mr. Casey has authored numerous scholarly or litigation practice articles, including *What we learned from Katrina*, TRIAL MAG. at 39-43 (Oct. 2009); *Interpreting and Pleading under CAFA: A Practical Guide*, BNA CLASS ACTION LITIG. REP., Vol. 9, No. 17 (Sep. 2008); *Daubert and the Disappearing Jury Trial*, 69 PITT. L. REV. 281 (2008); *Consumer Class Actions after CAFA*, 56 DRAKE L. REV. 303 (2008), *Katrina Litigation: Defense Strategy and Implementation*, 14 A.A.J. SEC. CONNECTION (2008); *Class Actions Practice in the Wake of CAFA*, ABA SECTION OF LITIG.: CLASS ACTIONS TODAY (2008); and *Boomerang Litigation: How Convenient is Forum Non Conveniens in Transnational Litigation?*, 4 B.Y.U. INT'L. LAW & MGMT. REV. 4 (2007).

Mr. Casey graduated from the University of Oregon School of Law in 2006 and from the College of William & Mary (B.A., Philosophy) in 2000. In 2001-2002, he served in the U.S. Peace Corps in Penza, Russia. While in law school, Mr. Casey clerked for various international environmental advocacy groups, living and working in Moscow, Russia and Mérida, Venezuela.

REPRESENTATIVE CASES AND LEADERSHIP POSITIONS

Clinger et al. v. Edgewell Personal Care Brands, LLC, No. 21-1040 (D. Conn.)

The firm currently represents a putative national class of consumers who purchased ‘Banana Boat’ sunscreen products from defendants, alleging the products unlawfully contained the carcinogen benzene. The defendant’s motion to dismiss is currently pending.

In re: Dollar General Corp. Motor Oil Mktg. & Sales Prac. Litig., MDL No. 2709

The firm served as part of a litigation team representing a class of consumers who purchased obsolete motor oil from Dollar General stores across the country. The plaintiffs sought injunctive relief and damages under various state laws prohibiting deceptive and unfair trade practices. The case was settled in 2021 on a nationwide basis.

Opalka et al. v. Amalie Oil Co., No. 18-40605 (Fla. 11th Jud. Cir.)

The firm served as co-lead counsel representing a class of consumers who purchased obsolete motor oil from Amalie Oil Company throughout the country. The plaintiffs sought injunctive relief and damages under Florida’s Deceptive and Unfair Trade Practices statute. The case was settled in 2020 on a nationwide basis.

Barba et al. v. Shire U.S., Inc. et al., No. 13-21158 (S.D. Fla.)

Mr. Casey served as co-lead counsel representing a putative class of indirect purchasers of Adderall XR, a popular prescription drug used to treat attention deficit hyperactivity disorder. Plaintiffs alleged that the manufacturer of this drug, through various contrivances, illegally extended its monopoly and deprived consumers of less expensive generic substitutes. The case was settled on a nationwide basis.

Smith et al. v. Intuit, Inc., No. 12-222 (N.D. Cal.)

Mr. Casey served as co-lead counsel representing a national class of consumers who filed their taxes using TurboTax Online and paid their software fees by having it deducted from their refund (for an additional fee). Plaintiffs alleged that Intuit failed to properly disclose the additional fee, violating various California consumer protection and tax refund lending laws. The case settled on a nationwide basis.

In re: Budeprion XL Sales and Marketing Litig., MDL No. 2107

Mr. Casey’s former firm was one of many that filed suit against the manufacturers of Budeprion XL, a popular generic formulation of the anti-depressant Wellbutrin XL, alleging that the product lacked efficacy for the treatment of depression. The case was eventually centralized in the Eastern District of Pennsylvania, where it was successfully settled on behalf of a national class of consumers. Mr. Casey served as co-chair of the fact discovery committee in the MDL.

Paul v. Wine.com, Inc., No. 13-534734 (Cal. Sup. Ct.)

Mr. Casey served as co-lead counsel representing a certified national class of Wine.com customers alleging violations of California's Unfair Competition Law. The lawsuit alleged that Wine.com misrepresented the nature of its 'free shipping' membership options, and unlawfully 'auto-renewed' Class members after their membership expired. The case was settled on a nationwide basis.

GILLIAN L. WADE (State Bar No. 229124)
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Attorneys for Plaintiffs and the proposed Settlement Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SCOTT GILMORE, et al.,

Plaintiffs,

vs.

MONSANTO COMPANY,

Defendant.

MDL No. 2741

Case No. 3:21-cv-08159

**DECLARATION OF SPENCER I. SHEEHAN
IN SUPPORT OF MOTION FOR AN AWARD
OF ATTORNEYS' FEES, REIMBURSEMENT
OF COSTS AND EXPENSES, AND
INCENTIVE AWARDS FOR CLASS
REPRESENTATIVES**

Date: January 12, 2023

Time: 2:30

Place: Via Zoom Webinar

Judge: Hon. Vince G. Chhabria

I, Spencer I. Sheehan, declare as follows:

1. I am admitted to the New York State Bar and am an attorney at Sheehan & Associates, P.C., and counsel of record for Plaintiffs Sherry Hanna, Paul Taylor, and Kristy Williams. I have personal knowledge of the facts set forth in this declaration, and, if called as a witness, could and would competently testify thereto under oath.

2. This declaration is submitted in support of Plaintiff's Motion for an Award of Attorneys' Fees, Reimbursement of Costs and Expenses, and Incentive Awards for Class Representatives, filed concurrently herewith.

3. Unless otherwise specified, references to capitalized terms have the same meaning as ascribed in the Settlement Agreement and Release (the "Settlement"), which was attached to Corrected Declaration of Gillian L. Wade filed on February 16, 2022 ("Wade Dec."). Dkt. No. 102-1.

4. On June 21, 2022 the Court granted preliminary approval of the proposed class action settlement. Dkt. 121 (the "Preliminary Approval Order").

5. I am counsel of record for the plaintiffs in the following Related Cases: *Thomas v. Costco Wholesale Corporation*, No. Case No. 1:19-cv- 05278 (E.D. New York) ("*Thomas*"); *Hanna, et al. v. Walmart Inc.*, No. 5:20-cv-01075 (C.D. Cal.) ("*Hanna*"); *Taylor et al v. Costco Wholesale Corp.* No. 20-cv-00655 (E.D. Cal.) ("*Taylor*") and, *Williams, et al. v. Lowe's Home Centers, LLC*, No. 5:20-cv-01356 (C.D. Cal.) ("*Williams*").

6. My firm assisted with the prosecution of the Related Cases listed in paragraph 5 above on a contingent basis with no guarantee of recovery. My firm, along with Class Counsel, incurred 100% of the risk in pursuing those cases. My firm advanced expenses with the understanding that we would be paid a reasonable fee for our work in the Related Cases and receive

reimbursement for expenses only if successful. My firm also passed on other employment opportunities in order to devote the time and resources necessary to pursue these Related Cases.

7. I was admitted to the New York bar in 2012, and focus my practice on civil litigation, particularly cases involving consumer protection. My background and qualifications are set forth in the Firm Resume, which is attached hereto as **Exhibit 1**.

8. My firm was involved in the initial stages of the Related Cases listed in paragraph 5 above. My work in these cases included communicating with the clients; reviewing and editing the pleadings; communicating with Class Counsel regarding case strategy. I also prepared for and attended the initial status conference and motion to dismiss hearing in *Thomas*.

9. I am thoroughly familiar with the quality and quantity of work done in this case at Sheehan & Associates, P.C., as I am the only individual who worked on this case from my firm. I have endeavored to ensure there was no unnecessary work or duplication of effort.

10. I believe the work expended by my firm in this litigation was reasonable and necessary considering the amount of work required to litigate the Related Actions listed in paragraph 5 above. This work contributed to resolving this Action.

11. The lodestar calculation is based on my billing rate at the time the hours were incurred, which was \$350 per hour. My hourly rate has since increased.

12. The professional staff at my firm spent a total of 60 hours on *Thomas*, *Hanna*, *Taylor*, and *Williams*. The total lodestar for these cases is \$21,000. A breakdown of the lodestar in each case is provided below.

13. The total number of billable hours I spent on *Thomas* as of October 26, 2022 was 46 hours. The total lodestar for my firm in *Thomas* is \$16,100. My hours for this case were previously reported to be higher, but they were incorrect when I submitted them to Class Counsel

at the time of preliminary approval in this Action. This was an inadvertent mistake, and my correct lodestar is reflected below and results in a reduction of the total lodestar.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Spencer I. Sheehan (Partner)	46	\$350	\$16,100	2012
TOTALS	46	\$350	\$16,100	

14. The total number of hours I spent on as of October 26, 2022 was 5 hours. The total lodestar for my firm in *Hanna* is \$1,750.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Spencer I. Sheehan (Partner)	5	\$350	\$1750	2012
TOTALS	5	\$350	\$1750	

15. The total number of hours I spent on *Taylor* by professional staff at my firm as of October 26, 2022 was 5 hours. The total lodestar for my firm in *Taylor* is \$1,750.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Spencer I. Sheehan (Partner)	5	\$350	\$1750	2012
TOTALS	5	\$350	\$1750	

16. The total number of hours I spent on *Williams* as of October 26, 2022 was 4 hours. The total lodestar for my firm in *Williams* is \$1,400.

Attorney/ Paralegal	Hours	Rate	Lodestar	Bar Admission Year
Spencer I. Sheehan (Partner)	4	\$350	\$1400	2012
TOTALS	4	\$350	\$1400	

17. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates. I am not seeking reimbursement of any expenses in the actions listed in paragraph 5 above.

I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct. Executed on October 26, 2022 in Great Neck, NY.



Spencer I. Sheehan

EXHIBIT 1

Sheehan & Associates, P.C.

Spencer Sheehan

Mr. Sheehan represents parties in a range of false advertising litigation. After Mr. Sheehan became an attorney in late 2011, he worked on behalf of municipalities and local government agencies in legal disputes. Following this experience, Mr. Sheehan worked for a plaintiff's law firm representing individuals subjected to violations of state and federal laws related to minimum wage, workplace safety and discrimination.

Of notable actions by Mr. Sheehan on behalf of consumers includes, *Liberski, et al v. Rhapsody International Inc.*, San Francisco County, California Superior Court, Case No. CGC-12-517061. In 2014, the parties reached a class wide settlement ("Rhapsody Subscriber Litigation Settlement"). Mr. Sheehan, with the California firm of Bramson, Plutzik, Mahler & Birkhaeuser, LLP, were appointed as lead counsel.

Mr. Sheehan was appointed lead counsel with the law firms of Reese LLP and Aegis Law Firm, P.C., in *Cicciarella v. Califia Farms, LLC*, 7:19-cv-08785-CS, S.D.N.Y. in summer 2020. The Court approved a nationwide settlement which resolved the underlying federal action and a California state case. It was alleged that defendant mislabeled its non-dairy milk alternative products with respect to flavoring (vanilla, hazelnut, etc.) and the presence of carrageenan. The class wide settlement resulted in individual consumers being able to receive up to \$15 in monetary compensation.

Mr. Sheehan was appointed to the executive committee along with the law firm Held & Hines LLP, in *Chung v. Illuminate Education, Inc.*, 8:22-cv-01547-JWH-DFM, C.D. Cal. in September 2022. Defendant is alleged to have negligently failed to safeguard the confidential information of millions of students. The litigation is still on going.

In December 2016, Mr. Sheehan began focusing his practice exclusively on consumer advertising issues. He has been on the forefront of food labeling cases based on original, significant claims.

For instance, Mr. Sheehan was the first attorney to address "raw" juice products which were alleged to be treated with a non-thermal technology which had substantially the same effects as traditional thermal pasteurization. See e.g. *Campbell v. Freshbev LLC*, Case No. 1:16-cv-07119 (E.D.N.Y.), *Campbell v. Freshbev LLC*, 322 F. Supp. 3d 330, 342 (E.D.N.Y. 2018) ("Therefore, plaintiff has successfully pleaded his GBL §§ 349 and 350 claims with respect to the 'unpasteurized' label on the Cranberry juice."). These cases attempted to apply the applicable law to the effects of novel technologies which were not considered at the time the FDA enacted regulations in this area.

Mr. Sheehan's pro bono work includes representing people with exotic or non-traditional animal companions. This includes his efforts, with local Florida counsel, on behalf of a Floridian who came to possess an alligator over six feet in length, alleged to be in violation of Florida's wildlife laws. Mr. Sheehan's efforts contributed to resolution of that issue and allowed the woman and gator to remain together. See John Breslin, [Lakeland woman keeps alligator, thanks to efforts of lawyer tied to subway shooter's squirrel eviction case](#), Florida Record, January 4, 2017.

Mr. Sheehan holds a Bachelor of Science Degree from Georgetown University in Foreign Service (2002) and a Master's Degree in International Relations from the School of Advanced

International Studies (SAIS), Johns Hopkins University (2006). Mr. Sheehan obtained a Juris Doctorate from Fordham University School of Law (2010). Mr. Sheehan also was a member of the United States Marine Corps as a Reservist.

Angele Aaron

Angele is one of the first associate attorneys of Sheehan and Associates, P.C. with a long history in real estate, civil litigation, and employment law. She has spent the last two decades handling residential and commercial real estate closings in Great Neck, New York. While admitted in New York since 1995, Angele's education stems from her time in England. Angele graduated from the University of Westminster with a Bachelor of Law Degree and received a Master of Law Degree from the University College of London in International Law.

Theodore Hillebrand

Theodore is an associate attorney of Sheehan and Associates, P.C. with a background in financial litigation and personal injury. Under the guidance of Mr. Sheehan, Theodore has worked on numerous actions and has developed an expertise on arbitration matters. Theodore is a member of the New York Bar and is admitted to practice before the United States District Courts for the Eastern, Southern, and Northern Districts of New York. Theodore graduated from Queens College with a Bachelor of Arts Degree and received his Juris Doctor from Hofstra University.

Katherine Lalor

Katherine is an associate attorney of Sheehan and Associates, P.C. who has had years of experience in foreclosure, trust and estates, and no-fault insurance law. Katherine has had a few publications in law journals during her time assisting homeowners facing foreclosure and has since then been focusing on assisting consumers facing misleading advertising. Katherine is a member of the New York Bar and Nassau County Bar. Katherine graduated from St. John's University with a Bachelor of Science Degree and received her Juris Doctor from Touro Law Center.

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Attorneys for Plaintiffs and the proposed Settlement Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SCOTT GILMORE, et al.,

Plaintiffs,

vs.

MONSANTO COMPANY,

Defendant.

MDL No. 2741

Case No. 3:21-cv-08159

**DECLARATION OF STEVE HARRELSON
IN SUPPORT OF MOTION FOR AN AWARD
OF ATTORNEYS' FEES, REIMBURSEMENT
OF COSTS AND EXPENSES, AND
INCENTIVE AWARDS FOR CLASS
REPRESENTATIVES**

Date: January 12, 2023

Time: 2:30

Place: Via Zoom Webinar

Judge: Hon. Vince G. Chhabria

I, Steve Harrelson, declare as follows:

1. I am licensed to practice law in Arkansas, Texas and Louisiana, and am a founding partner at Harrelson Law Firm (“HLF”) and counsel for plaintiffs Anthony Jewell and Amanda Boyette. I have personal knowledge of the facts set forth in this declaration, and, if called as a witness, could and would competently testify thereto under oath.

2. This declaration is submitted in support of Plaintiff’s Motion for an Award of Attorneys’ Fees, Reimbursement of Costs and Expenses, and Incentive Awards for Class Representatives, filed concurrently herewith.

3. Unless otherwise specified, references to capitalized terms have the same meaning as ascribed in the Settlement Agreement and Release (the “Settlement”), which was attached to the Declaration of Gillian L. Wade (“Wade Decl.”) filed on January 20, 2022. Dkt. No. 94-1 at pages 18-105.

4. On June 21, 2022 the Court granted preliminary approval of the proposed class action settlement. Dkt. 121 (the “Preliminary Approval Order”).

5. I am counsel of record for Plaintiffs Anthony Jewell and Amanda Boyette in the following Related Cases: *Jewell v. Walmart Inc.*, No. 4:19-cv-4088 (W.D. Ark.) (“*Jewell*”) and *Boyette v. Lowe’s Companies, Inc.* No. 4:19-cv-04119 (W.D. Ark.) (“*Boyette*”).

6. My firm assisted with the prosecution of *Jewell* and *Boyette* on a contingent basis with no guarantee of recovery. My firm, along with Class Counsel, incurred 100% of the risk in pursuing those cases. My firm advanced expenses with the understanding that we would be paid a reasonable fee for our work in *Jewell* and *Boyette* and receive reimbursement for expenses only if successful. My firm also passed on other employment opportunities in order to devote the time and resources necessary to pursue these cases.

7. I have been practicing law for more than 22 years, and I focus on civil litigation in state and federal courts in Arkansas, Texas, Mississippi, Tennessee, and Louisiana. In addition to my law practice, I served in the state legislature in Arkansas from 2005 through 2012. I served as House Majority Leader and chaired the House Judiciary Committee before serving in the Arkansas Senate. My practice includes extensive work in Multi-District Panel Litigation, including matters all over the country in a wide array of litigation.

8. As counsel for Ms. Boyette and Mr. Jewell in the Western District of Arkansas, I communicated with the clients, performed factual and legal research, assisted with drafting the pleadings, reviewed and analyzed Walmart's motion to dismiss in *Jewell*, and performed factual and legal research in response to same. I also assisted co-counsel with local issues, communicated with local defense counsel, and was responsible for ensuring all of Plaintiff's pleadings, filings, and procedural actions complied with the Local Rules for the Western District Court of Arkansas.

9. I believe the work I expended in this litigation was reasonable and necessary considering the amount of work required to litigate this and the Related Action listed in paragraph 5. This work contributed to resolving this Action. There was no unreasonable duplication of services for which my firm now seeks compensation. In the situations in which two or more attorneys participated in any matter, the participation was reasonable because of the complexity of the issues involved and the time constraints which existed.

10. The following information regarding my time is taken from time and expense records prepared and maintained by my firm in the ordinary course of business. I prepared my time records. I was admitted to the Arkansas bar in 2000 and my current hourly billing rate is \$500 per hour.

11. The total number of hours I spent on *Boyette* as of October 29, 2022 was 97.5 hours, and my total lodestar for that case is \$48,750.00.

12. The total amount of out of pocket expenses I incurred in *Boyette* as of October 29, 2022 was \$400.00 (filing fee).

13. The total number of hours I spent on *Jewell* as of October 29, 2022 was 162.8 hours, and my total lodestar for that case is \$81,400.00.

14. The total amount of out of pocket expenses I incurred in *Jewell* as of October 29, 2022 was \$400.00 (filing fee).

15. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on October 29, 2022.


Steve Harrelson

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SCOTT GILMORE, JAMES WEEKS,)
PAUL TAYLOR, SHERRY HANNA,)
AMANDA BOYETTE, JULIO EZCURRA,)
ANTHONY JEWELL, and KRISTY)
WILLIAMS)

Plaintiffs,)

v.)

MONSANTO COMPANY,)

Defendant.)

Case No. 3:21-cv-8159

**DECLARATION OF BRANDON SCHWARTZ
REGARDING CLAIMS ADMINISTRATION**

I, Brandon Schwartz, declare:

1. I am the Director of Notice for Postlethwaite & Netterville, APAC (“P&N”), a full-service administration firm providing legal administration services, including the design, development, and implementation of unbiased complex legal notification programs. P&N was appointed by the Court to administer the Settlement in the above-referenced matter (the “Action”),¹ including executing the Parties’ proposed Notice Plan (ECF No. 14486-4) and administering the claims process. The following statements are based on my personal knowledge as well as information provided by other experienced P&N employees working under my supervision.

2. Pursuant to the Court’s Order Granting Preliminary Approval, ECF No. 14966 (“PA Order”), the Notice Plan commenced within fourteen (14) days after the date of the PA Order and ran for a period of one hundred (100) days, i.e. from July 5, 2022 until September 29, 2022.

3. Class Members who wished to participate in the Settlement and file claims were instructed to submit their completed and signed Claims Forms to P&N postmarked or submitted online no later than one hundred and twenty (120) days after the date of the PA Order (the “Claims Deadline”), which was October 19, 2022.

4. Following the Claims Deadline, P&N has engaged in an ongoing review of the claims submitted to date. As of October 28, 2022, the value of total valid claims made by Class Members ranges from \$12,399,326.50 on the low end (representing 227,527 total valid claims) and \$14,201,305.00 on the high end (representing 231,413 total valid claims), pending review of certain claims yet to be reviewed and deficient claims (claims submitted with product values exceeding the threshold [one Product for each year of the Class Period] and/or with claimed purchases of the three Products that require proof of purchase, for which the documents submitted by the claimant did not substantiate the products claimed). All deficient claims will be sent a

¹ All capitalized terms not otherwise defined in this document shall have the meaning ascribed to them in the Settlement Agreement, ECF No. 14486-1 at Ex. 1 (the “Settlement”).

deficiency notice with an opportunity to cure the defect. The estimated average payment per individual Class Member ranges from \$53.80 on the low end and \$61.37 on the high end (pending further review).

5. As of October 31, 2022, the cost of Class Notice is \$446,449 and Claims Administration Expenses are presently \$135,080. P&N anticipates incurring \$245,433 in additional fees and costs for a total Claims Administration Expense of \$826,962.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 31st day of October 2022 in Portland, Oregon.

Handwritten signature of Brandon Schwartz in cursive script.

Brandon Schwartz

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741
Case No. 3:16-md-02741-VC

This document relates to:

Gilmore v. Monsanto Company, Case No. 20-
1085-MN

**DECLARATION OF CLASS REPRESENTATIVE AMANDA BOYETTE IN
SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY'S FEES, COSTS,
AND INCENTIVE AWARDS**

I, Amanda Boyette, declare as follows:

1. I am one of the named plaintiff class representatives in the above-captioned class action lawsuit.

2. I take my duties as a class representative seriously and submit this declaration in support of my request for a service award as a class representative.

3. As a matter of background, I joined this lawsuit with the filing of the Second Amended Complaint (Dkt. No. 22) to hold Defendant Monsanto Company (“Monsanto”) accountable for failing to disclose that its Roundup® product has the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity.

4. Prior to joining this lawsuit, I filed an action against Lowe’s Home Centers, LLC (“Lowe’s”), alleging Lowe’s had knowledge Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity, and failed to disclose this information to its customers.

5. I purchased a Roundup® product from a Lowe’s location in Texarkana, Texas on or about July 2019. When I purchased Roundup®, neither the Roundup® label, nor in-store advertisements, nor Monsanto’s webpages disclosed Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity. Had I known exposure to Roundup® had the potential to cause cancer, or that there was an ongoing scientific dispute concerning its potential carcinogenicity, I would not have purchased it.

6. As a named plaintiff and class representative, I have paid close attention to this lawsuit and the lawsuit against Lowe’s. Among other things, I have reviewed court filings and have communicated with counsel on numerous occasions to assist in the prosecution of these actions. I estimate that I spent roughly 8 hours on these activities in this lawsuit and the Lowe’s action. I also took the substantial risk of litigation which, at a minimum, includes the reputational risk of being a named plaintiff in a publicly filed class action.

7. I have personally read and signed the settlement agreement that was preliminarily approved by the Court. I was pleased to sign my name to the settlement agreement and am proud to have played at least a part in the results that have been achieved.

8. From the beginning, my goal has been to hold the sellers of Roundup® accountable for their nondisclosures as to Roundup®'s potential carcinogenicity. I am pleased and feel vindicated that the settlement agreement accomplishes that objective and provides for relief to other class members like myself.

9. Based on the time that I have invested in the case and my continued efforts to fulfill my duties as a class representative, I believe that some limited amount of compensation for my efforts as a class representative is appropriate. I appreciate the Court's consideration of this request and wish to emphasize that my support for the settlement is based on the best interests of the class members and is not affected by my personal request for a service award or the Court's disposition of that request. I was not promised that I would receive a service award or any compensation in connection with this lawsuit or the Lowe's action.

10. I have always been willing and remain willing to do the work necessary to see the case to a resolution, whether through this settlement or continued litigation, up to and through trial.

I declare under penalty of perjury under the laws of the United States and the State of Arkansas that the foregoing is true and correct. Executed on October 31st, 2022 in Bowie County, Texas



Amanda Boyette

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Attorneys for Plaintiffs and the Proposed Class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No 2741
Case No. 3:16-md-02741-VC

This document relates to:

Gilmore v. Monsanto Company, Case No. 20-
1085-MN

**DECLARATION OF CLASS REPRESENTATIVE JAMES WEEKS IN
SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY'S FEES, COSTS,
AND INCENTIVE AWARDS**

I, James Weeks, declare as follows:

1. I am one of the named plaintiff class representatives in the above-captioned class action lawsuit.

2. I take my duties as a class representative seriously and submit this declaration in support of my request for a service award as a class representative.

3. As a matter of background, I joined this lawsuit with the filing of the Second Amended Complaint (Dkt. No. 22) to hold Defendant Monsanto Company ("Monsanto") accountable for failing to disclose that its Roundup® product has the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity.

4. Prior to joining this lawsuit, I filed an action against Home Depot U.S.A., Inc. ("Home Depot"), alleging Home Depot had knowledge Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity, and failed to disclose this information to its customers.

5. Prior to joining this lawsuit, I also filed an action against Lowe's Home Centers, LLC ("Lowe's"), alleging Lowe's had knowledge Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity, and failed to disclose this information to its customers.

6. I have purchased Roundup® products (specifically, Roundup® Ready-to-Use Weed and Grass Killer III) over the last several years from a Home Depot location in Oxnard, California and a Lowe's location in Ventura County, California. My most recent purchase was on April 9, 2019, at the Home Depot in Oxnard. At that time, I purchased a 1.25 gallon bottle of the Roundup Ready-to-Use Weed & Grass Killer III refill, which was priced at \$15.97. When I purchased Roundup®, neither the Roundup® label, nor in-store advertisements, nor Monsanto's webpages disclosed Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity. Had I known exposure to

Roundup® had the potential to cause cancer, or that there was an ongoing scientific dispute concerning its potential carcinogenicity, I would not have purchased it.

7. As a named plaintiff and class representative, I have paid close attention to this lawsuit and the lawsuits against Home Depot and Lowe's. Among other things, I have reviewed court filings and have communicated with counsel on numerous occasions to assist in the prosecution of these actions. Additionally, in the lawsuit against Home Depot, I responded to Requests for Production of Documents, Requests for Admission, and Interrogatories. I estimate that I spent roughly 22 hours on the foregoing activities in this lawsuit, the Home Depot lawsuit, and the Lowe's lawsuit. I also took the substantial risk of litigation which, at a minimum, includes the reputational risk of being a named plaintiff in a publicly filed class action.

8. I have personally read and signed the settlement agreement that was preliminarily approved by the Court. I was pleased to sign my name to the settlement agreement and am proud to have played at least a part in the results that have been achieved.

9. From the beginning, my goal has been to hold the sellers of Roundup® accountable for their nondisclosures as to Roundup®'s potential carcinogenicity. I am pleased and feel vindicated that the settlement agreement accomplishes that objective and provides for relief to other class members like myself.

10. Based on the time that I have invested in the case and my continued efforts to fulfill my duties as a class representative, I believe that some limited amount of compensation for my efforts as a class representative is appropriate. I appreciate the Court's consideration of this request and wish to emphasize that my support for the settlement is based on the best interests of the class members and is not affected by my personal request for a service award or the Court's disposition of that request. I was not promised that I would receive a service award or any compensation in connection with this lawsuit, the Home Depot lawsuit, or the Lowe's lawsuit.

11. I have always been willing and remain willing to do the work necessary to see the case to a resolution, whether through this settlement or continued litigation, up to and through trial.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed on October 1st, 2022 in OXNARD, CA.


James Weeks

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741

Case No. 3:16-md-02741-VC

This document relates to:

Gilmore v. Monsanto Company, Case No. 20-
1085-MN

**DECLARATION OF CLASS REPRESENTATIVE JULIO EZCURRA IN
SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY'S FEES, COSTS,
AND INCENTIVE AWARDS**

I, Julio Ezcurra, declare as follows:

1. I am one of the named plaintiff class representatives in the above-captioned class action lawsuit.

2. I take my duties as a class representative seriously and submit this declaration in support of my request for a service award as a class representative.

3. As a matter of background, I joined this lawsuit with the filing of the Second Amended Complaint (Dkt. No. 22) to hold Defendant Monsanto Company (“Monsanto”) accountable for failing to disclose that its Roundup® product has the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity.

4. Prior to joining this lawsuit, I filed a lawsuit against Monsanto in the Circuit Court for the Fifteenth Judicial Circuit in and for Palm Beach County, Florida (later removed to the District Court for the Southern District of Florida), alleging Monsanto’s failure to disclose Roundup®’s carcinogenic properties and/or its potential to cause cancer constituted misleading and deceptive acts in violation of Florida law.

5. I purchased Roundup® Ready-to-Use Weed and Grass Killer from a Home Depot store in Palm Beach County, Florida on or about November 15, 2019. When I purchased Roundup®, neither the Roundup® label, nor in-store advertisements, nor Monsanto’s webpages disclosed Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity. Had I known exposure to Roundup® had the potential to cause cancer, or that there was an ongoing scientific dispute concerning its potential carcinogenicity, I would not have purchased it.

6. As a named plaintiff and class representative, I have paid close attention to this lawsuit and the Florida lawsuit against Monsanto. Among other things, I have reviewed court filings and have communicated with counsel on numerous occasions to assist in the prosecution of these actions. In the Florida lawsuit, I responded to Requests for Production of Documents and Interrogatories and prepared extensively for a deposition (although it ultimately did not go forward

as the court dismissed the lawsuit a few days prior to the scheduled deposition). I estimate that I spent roughly 32 hours on the foregoing activities in this lawsuit and the Florida action. I also took the substantial risk of litigation which, at a minimum, includes the reputational risk of being a named plaintiff in a publicly filed class action.

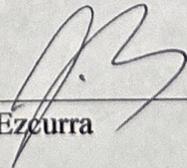
7. I have personally read and signed the settlement agreement that was preliminarily approved by the Court. I was pleased to sign my name to the settlement agreement and am proud to have played at least a part in the results that have been achieved.

8. From the beginning, my goal has been to hold Monsanto accountable for its nondisclosures as to Roundup®'s potential carcinogenicity. I am pleased and feel vindicated that the settlement agreement accomplishes that objective and provides for relief to other class members like myself.

9. Based on the time that I have invested in the case and my continued efforts to fulfill my duties as a class representative, I believe that some limited amount of compensation for my efforts as a class representative is appropriate. I appreciate the Court's consideration of this request and wish to emphasize that my support for the settlement is based on the best interests of the class members and is not affected by my personal request for a service award or the Court's disposition of that request. I was not promised that I would receive a service award or any compensation in connection with this lawsuit or the Florida lawsuit.

10. I have always been willing and remain willing to do the work necessary to see the case to a resolution, whether through this settlement or continued litigation, up to and through trial.

I declare under penalty of perjury under the laws of the United States and the State of Florida that the foregoing is true and correct. Executed on October 20, 2022 in WELLINGTON, FL USA.



Julio Ezcurra

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Attorneys for Plaintiffs and the Proposed Class

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741

Case No. 3:16-md-02741-VC

This document relates to:

Gilmore v. Monsanto Company, Case No. 20-
1085-MN

**DECLARATION OF CLASS REPRESENTATIVE KRISTY WILLIAMS IN
SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY'S FEES, COSTS,
AND INCENTIVE AWARDS**

I, Kristy Williams, declare as follows:

1. I am one of the named plaintiff class representatives in the above-captioned class action lawsuit.

2. I take my duties as a class representative seriously and submit this declaration in support of my request for a service award as a class representative.

3. As a matter of background, I joined this lawsuit with the filing of the Second Amended Complaint (Dkt. No. 22) to hold Defendant Monsanto Company (“Monsanto”) accountable for failing to disclose that its Roundup® product has the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity.

4. Prior to joining this lawsuit, I filed an action against Lowe’s Home Centers, LLC (“Lowe’s”), alleging Lowe’s had knowledge Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity, and failed to disclose this information to its customers.

5. I purchased at least four Roundup® products (including Roundup® Extended Control Weed & Grass Killer Plus Weed Preventer II, Ready-To-Use Weed and Grass Killer III with Pump ‘N Go 2 Sprayer, and Roundup® Ready-to-Use Weed & Grass Killer III) over the last several years from a Lowe’s location in Lake Elsinore, California. When I purchased Roundup®, neither the Roundup® label, nor in-store advertisements, nor Monsanto’s webpages disclosed Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity. Had I known exposure to Roundup® had the potential to cause cancer, or that there was an ongoing scientific dispute concerning its potential carcinogenicity, I would not have purchased it.

6. As a named plaintiff and class representative, I have paid close attention to this lawsuit and the lawsuit against Lowe’s. Among other things, I have reviewed court filings and have communicated with counsel on numerous occasions to assist in the prosecution of these actions. I estimate that I spent roughly 9 hours on these activities in this lawsuit and the Lowe’s action. I also

took the substantial risk of litigation which, at a minimum, includes the reputational risk of being a named plaintiff in a publicly filed class action

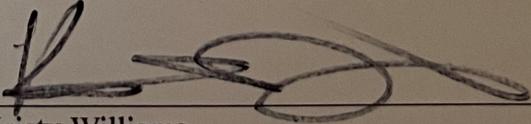
7. I have personally read and signed the settlement agreement that was preliminarily approved by the Court. I was pleased to sign my name to the settlement agreement and am proud to have played at least a part in the results that have been achieved.

8. From the beginning, my goal has been to hold the sellers of Roundup® accountable for their nondisclosures as to Roundup®'s potential carcinogenicity. I am pleased and feel vindicated that the settlement agreement accomplishes that objective and provides for relief to other class members like myself.

9. Based on the time that I have invested in the case and my continued efforts to fulfill my duties as a class representative, I believe that some limited amount of compensation for my efforts as a class representative is appropriate. I appreciate the Court's consideration of this request and wish to emphasize that my support for the settlement is based on the best interests of the class members and is not affected by my personal request for a service award or the Court's disposition of that request. I was not promised that I would receive a service award or any compensation in connection with this lawsuit or the Lowe's action.

10. I have always been willing and remain willing to do the work necessary to see the case to a resolution, whether through this settlement or continued litigation, up to and through trial.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed on October 23, 2022 in Lake Elsinore.



Kristy Williams

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Attorneys for Plaintiffs and the Proposed Class

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741

Case No. 3:16-md-02741-VC

This document relates to:

Gilmore v. Monsanto Company, Case No. 20-
1085-MN

**DECLARATION OF CLASS REPRESENTATIVE PAUL TAYLOR IN
SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY'S FEES, COSTS,
AND INCENTIVE AWARDS**

I, Paul Taylor, declare as follows:

1. I am one of the named plaintiff class representatives in the above-captioned class action lawsuit.

2. I take my duties as a class representative seriously and submit this declaration in support of my request for a service award as a class representative.

3. As a matter of background, I joined this lawsuit with the filing of the Second Amended Complaint (Dkt. No. 22) to hold Defendant Monsanto Company ("Monsanto") accountable for failing to disclose that its Roundup® product has the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity.

4. Prior to joining this lawsuit, I filed an action against Costco Wholesale Corporation ("Costco"), alleging Costco had knowledge Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity, and failed to disclose this information to its customers.

5. I purchased at least two Roundup® products over the last several years from a Costco location in Shasta County, California. When I purchased Roundup®, neither the Roundup® label, nor in-store advertisements, nor Monsanto's webpages disclosed Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity. Had I known exposure to Roundup® had the potential to cause cancer, or that there was an ongoing scientific dispute concerning its potential carcinogenicity, I would not have purchased it.

6. As a named plaintiff and class representative, I have paid close attention to this lawsuit and the lawsuit against Costco. Among other things, I have reviewed court filings and have communicated with counsel on numerous occasions to assist in the prosecution of these actions. I estimate that I spent roughly 9 hours on these activities in this lawsuit and the Costco action. I also took the substantial risk of litigation which, at a minimum, includes the reputational risk of being a named plaintiff in a publicly filed class action.

7. I have personally read and signed the settlement agreement that was preliminarily approved by the Court. I was pleased to sign my name to the settlement agreement and am proud to have played at least a part in the results that have been achieved.

8. From the beginning, my goal has been to hold the sellers of Roundup® accountable for their nondisclosures as to Roundup®'s potential carcinogenicity. I am pleased and feel vindicated that the settlement agreement accomplishes that objective and provides for relief to other class members like myself.

9. Based on the time that I have invested in the case and my continued efforts to fulfill my duties as a class representative, I believe that some limited amount of compensation for my efforts as a class representative is appropriate. I appreciate the Court's consideration of this request and wish to emphasize that my support for the settlement is based on the best interests of the class members and is not affected by my personal request for a service award or the Court's disposition of that request. I was not promised that I would receive a service award or any compensation in connection with this lawsuit or the Costco action.

10. I have always been willing and remain willing to do the work necessary to see the case to a resolution, whether through this settlement or continued litigation, up to and through trial.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed on October 26, 2022 in

Redding, CA



Paul Taylor

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741
Case No. 3:16-md-02741-VC

This document relates to:

Gilmore v. Monsanto Company, Case No. 20-1085-MN

**DECLARATION OF CLASS REPRESENTATIVE SCOTT GILMORE IN
SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY'S FEES, COSTS,
AND INCENTIVE AWARDS**

I, Scott Gilmore, declare as follows:

1. I am one of the named plaintiff class representatives in the above-captioned class action lawsuit.

2. I take my duties as a class representative seriously and submit this declaration in support of my request for a service award as a class representative.

3. As a matter of background, I filed this lawsuit on August 19, 2020 to hold Defendant Monsanto Company (“Monsanto”) accountable for failing to disclose that its Roundup® product has the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity.

4. Prior to joining this lawsuit, I filed a lawsuit against Monsanto in the District Court for the District of Oregon alleging Monsanto’s failure to disclose Roundup®’s carcinogenic properties and/or its potential to cancer, and its failure to sell Roundup® with an applicator designed to adequately protect consumers against the increased risk of human exposure, constituted unfair and/or deceptive acts that violated Oregon law.

5. I purchased Roundup® Ready-to-Use Weed and Grass Killer III on multiple occasions, and my most recent purchase was in December 2018 from a Home Depot location in Multnomah County, Oregon. When I purchased Roundup®, neither the Roundup® label, nor in-store advertisements, nor Monsanto’s webpages disclosed Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity. Had I known exposure to Roundup® had the potential to cause cancer, or that there was an ongoing scientific dispute concerning its potential carcinogenicity, I would not have purchased it.

6. As a named plaintiff and class representative, I have paid close attention to this lawsuit and the Oregon lawsuit against Monsanto. Among other things, I have reviewed court filings and have communicated with counsel on numerous occasions to assist in the prosecution of these actions. I estimate that I spent roughly 10 hours on these activities in this lawsuit and the

Oregon action. I also took the substantial risk of litigation which, at a minimum, includes the reputational risk of being a named plaintiff in a publicly filed class action.

7. I have personally read and signed the settlement agreement that was preliminarily approved by the Court. I was pleased to sign my name to the settlement agreement and am proud to have played at least a part in the results that have been achieved.

8. From the beginning, my goal has been to hold Monsanto accountable for its nondisclosures as to Roundup®'s potential carcinogenicity. I am pleased and feel vindicated that the settlement agreement accomplishes that objective and provides for relief to other class members like myself.

9. Based on the time that I have invested in the case and my continued efforts to fulfill my duties as a class representative, I believe that some limited amount of compensation for my efforts as a class representative is appropriate. I appreciate the Court's consideration of this request and wish to emphasize that my support for the settlement is based on the best interests of the class members and is not affected by my personal request for a service award or the Court's disposition of that request. I was not promised that I would receive a service award or any compensation in connection with this lawsuit or the Oregon lawsuit.

10. I have always been willing and remain willing to do the work necessary to see the case to a resolution, whether through this settlement or continued litigation, up to and through trial.

I declare under penalty of perjury under the laws of the United States and the State of Oregon that the foregoing is true and correct. Executed on October 25, 2022 in
Portland, Oregon.



Scott Gilmore

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Attorneys for Plaintiffs and the Proposed Class

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741

Case No. 3:16-md-02741-VC

This document relates to:

Gilmore v. Monsanto Company, Case No. 20-
1085-MN

**DECLARATION OF CLASS REPRESENTATIVE SHERRY HANNA IN
SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY'S FEES, COSTS,
AND INCENTIVE AWARDS**

I, Sherry Hanna, declare as follows:

1. I am one of the named plaintiff class representatives in the above-captioned class action lawsuit.

2. I take my duties as a class representative seriously and submit this declaration in support of my request for a service award as a class representative.

3. As a matter of background, I joined this lawsuit with the filing of the Second Amended Complaint (Dkt. No. 22) to hold Defendant Monsanto Company (“Monsanto”) accountable for failing to disclose that its Roundup® product has the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity.

4. Prior to joining this lawsuit, I filed an action against Walmart, Inc. (“Walmart”), alleging Walmart had knowledge Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity, and failed to disclose this information to its customers.

5. I purchased a Roundup® product from a Walmart location in Yucca Valley, California in the Spring of 2019. When I purchased Roundup®, neither the Roundup® label, nor in-store advertisements, nor Monsanto’s webpages disclosed Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity. Had I known exposure to Roundup® had the potential to cause cancer, or that there was an ongoing scientific dispute concerning its potential carcinogenicity, I would not have purchased it.

6. As a named plaintiff and class representative, I have paid close attention to this lawsuit and the lawsuit against Walmart. Among other things, I have reviewed court filings and have communicated with counsel on numerous occasions to assist in the prosecution of these actions. I estimate that I spent roughly 11 hours on these activities in this lawsuit and the Walmart action. I also took the substantial risk of litigation which, at a minimum, includes the reputational risk of being a named plaintiff in a publicly filed class action.

7. I have personally read and signed the settlement agreement that was preliminarily approved by the Court. I was pleased to sign my name to the settlement agreement and am proud to have played at least a part in the results that have been achieved.

8. From the beginning, my goal has been to hold the sellers of Roundup® accountable for their nondisclosures as to Roundup®'s potential carcinogenicity. I am pleased and feel vindicated that the settlement agreement accomplishes that objective and provides for relief to other class members like myself.

9. Based on the time that I have invested in the case and my continued efforts to fulfill my duties as a class representative, I believe that some limited amount of compensation for my efforts as a class representative is appropriate. I appreciate the Court's consideration of this request and wish to emphasize that my support for the settlement is based on the best interests of the class members and is not affected by my personal request for a service award or the Court's disposition of that request. I was not promised that I would receive a service award or any compensation in connection with this lawsuit or the Walmart action.

10. I have always been willing and remain willing to do the work necessary to see the case to a resolution, whether through this settlement or continued litigation, up to and through trial.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed on October 21, 2022 in

San Bernardino, Ca.


Sherry Hanna

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741

Case No. 3:16-md-02741-VC

This document relates to:

Gilmore v. Monsanto Company, Case No. 20-
1085-MN

**DECLARATION OF CLASS REPRESENTATIVE ANTHONY JEWELL IN
SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEY'S FEES, COSTS,
AND INCENTIVE AWARDS**

I, Anthony Jewell, declare as follows:

1. I am one of the named plaintiff class representatives in the above-captioned class action lawsuit.

2. I take my duties as a class representative seriously and submit this declaration in support of my request for a service award as a class representative.

3. As a matter of background, I joined this lawsuit with the filing of the Second Amended Complaint (Dkt. No. 22) to hold Defendant Monsanto Company (“Monsanto”) accountable for failing to disclose that its Roundup® product has the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity.

4. Prior to joining this lawsuit, I filed an action against Walmart, Inc. (“Walmart”), alleging Walmart had knowledge Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity, and failed to disclose this information to its customers.

5. I purchased many Roundup® products over the last several years (amounting to thousands of dollars) from a Walmart location in Miller County, Arkansas. When I purchased Roundup®, neither the Roundup® label, nor in-store advertisements, nor Monsanto’s webpages disclosed Roundup® had the potential to cause cancer, or at the very least, that there was an ongoing scientific dispute concerning its potential carcinogenicity. Had I known exposure to Roundup® had the potential to cause cancer, or that there was an ongoing scientific dispute concerning its potential carcinogenicity, I would not have purchased it.

6. As a named plaintiff and class representative, I have paid close attention to this lawsuit and the lawsuit against Walmart. Among other things, I have reviewed court filings and have communicated with counsel on numerous occasions to assist in the prosecution of these actions. I estimate that I spent roughly 10 hours on these activities in this lawsuit and the Walmart action. I also took the substantial risk of litigation which, at a minimum, includes the reputational risk of being a named plaintiff in a publicly filed class action.

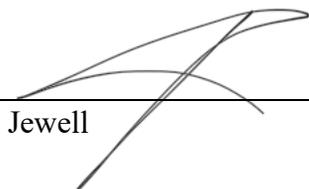
7. I have personally read and signed the settlement agreement that was preliminarily approved by the Court. I was pleased to sign my name to the settlement agreement and am proud to have played at least a part in the results that have been achieved.

8. From the beginning, my goal has been to hold the sellers of Roundup® accountable for their nondisclosures as to Roundup®'s potential carcinogenicity. I am pleased and feel vindicated that the settlement agreement accomplishes that objective and provides for relief to other class members like myself.

9. Based on the time that I have invested in the case and my continued efforts to fulfill my duties as a class representative, I believe that some limited amount of compensation for my efforts as a class representative is appropriate. I appreciate the Court's consideration of this request and wish to emphasize that my support for the settlement is based on the best interests of the class members and is not affected by my personal request for a service award or the Court's disposition of that request. I was not promised that I would receive a service award or any compensation in connection with this lawsuit or the Walmart action.

10. I have always been willing and remain willing to do the work necessary to see the case to a resolution, whether through this settlement or continued litigation, up to and through trial.

I declare under penalty of perjury under the laws of the United States and the State of Arkansas that the foregoing is true and correct. Executed on October 22, 2022 in Texarkana, Arkansas.



Anthony Jewell

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION

MDL No. 2741

Case No. 3:16-md-02741-VC

This document relates to:

Gilmore v. Monsanto Company, Case No. 20-1085-MN

[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF COSTS AND EXPENSES, AND INCENTIVE AWARDS FOR CLASS REPRESENTATIVES

This matter comes before the Court on Plaintiffs' Scott Gilmore, Julio Ezcurra, James Weeks, Amanda Boyette, Anthony Jewell, Paul Taylor, Sherry Hanna, and Kristy Williams' ("Plaintiffs" or "Class Representatives") Motion for an Award of Attorneys' Fees, Reimbursement of Costs and Expenses, and Incentive Awards for Class Representatives (ECF No. _____) (the "Motion"). The Court has reviewed the Motion and the supporting papers and after hearing argument about the Motion on January 23, 2023. Plaintiffs' Motion is hereby GRANTED, and the Court ORDERS the following:

1. This Order incorporates by reference the definitions in the Second Amended Class Action Settlement Agreement (ECF No. 14486-1 at 18, *et seq.*) (the "Settlement"). All capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Settlement.

2. The Court has jurisdiction over the subject matter of this litigation and over all parties to this Action and Related Actions, including the members of the Settlement Class, and retains exclusive jurisdiction to consider all further matters arising out of or connected with the Settlement.

3. Notice of Class Counsel's Motion was given to Settlement Class Members pursuant to the Notice Plan provided at ECF No. 14486-4. The form and method of notifying the Settlement Class of Class Counsel's Motion satisfied the requirements of Fed. R. Civ. P. 23 and this Court's Procedural Guidance for Class Action Settlements.

Attorneys' Fees

4. Class Counsel is hereby awarded \$11,250,000 in attorneys' fees (or "Class Counsel Fees" as that term is used in the Settlement).

5. Class Counsel shall be paid all but 10% of its award of attorneys' fees, which hold-back percentage the Court finds to be appropriate for this case. With its filing of the Post-Distribution Accounting, Class Counsel will submit a proposed order to the Court requesting the release of the remainder of its fee award.

6. In assessing the Motion, the Court in its discretion applies the percentage-of-the-fund method to award Class Counsel's Fees, which achieves a reasonable result.

7. \$11,250,000 in attorneys' fees represent 25% of the \$45 million Ceiling Amount under the Settlement, which is the total benefit reasonably made available to Class Members under the Settlement.

8. The \$45 million in benefits made available to Class Members includes \$446,449 in notice costs, \$380,513 in claims administration costs, \$210,888.10 in litigation expenses, \$40,000 in requested incentive awards, and \$11,250,000 in attorneys' fees.

9. It further includes \$32,672,150 in claim payments that were made available to Class Members during the claims period. This amount was reasonably made available to Class Members as it assumes a modest potential claims rate of approximately 6 percent. This is within the range generally expected in consumer class actions and is consistent with claims rates in other actions

against Monsanto involving Roundup® products. Accordingly, this is the amount reasonably made available to Class Members in claims payments.

10. Having valued the total benefits made available at \$45 million, the Court further finds that an award of 25% is fair and reasonable.

11. The Court finds no reason to depart from the Ninth's Circuit's 25 percent 'benchmark' award in common fund cases. Further, in making this award of attorneys' fees, the Court has considered and found that:

a. Class Counsel achieved exceptional results for the Settlement Class, obtaining direct cash payments of approximately two-thirds of Plaintiffs' estimated best-case damages were they to succeed at trial;

b. Class Members are not releasing any claims for personal injury or medical monitoring;

c. Class Counsel handled the case with considerable skill, perseverance, and diligent advocacy. Class Counsel pursued this case in the absence of supporting precedents, and Monsanto put forth vigorous opposition throughout the litigation;

d. Inherent in this litigation were many risks to Class Counsel. Were this litigation to proceed, Monsanto would have colorable defenses available to it (such as preemption) that may wholly absolve it of liability. Additionally, there is a real risk that the Plaintiffs would not be able to demonstrate that they are entitled to any damages as the "price premium" calculation would be heavily contested.

e. Class Counsel also encountered significant burdens while litigating this case. The Settlement required a nationwide strategy, with contemporaneous suits against Defendant and its retail partners in multiple jurisdictions at once. Plaintiffs also continued to

pursue their strategy even after a number of setbacks early in the coordinated litigation; and

f. This case was handled on a contingency basis, wherein Plaintiffs' Counsel expended more than 13,300 hours with no payment, and no guarantee of payment absent a successful outcome.

12. A lodestar cross-check further confirms the reasonableness of an \$11,250,000 fee award. In making this determination, the Court has considered and found that:

a. Plaintiffs' Counsel devoted approximately 13,302.35 (not including time on the fee application), with a lodestar value of \$7,947,522.50;

b. The number of hours was reasonable and necessary to achieve the Settlement, and are supported by declarations by Plaintiffs' Counsel providing the number of hours expended and summaries of work performed;

c. Plaintiff counsel's hourly rates, ranging between \$350 and \$795, are based on Plaintiff Counsel's customary billing rates and are also within the prevailing market rates in the Northern District of California for complex litigation; and

d. A fee award of \$11,250,000 represents a modest 1.4 multiplier over the base lodestar fee. This multiplier is fair and reasonable, given the Court's findings in paragraph 11, *supra*, and falls within the accepted range in the Ninth Circuit.

Litigation Expenses

13. The Court also awards \$210,888.10 in Class Counsel Expenses, which are supported by declarations from Plaintiffs' Counsel.

14. The reimbursed expenses comprise standard out-of-pocket expenses that an attorney would ordinarily bill a fee-paying client, such as court fees, mediation fees, printing costs, legal research costs, transportation fees, expert fees, and other related expenses.

15. Each of these expenses was necessary and reasonably incurred to bring this case to a successful conclusion, and they reflect market rates for various categories of expenses incurred.

Incentive Awards

16. The request for class representative incentive awards to the Class Representatives is reasonable given the risks the Class Representatives took and the amount of time they spent prosecuting their case.

17. In reaching this determination, the Court has reviewed the declarations from the Class Representatives regarding their contribution to the ultimate resolution of this case.

18. The Class Representatives have each devoted substantial time and effort to this action, including checking for and providing requested documents, participating in periodic telephone conferences and exchanging correspondence with Plaintiffs' Counsel, and reviewing and approving pleadings, including the complaint and the Settlement Agreement.

19. The requested amounts for each Class Representative are also within the range of such an award in similar cases.

20. Accordingly, the Court approves the request for an incentive award of \$5,000 each to Class Representatives Gilmore, Weeks, Taylor, Hanna, Boyette, Ezcurra, Jewell, and Williams.

IT IS SO ORDERED.

DATE: _____

The Honorable Vince Chhabria
UNITED STATES DISTRICT JUDGE