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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE BOTANIC TONICS LITIGATION

Master File No. 3:23-cv-01460-VC

This Document Relates to All Actions

**PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES, COSTS, AND
SERVICE AWARD**

Judge: Hon. Vince Chhabria
Dept: Courtroom 4, 17th Flr.
Hearing Date: August 28, 2025
Hearing Time: 2:00 p.m.

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NOTICE OF MOTION

TO EACH PARTY AND ATTORNEY OF RECORD IN THIS ACTION:

PLEASE TAKE NOTICE THAT, on August 28, 2025, at 2:00 p.m., or as soon thereafter as the Court's schedule allows, in the Courtroom of the Honorable Vince Chhabria, United States District Judge for the Northern District of California, located in Courtroom 4, 17th Floor, at 450 Golden Gate Avenue, San Francisco, California, Plaintiffs, having prosecuted this action successfully to a class-wide settlement, will and hereby do move this Court, pursuant to Federal Rules of Civil Procedure 23(h), for an award of attorneys' fees in the amount of \$2,916,666.66 and litigation costs in the amount of \$35,000, to be paid by Defendants from the Common Fund. Plaintiffs also respectfully request that the Court approve the payment of service awards in the amount of \$5,000 to each of the four class representatives.

Plaintiffs shall rely upon this Notice of Motion and Motion and accompanying Memorandum of Points and Authorities; the Declarations of Shounak S. Dharap, Anthony Label, Joel Smith, Matthew Mendelsohn, and Nea Deckant, and their attachments, the arguments of counsel; judicially noticed documents; and all papers on file in this action in support of the Motion.

TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. BACKGROUND.....	2
A. CLASS COUNSEL HAS ACHIEVED SUBSTANTIAL BENEFITS FOR THE CLASS.....	2
B. CLASS COUNSEL EXPENDED CONSIDERABLE TIME AND RESOURCES TO INVESTIGATE, LITIGATE, AND SETTLE THE CLASS CLAIMS.....	3
C. PROPOSED PAYMENT OF SERVICE AWARD, ATTORNEYS' FEES AND LITIGATION COSTS	4
III. ARGUMENT	
A. THE FEE REQUEST IS FAIR, REASONABLE, AND JUSTIFIED.....	4
1. <i>The Fee Request is Reasonable Under the Percentage Approach</i>	5
a) Class Counsel Obtained a Very Favorable Result for the Class.....	6
b) The Case Presented a Significant Risk of Total Loss, Yet Class Counsel Proceeded on a Contingency Fee Basis.....	7
c) Benefits to the Class Beyond the Cash Settlement Fund.....	8
d) The Burdens Class Counsel Faced While Litigating the Case and the Contingent Nature of the Work.	9
2. <i>Class Counsel's Fee Request is Consistent with Other Fee Approvals in This District.</i>	9
3. <i>A Lodestar Cross-Check Supports Class Counsel's Fee Request</i>	10
a) Class Counsel's Hourly Rates Are Reasonable	11
b) Class Counsel's Hourly Rates Are Reasonable	12
c) A Multiplier of 4.96 is Warranted Here.....	12
B. THE REQUEST FOR REIMBURSEMENT OF COSTS IS REASONABLE	13
C. THE SERVICE AWARD FOR THE NAMED PLAINTIFFS ARE APPROPRIATE	13
IV. CONCLUSION	14

TABLE OF AUTHORITIES

CASES

<i>Aichele v. City of Los Angeles</i> , 2015 WL 5286028 (C.D. Cal. Sept. 9, 2015)	6
<i>Barbosa v. Cargill Meat Sols. Corp.</i> , 297 F.R.D. 431 (E.D. Cal. 2013)	5
<i>Barjon v. Dalton</i> , 132 F.3d 496, 502 (9th Cir. 1997)	12
<i>Boeing Co. v. Van Gemert</i> , 444 U.S. 472 (1980).....	5
<i>Dennings v. Clearwire Corp.</i> , 2013 WL 1858797 (W.D. Wash. May 3, 2013)	12
<i>EK Vathana v. Everbank</i> , No. 09-CV-02338-RS, 2016 WL 3951334 (N.D. Cal. July 20, 2016) .	5
<i>Hanlon v. Chrysler Corp.</i> , 150 F.3d 1011, 1029 (9th Cir. 1998)	10
<i>Hensley v. Eckerhart</i> , 461 U.S. 424, 436 (1983)	6, 10
<i>In re NCAA Athletic Grant-in-Aid Cap Antitrust Litig.</i> , 2017 WL 6040065 (N.D. Cal. Dec. 6, 2017).....	7
<i>In re Activision Sec. Litig.</i> , 723 F.Supp. 1373, 1377 (N.D. Cal. 1989)	10
<i>In re Aremissoft Corp. Sec. Litig.</i> , 210 F.R.D. 109 (D.N.J. 2002).....	13
<i>In Re Informix Corp. Sec. Litig.</i> , No. 97–1289 (N.D. Cal. 1999)	5
<i>In re Mego Fin. Corp. Sec. Litig.</i> , 213 F.3d 454, (9th Cir. 2000).....	10
<i>In re Omnivision Techs., Inc.</i> , 559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2008).....	5
<i>In re Online DVD-Rental Antitrust Litig.</i> , 779 F.3d 934, 949 (9th Cir. 2015)	5, 6
<i>In re Pac. Enterprises Sec. Litig.</i> , 47 F.3d 373, 379 (9th Cir. 1995)	10
<i>In re Toys R Us-Delaware, Inc.—Fair & Accurate Credit Transactions Act (FACTA) Litig.</i> , 295 F.R.D. 438, (C.D. Cal. 2014)	11
<i>In re Wash. Public Power Supply System Sec. Litig.</i> 19 F.3d 1291 (9th Cir. 1994).....	9
<i>In re Xcel Energy, Inc., Sec., Deriv. & “ERISA” Litig.</i> , 364 F. Supp. 2d 980 (D. Minn. 2005) ..	13
<i>Maley v. Del Global Techs. Corp.</i> , 186 F. Supp. 2d 358 (S.D.N.Y. 2002)	13
<i>Ontiveros v. Zamora</i> , 303 F.R.D. 356 (E.D. Cal. 2014)	13
<i>Steiner v. Am. Broad. Co.</i> , 248 Fed. Appx. 780 (9th Cir. 2007).....	13
<i>Staton v. Boeing Co.</i> , 327 F.3d 938, 977 (9th Cir. 2003)	14
<i>Roberts v. Texaco, Inc.</i> , 979 F. Supp. 185 (S.D.N.Y. 1997).....	13
<i>Thomas v. MagnaChip Semiconductor Corp.</i> , No. 14-cv-01160, 2018 WL 2234598 (N.D. Cal. May 15, 2018)	6
<i>United Steelworkers of Am. v. Phelps Dodge Corp.</i> , 896 F.2d 403, 407 (9th Cir. 1990).....	12

1	<i>Vizcaino v. Microsoft Corp.</i> , 290 F.3d 1043, 1047 (9th Cir. 2002).....	5, 6, 7, 10, 13
2	<i>Weiss v. Mercedes-Benz of N. Am., Inc.</i> , 899 F. Supp. 1297 (D.N.J. 1995),	13
3	<i>Widrig v. Apfel</i> , 140 F.3d 1207, 1209 (9th Cir. 1998)	12
4	<i>Young v. Polo Retail, LLC</i> , No. 02-CV-04546-VRW, 2007 WL 951821 (N.D. Cal. Mar. 28,	
5	2007)	10
6	<i>Zamora v. Lyft, Inc.</i> , No. 3:16-CV-02558-VC, 2018 WL 4657308 (N.D. Cal. Sept. 26, 2018) ...	5

RULES

8	Fed. R. Civ. P. 23(h)	5
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I. INTRODUCTION

Plaintiff seeks Court approval of attorneys' fees in the amount of \$2,916,666.66, litigation costs in the amount of \$35,000, as well as awards of \$5,000 each to the four Class Representatives. Collectively, class counsel spent over 687 hours litigating the action and procuring this valuable result. Substantial time was spent in case development of this action, briefing, exchanging discovery, and engaging in complex settlement discussions, which included significant review and analysis of documents and data for the purpose of evaluating the feasibility of monetary settlement of the action. Even once a settlement in principle was reached, it took months of hard negotiation by the parties to finalize the terms of that agreement.

Ultimately, Class Counsel were able to obtain a common fund of \$8,750,000 for the Class. As such, the fee award sought is fair, reasonable and justified under both methodologies used by courts to analyze fee requests: the percentage of recovery method and lodestar method. Under the percentage of recovery method, the request amounts to 33 $\frac{1}{3}$ percent of the common fund, which falls within the usual range of recovery in this District for settlements under \$10 million. *See Zamora v. Lyft*, 2018 WL 4657308, *3 (N.D. Cal. Sept. 26, 2018) (Chhabria, J). Applying a lodestar cross-check to hours worked by the firms acting as Class Counsel, the request represents a multiplier of 4.96 of reasonable hours expended on the litigation, in support of the 33 $\frac{1}{3}$ percent cross check.

Plaintiff also seeks a service award in the amount of \$5,000.00 to Plaintiff. This amount is appropriate in light of Plaintiff's involvement in the pursuit of this action, which many hours spent conducting the pre-filing investigation, liaising with Class Members, reviewing documents, preparing for mediation, and preparing Settlement Agreements.

For the reasons set forth herein, Plaintiff respectfully requests that the Court enter an order granting Plaintiff's attorneys' fees, costs, and service awards.

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II. BACKGROUND

A. Class Counsel Has Achieved Substantial Benefits for the Class

As a result of vigorous prosecution of this action and negotiation, Class Counsel has secured important and substantial monetary and non-monetary benefits for the Settlement Class. The terms of the Settlement are detailed in the Settlement Agreement (which fully resolves the claims of the Class against the Defendants) and are discussed more completely in the concurrently-filed Motion for Final Approval. In short, the Settlement provides for a gross cash settlement of \$8,750,000 for the benefit of the Settlement Class, \$305,270 for reimbursement of Settlement Administration costs, and up to \$2,916,666.66 (33.33%) plus actual expenses of litigation (up to be \$35,000) set aside for attorneys' fees and costs with any remainder to be distributed to the Settlement Class. Dkt. 135-1, Ex. 1, Settlement Agreement, ¶¶ 1.22, 2.1(a), 2.3, 2.5.

Subject to Court approval, up to \$20,000 (\$5,000 each) of the settlement fund will be paid as "Service Awards" to Plaintiffs Torres, Rosenfield, Teitler, and C.C. in recognition of their service to the Settlement Class Members. Dkt. 135-1, ¶ 2¶.2, 2.3..

The non-monetary relief provided by the Settlement requires Defendant Botanic Tonics to include a disclosure of potential side effects of Feel Free on all product labels that contain kratom, as well as on social media advertising, including Instagram posts. Dkt. 135-1, Ex. 1, Settlement Agreement, ¶ 2.8. The disclosure will read:

Warning: This product contains leaf kratom which can become habit-forming and cause serious adverse health effects. Consider avoiding this product if you have a history of substance abuse.

Id.

The Notice of Settlement was sent via email to 44,938 Settlement Class Members and also posted by online publication and to the Settlement Website. *See* Declaration of Jessie Montague in support of Final Approval Mot. (Montague Final App. Decl.), ¶¶ 6, 12. The Notice included a breakdown of the allocation of the Gross Settlement Fund, including Plaintiffs' request for an award of attorneys' fees up to \$2,916,666.66, litigation expenses of up to \$35,000, service awards of \$5,000 for each of the Class Representatives. Dkt. 131-1. To date, no Settlement Class Member

has objected to any aspect of the Settlement and only 8 Class Members have requested to be excluded. *See* Declaration of Jessie Montague Supp. Motion for Final Approval, ¶ 13.

B. Class Counsel Expended Considerable Time and Resources to Investigate, Litigate, and Settle the Class Claims

This consolidated case began as two separate actions: (1) the *Torres* action, brought by Plaintiffs Sam Rosenfield and Romulo Torres in the Northern District of California, and the *C.C.* action, brought by Plaintiffs C.C. and Paul Teitler in the Central District of California.

Plaintiffs Torres and Rosenfield filed the *Torres* action on March 28, 2023, in the Northern District of California against Defendants Botanic Tonics, LLC and 7-Eleven, Inc. Dkt. 1. On May 2, 2023, Plaintiff filed a First Amended Complaint (“FAC”) to add nationwide claims against Defendants. Dkt. 11. On July 28, 2023, Plaintiffs filed a Second Amended Complaint (“SAC”) to add Named Plaintiff Sam Rosenfield and Defendants Hydra623 Holdings, LLC and Nowhere Partners, LLC. Dkt. 26. Defendant 7-Eleven, Inc. filed its motion to dismiss on August 11, 2023. Dkt. 31. After fully briefing the issue, 7-Eleven, Inc.’s motion to dismiss came on hearing on October 19, 2023 and the court denied the motion. Dkts. 52, 82.

Plaintiff C.C. filed the *C.C.* action on May 15, 2023 in the Central District of California, *C.C. v. Botanic Tonics*, C.D. Cal. Case No. 2:23-cv-3687. Declaration of Neal Deckant (“Deckant Decl.”), ¶ 2. The parties then began the discovery process and exchanged written discovery. *Id.* On August 14, 2023, the *C.C.* matter was transferred to the Northern District of California and assigned Case No. 3:23-cv-04136. *Id.* On December 22, 2023, Plaintiffs in both matters moved to consolidate the two actions for all purposes. Dkt. 83. These matters were consolidated on January 30, 2024 and Plaintiffs filed a consolidated class action complaint on February 23, 2024. Dkt. 99.

Meanwhile, 7-Eleven filed its Motion to Certify under 28 U.S.C. § 1292(b) for interlocutory review of the Court’s order on its motion to dismiss. Dkt. 86. 7-Eleven argued that this Court misinterpreted the Ninth Circuit opinion in *Hodsdon v. Mars*, 891 F.3d 857 (9th Cir. 2018), a controlling issue of law on which its motion to dismiss was hinged. *See* Dkt. 86. While this Court granted certification for interlocutory review, the Ninth Circuit denied 7-Eleven’s permission to appeal. Dkts. 97, 106.

During this period, Plaintiffs and Defendants Botanic Tonics, LLC and Hydra623 Holdings, LLC (“BT Defendants”) began settlement discussions. Dharap Decl., ¶ 8. Class Counsel spent a considerable amount of time reviewing extensive information and data relating to Class Members’ purchase histories, marketing and advertising materials, social media engagement, and Botanic Tonics’ financial condition. *Id.* Plaintiffs noticed and set the depositions of six executives and officers, but ultimately agreed to hold off on depositions until after the mediation set for April 4, 2024. *Id.*

After a tentative settlement was reached after two full days of mediation and months of subsequent negotiation discussions, Class Counsel was heavily involved in the drafting, editing, and negotiating of the terms of the Settlement. Dharap Decl., ¶ 17. The settling parties stipulated to request dismissal of Defendants 7-Eleven and Nowhere Partners, LLC which was granted by this Court on November 4, 2024. Dkt. 117. Class Counsel drafted and filed the unopposed motion for preliminary approval and upon the Court’s recommendations, drafted, negotiated, and filed an amended settlement agreement and notice which were preliminarily approved on March 5, 2025. *Id.*; *see also* Dkt. 136.

C. Proposed Payment of Service Award, Attorneys’ Fees and Litigation Costs

Subject to Court approval, the Settlement provides for Service Awards of \$5,000.00 to each of the four named Class Representative Plaintiffs in recognition of their service to the Settlement Class Members. Dkt. 135-1, Settlement Agreement, ¶ 2.2. The Settlement also allows Plaintiffs to seek attorneys’ fees, subject to Court approval, not to exceed \$2,916,666.66. *Id.* at ¶ 2.3. Additionally, Class Counsel requests the Court approve the reimbursement of litigation costs in the amount of \$35,000, as allowed by the Settlement Agreement. *Id.*

III. ARGUMENT

A. The Fee Request is Fair, Reasonable, and Justified

Federal Rule of Civil Procedure 23(h) provides that courts may award “reasonable attorney’s fees and nontaxable costs that are authorized by law or the parties’ agreement.” Fed. R. Civ. P. 23(h). It is well established that where, as here, “a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney’s fee

from the fund as a whole.” *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *see also Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2022).

The Ninth Circuit applies two primary methods to calculating attorneys’ fees: the “percentage of the fund” method or the “lodestar” method. *See In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 949 (9th Cir. 2015). The trend in this Circuit is to use the percentage of recovery as the dominant approach in common fund cases. *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1046 (N.D. Cal. 2008); *see also Vizcaino*, 290 F.3d at 1050 (same proposition).

Here, the Class Counsel’s fee request is appropriate and reasonable under either calculation method. The settlement is a common fund settlement and Class Counsel’s fee request is in the range of approved percentage in such cases after accounting for an upward adjustment of the “benchmark” in light of the efforts expended on the case, the results achieved for both members of the class and the general public.

1. The Fee Request is Reasonable Under the Percentage Approach

“In this District, fee awards of approximately 33 1/3% are typical for settlements up to \$10 million.” *Zamora v. Lyft, Inc.*, No. 3:16-CV-02558-VC, 2018 WL 4657308, at *3 (N.D. Cal. Sept. 26, 2018) (Chhabria, J.); *EK Vathana v. Everbank*, No. 09-CV-02338-RS, 2016 WL 3951334, at *2 (N.D. Cal. July 20, 2016) (Seeborg, J.) (approving a 33.33% fee award); *see also Barbosa v. Cargill Meat Sols. Corp.*, 297 F.R.D. 431, 449 (E.D. Cal. 2013) (“where recovery is uncertain, an award of one-third of the common fund as attorneys’ fees has been found to be appropriate”).

“Many courts and commentators have recognized that the percentage of the available fund analysis is the preferred approach in class action fee requests because it more closely aligns the interests of the counsel and the class, i.e., class counsel directly benefit from increasing the size of the class fund and working in the most efficient manner.” *Aichele v. City of Los Angeles*, 2015 WL 5286028, at *5 (C.D. Cal. Sept. 9, 2015); *see also Thomas v. MagnaChip Semiconductor Corp.*, No. 14-cv-01160, 2018 WL 2234598, at *3 (N.D. Cal. May 15, 2018) (percentage of the fund approach is preferred in common-fund settlements to the often more time-consuming task of calculating the lodestar” (citation omitted)).

When considering a request for attorney fees that is calculated using the percentage-of-recovery method, the Ninth Circuit instructs courts to consider some or all of the following factors: (1) whether 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 (e.g., cost, duration, foregoing other work); and (6) whether the case was handled on a contingency basis. *Online DVD*, 779 F.3d at 954-55.

a) Class Counsel Obtained a Very Favorable Result for the Class

The degree of success is the most important factor in determining attorneys’ fees. *See Vizcaino*, 290 F.3d at 1048. “[T]he most critical factor [in determining appropriate attorney’s fee awards] is the degree of success obtained.” *Hensley v. Eckerhart*, 461 U.S. 424, 436 (1983).

Here, Class Counsel has achieved considerable success for the Class. The Settlement creates a \$8,750,000 settlement fund to compensate Class Members while avoiding protracted and risky litigation. Settlement Agreement, Dkt. 135-1, ¶ 2.1(a). Accounting for risks associated with continuing litigation, the risks posed by potential individual issues at class certification and prevailing on the merits discussed in the Motion for Preliminary Approval, the settlement amount represents a significant result for the members of the Class. Dharap Decl., ¶ 18. Subject to the Court’s approval of the Settlement Administrator’s recommendations relating to the presumptively invalid claims (*see* Motion for Final Approval, pp. 7-11), each of the presumptively valid Class Members will receive an average recovery of \$112.59. Rabago Decl. Supp. Motion for Final Approval, ¶ 11.

Not only is the recovery of full price paid for approximately ten bottles of Feel Free a significant benefit to the Class Members, but Class Counsel managed to achieve this result in a relatively expeditious manner, without the delay or expense of protracted litigation. This weighs in favor of the fee request’s reasonableness. *See In re NCAA Athletic Grant-in-Aid Cap Antitrust Litig.*, 2017 WL 6040065, at *10 n. 61 (N.D. Cal. Dec. 6, 2017). To date, no party has objected to

the Settlement. *See* Jessie Montague Declaration filed in Support of Motion for Final Approval at ¶¶ 14.

Under the circumstances, and in light of Class Counsel's exceptional result with benefits that extend well beyond the Class, an award of attorneys' fees equal to 33⅓ percent of the Settlement Fund is reasonable and should be granted.

b) The Case Presented a Significant Risk of Loss, Yet Class Counsel Proceeded on a Contingency Fee Basis

The Ninth Circuit has recognized that risk is one factor weighed in approving class counsel fee requests above the 25% benchmark. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir. 2002) (fee award of 33% was justified in light of the risks involved). Here, where the case was taken by Class Counsel on a contingency fee basis, Class Counsel faced risk of non-payment should the case not prove success. Dharap Decl. ¶ 6. Such risk was significant given the facts of the case, the financial conditions of the defendant, and the potential intervention of government sources, any one of which could pose a risk significant enough to end the case, and with it, Class Counsel's ability to recover.¹ *Id.*

Following the outset of litigation, it rapidly became apparent to Class Counsel that they faced a Defendant which lacked sufficient insurance coverage applicable to the claims at issues. Dharap Decl. ¶ 11. That lack of insurance, when coupled with the BT Defendants financial circumstances, called into question whether Class Counsel would be able to obtain any meaningful financial recovery from the BT Defendants, even if Class Counsel were to prevail on the merits of the action. Dharap Dec. ¶¶ 12-14. This was especially so in light of the attorney fees and costs of litigation that would be borne by the BT Defendants should the litigation to become protracted. Dharap Dec. ¶ 13. Further, the United States Government had previously seized product and precursor ingredients, and additional similar seizures (which were outside the control of either Class Counsel or the Defendants) could potentially pushed the BT Defendants into insolvency. Dharap Decl. ¶ 12.

¹ Class Counsel has discussed the risks of have discussed the risks of the litigation in the concurrently-filed Motion for Final Approval of Class Settlement at Section IV(B)(1)-(2).

1 Additionally, the factual nature of the claims and potentially differing experiences of a
2 large number of Class Members created significant procedural hurdles with the litigation,
3 including numerous defenses raised by Defendants related to the merits of the claim, damages
4 suffered, and hurdles to class certification. Dharap Decl. ¶ 13. A significant risk was also posed
5 by the largely unregulated compound Kratom, and arguments as to the varied effects would need
6 to be addressed by experts. Dharap Decl. ¶14.

7 Nevertheless, despite these known potential barriers to success, Class Counsel continued
8 to prosecute the action and behalf of the putative class, and expending more than \$35,000 in costs
9 in the interim, aware that they may not be able to recover any compensation for their work. Dharap
10 Decl. ¶ 33. Most critically, Class Counsel focused resources on this case that precluded them from
11 taking other cases. Dharap Decl., ¶ 30.

12 c) Benefits to the Class Beyond the Cash Settlement Fund

13 Importantly, the Settlement Agreement contains substantial benefits beyond the Cash
14 Settlement Fund, including nonmonetary relief for the general public. Subject to approval of the
15 Court, going forward all Feel Free products containing kratom leaf will display the following
16 warning to potential consumers:

17 Warning: This product contains leaf kratom which can become habit-forming
18 and cause serious adverse health effects. Consider avoiding this product if you
19 have a history of substance abuse.

20 Amended Settlement Agreement ¶ 2.8, Dkt. 135-1.

21 Although the value of this non-monetary relief is not easily calculated, it carries great value
22 to the class and the population as a whole. As part of the research for this case, Class Counsel have
23 spoken to many members of the Settlement Class who have used Feel Free products before, and
24 detailed their experiences with the product. Dharap Decl. ¶ 20. Many, if not most of them,
25 specifically noted they hoped for some sort of injunctive-style relief to inform others about the
26 potential negative effects of the product as they experienced them. *Id.*

27 Additionally, if approved, this “warning” will also provide a significant to the general
28 public: ensuring that the numerous individuals who enter the markets and convenience stores

1 selling the Feel Free product, or those who are considering purchase of the product online, will be
 2 provided valuable information about the contents of the product, and information about who
 3 should consider avoiding it.

4 d) The Burdens Class Counsel Faced While Litigating the Case and
 5 the Contingent Nature of the Work.

6 It is common practice “to reward attorneys for taking the risk of non-payment by paying
 7 them a premium over their normal hourly rates for winning contingency cases.” *In re Wash. Public*
 8 *Power Supply System Sec. Litig.* 19 F.3d 1291, 1299 (9th Cir. 1994).

9 As discussed above, Class Counsel engaged in extensive work prior to, and in the early
 10 stages of, this litigation to ensure its timely and fair resolution for an amount that provides
 11 significant recovery to Class Members. Dharap Decl., ¶¶ 11-14.

12 Additionally, legal issues, unfavorable facts, potential certification issues, and potential
 13 insolvency of the BT Defendants presented uncertainty and risks to the claims at issue. By
 14 prosecuting this action on a contingency basis, Class Counsel bore substantial risk of an uncertain
 15 outcome as well as all the difficulties inherent in complex class action litigation. Class Counsel
 16 risked significant amounts of time and expenses to ensure a successful outcome—over 687 hours
 17 and more than \$35,000 in costs. *See* Dharap Decl., ¶¶ 37, 39; Declaration of Anthony Label (“Label
 18 Decl.”) ¶¶ 10, 20; Declaration of Joel Smith (“Smith Decl.”) ¶¶ 12; Declaration of Matthew
 19 Mendelsohn (“Mendelsohn Decl.”) ¶¶ 15, 20; Deckant Decl., ¶¶ 8, 15.

20 When this case was accepted, Class Counsel were aware of the risks but considered the
 21 possibility of a risk-related enhancement award as justification for accepting fees on a contingent
 22 basis. Dharap Decl. ¶ 6.

23 **2. Class Counsel’s Fee Request is Consistent with Other Fee Approvals in**
 24 **This District**

25 As discussed above, courts within this district and circuit routinely approve fee awards of
 26 on-third of the recovery in common fund cases. *See In re Pac. Enterprises Sec. Litig.*, 47 F.3d 373,
 27 379 (9th Cir. 1995) (33%); *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 463 (9th Cir. 2000)
 28 (33.33%); *In re Activision Sec. Litig.*, 723 F.Supp. 1373, 1377 (N.D. Cal. 1989) (“nearly all

common fund awards range around 30%”); *In Re Informix Corp. Sec. Litig.*, No. 97–1289 (N.D. Cal. 1999) (30%).

Because of the results achieved by Class Counsel, the risks of litigation, the contingency basis on which Class Counsel litigated this case, and because a 33⅓ percent award is in line with other awards in this district and circuit, the fee request is justified under the percentage method.

3. *A Lodestar Cross-Check Supports Class Counsel’s Fee Request*

Under the lodestar method, a court multiplies the total number of hours reasonably expended in the litigation by the reasonable hourly rate. *Hensley v. Eckerhart*, 461 U.S. 424, 433, 436 (1983). The Court may enhance the lodestar with a multiplier to arrive at a reasonable attorneys’ fee in light of Class Counsel’s efforts. *See Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1029 (9th Cir. 1998) [Courts can adjust the number upward or downward to account for several factors including the quality of the representation, the benefit obtained for the class, the complexity and novelty of the issues presented, and the risk of nonpayment]. While the lodestar method need not be used where percentage of recovery applies, a lodestar “cross-check” further supports the reasonableness of the fee request. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1050 (9th Cir. 2002).

Where a lodestar is being used as a “cross-check” for a percentage of a common-fund recovery, courts may do a rough calculation “with a less exhaustive cataloging and review of counsel's hours.” *Young v. Polo Retail, LLC*, No. 02-CV-04546-VRW, 2007 WL 951821, at *6 (N.D. Cal. Mar. 28, 2007); *see also In re Toys R Us-Delaware, Inc.—Fair & Accurate Credit Transactions Act (FACTA) Litig.*, 295 F.R.D. 438, 460 (C.D. Cal. 2014) (“In cases where courts apply the percentage method to calculate fees, they should use a rough calculation of the lodestar as a cross-check to assess the reasonableness of the percentage award.”).

Here Class Counsel’s total lodestar is \$587,545. This is based on the 687.7 hours of work performed in this case. Dharap Decl. ¶37. The total hours and lodestar of each firm comprising Class Counsel are as follows:

Firm:	Hours:	Lodestar:
Arns Davis Law	329.8 hours	\$ 245,610.00
The Veen Firm	77.7 hours	\$ 85,470.00
Smith Krivoshey	56.4 hours	\$ 57,955.55
Mazie Slater Katz & Freeman, LLC	120.8 hours	\$ 111,290.00
Bursor & Fisher, P.A.	103.0 hours	\$ 87,220.00
TOTAL:	687.7 hours	\$ 587,545.00

Dharap Decl. ¶ 29; Label Decl. ¶¶ 10; Smith Decl. ¶¶ 12-14; Mendelsohn Decl. ¶¶ 15-20, Deckant. Decl. ¶¶ 8-11.

A lodestar multiplier of 4.96 will put Class Counsels lodestar equivalent to the sought fee aware of 33 1/3 percent of the common fund, without accounting for significant work still to come to oversee the remainder of the Settlement. As discussed below, this amount is reasonable in light of the results achieved by Counsel.

a) Class Counsel's Hourly Rates Are Reasonable

The 687.7 hours spent by Class Counsel for the benefit of the class—excluding future work to effectuate the settlement—was necessary and reasonable. Class Counsel expended a substantial amount of time investigating, litigating, and negotiating a resolution, including through formal and informal discovery; conferences with defense counsel; mediation; and analysis of documents and data. *See* Dharap Decl., ¶¶ 10-17, 33. Class Counsel obtained documents by subpoena from third parties, spoke with class members and individuals with knowledge of Botanic Tonics' operations, prepared a highly detailed mediation brief, engaged in multiple full-day mediations and months of ongoing negotiations, participated in negotiating and drafting the settlement, and drafted the preliminary approval motion. *See* Dharap Decl., ¶ 22. While collaboration between firms was necessary, each firm was delegated responsibility for specific tasks to minimize duplicative work. *See* Dharap Decl., ¶ 26.

b) Class Counsel's Hourly Rates Are Reasonable

The established standard for determining a reasonable hourly rate is the “rate prevailing in the community for similar work performed by attorneys of comparable skill, experience, and reputation.” *Barjon v. Dalton*, 132 F.3d 496, 502 (9th Cir. 1997). Additionally, it is “appropriate to calculate class counsel’s lodestar at current billing rates, as the use of current rates offsets the delay between counsel’s expenditure of time and a court’s award of attorneys’ fees.” *Dennings v. Clearwire Corp.*, 2013 WL 1858797, at *6 n. 1 (W.D. Wash. May 3, 2013). Declarations regarding the market rate in the relevant community are sufficient to establish a reasonable hourly rate. *See Widrig v. Apfel*, 140 F.3d 1207, 1209 (9th Cir. 1998); *United Steelworkers of Am. v. Phelps Dodge Corp.*, 896 F.2d 403, 407 (9th Cir. 1990).

Class Counsel consisted of a cohort of law firms in California and New Jersey, each with considerable expertise in litigating complex cases, including those involving consumer class actions, and with special skills and resources that contributed to the investigation, prosecution and resolution of this action. Dharap Decl. ¶¶ 5, 25-27; Label Decl. ¶¶ 3-6; Smith Decl. ¶¶ 3-6; Mendelsohn Decl. ¶¶ 3-8; Deckant Decl. ¶¶ 3-4, 9. In prosecution of this action, Class Counsel consulted with one another regularly to devise strategy, make key decisions, and prepare work product necessary to prosecute and resolve the case on behalf of the Class Members. Dharap Decl. ¶ 38. The delegation of various tasks and cooperation regarding high-stakes decisions and briefing were always carried out with the benefit of the Class in mind. *Id.*

c) A Multiplier of 4.96 is Warranted Here

Courts routinely approve similar or higher lodestar multipliers in comparable common fund cases. *See Vizcaino*, 290 F.3d at 1052-54; *Steiner v. Am. Broad. Co.*, 248 Fed. Appx. 780, 783 (9th Cir. 2007) (affirming award with 6.85 multiplier); see also Newberg, *Attorney Fee Awards*, § 14.03 at 14-5 (1987) (“multiples ranging from one to four are frequently awarded in common fund cases when the lodestar method is applied.”); *In re Xcel Energy, Inc., Securities, Derivative & “ERISA” Litig.*, 364 F. Supp. 2d 980, 998-99 (D. Minn. 2005) (approving 25% fee, resulting in 4.7 multiplier); *In re Aremissoft Corp. Sec. Litig.*, 210 F.R.D. 109, 134-35 (D.N.J. 2002) (approving 28% fee, resulting in 4.3 multiplier); *Maley v. Del Global Techs. Corp.*, 186 F. Supp. 2d 358, 371

(S.D.N.Y. 2002) (approving 33.3% fee, resulting in “modest multiplier of 4.65”); *Roberts v. Texaco, Inc.*, 979 F. Supp. 185, 198 (S.D.N.Y. 1997) (5.5 multiplier); *Weiss v. Mercedes-Benz of N. Am., Inc.*, 899 F. Supp. 1297, 1304 (D.N.J. 1995) (9.3 multiplier), *aff’d*, 66 F.3d 314 (3d Cir. 1995).

In addition to the monetary relief here, the non-monetary relief is significant. As discussed above, the required disclosure goes to the heart of the claims, and justifies a lodestar multiplier. The Court’s recognition of a multiplier of 4.96 will establish Class Counsel’s lodestar calculation directly in line with the fee requested 33 1/3 percent of the common fund.

B. The Request for Reimbursement of Costs is Reasonable

“There is no doubt that an attorney who has created a common fund for the benefit of the class is entitled to reimbursement of reasonable litigation expenses from that fund.” *Ontiveros v. Zamora*, 303 F.R.D. 356 at 375, (E.D. Cal. 2014) (citations omitted) Here, Class Counsel seek reimbursement of \$35,000, pursuant to the Amended Settlement Agreement for costs incurred in the prosecution of this case. The costs include mediation fees, filing fees, court reporting/transcript services, online legal research, and process service, all of which were reasonably incurred during the pendency of this case. Dharap Decl., ¶ 9; Label Decl. ¶ 20; Mendelsohn Decl. ¶ 20; Deckant Decl. ¶ 15. These costs were reasonable and necessary for the prosecution of this action.

C. The Service Award for the Named Plaintiffs Are Appropriate

“[N]amed plaintiffs . . . are eligible for reasonable incentive payments” as part of a class action settlement. *Staton v. Boeing Co.*, 327 F.3d 938, 977 (9th Cir. 2003). The Settlement here provides for a service award of \$5,000.00 to each of the named Plaintiffs in recognition of their service to the Settlement Class Members. Dkt. 135-1, Settlement Agreement ¶ 2.2. The award is appropriate in light of the efforts taken by Class Representatives for the benefit of the Class. When evaluating the reasonableness of an incentive award, courts consider, *inter alia*, “the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from these actions,” and “the amount of time and effort the plaintiff expended in pursuing the litigation.” *Staton*, 327 F.3d at 977.

1 The requested \$5,000.00 service awards for each of the Class Representatives are
2 reasonable in light of Plaintiffs' efforts and service performed on behalf of the Class Members.
3 Specifically, Class Representatives agreed to act as the named Plaintiffs in the complaint, thereby
4 subjecting themselves to public attention related to a product and topics that are potentially
5 embarrassing and may invite scrutiny and ridicule, including addiction, substance abuse disorders,
6 and job loss. Dharap Decl. at ¶¶ 7, 41-42. Additionally, Class Representatives participated
7 extensively in the investigation by speaking to other consumers of the Feel Free product, collecting
8 medical and financial records to provide to Class Counsel, and spending a significant amount of
9 time with Class Counsel discussing the product and developing the case. *Id.* Class Representatives
10 Torres, Rosenfield, and C.C. also participated in settlement discussions and reviewed the
11 Settlement in its entirety before signing. *See* Declaration of Shounak Dharap in Support of Motion
12 for Preliminary Approval, Dkt. 125, Exs. 7-9. Counsel for each of the named Plaintiffs has
13 recognized the named Plaintiffs' importance to the prosecution of this case and that settlement
14 would not have been practicable without their participation. *See* Dharap Decl. ¶¶ 41-42; Label
15 Decl. Smith Decl. ¶¶ 18-19; Mendelsohn Decl. ¶¶ 21-22.

16 CONCLUSION

17 For the foregoing reasons, Class Counsel respectfully request an Order awarding: (i)
18 attorneys' fees in the amount of \$2,916,666.66; (ii) litigation costs in the amount of \$35,000; (iii)
19 a service awards in the amount of \$5,000.00 to each of the four Named Plaintiffs (totaling of
20 \$20,000 of funds) in recognition of their service to the Settlement Class Members; and (iv)
21 \$305,270 in settlement administration costs.

1 Dated: August 4, 2025

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2 

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE BOTANIC TONICS LITIGATION

Master File No. 3:23-cv-01460-VC

This Document Relates to All Actions

**DECLARATION OF SHOUNAK S.
DHARAP IN SUPPORT OF
PLAINTIFFS' MOTION FOR FEES,
COSTS AND SERVICE AWARDS**

1 I, Shounak S. Dharap, declare as follows:

2 1. I am a partner at Arns Davis Law, counsel of record for Plaintiffs in this matter. I have
3 been admitted before this Court and all California District Courts. I am a member in good standing
4 of the bar of the State of California. I respectfully submit this declaration in support of Plaintiffs'
5 motion for fees, costs, and service awards in the above-captioned class action ("Motion").

6 2. I have been actively involved in the litigation of this matter, which began as a putative class
7 action filed on behalf of all persons who purchased the product "Feel Free" in the United States.
8 Along with The Veen Firm, my firm filed an initial complaint in the Northern District of California
9 on March 28, 2023.

10 **Experience and Background**

11 3. I have lead the complex litigation practice area at Arns Davis Law since 2020. I have been
12 actively involved in multiple other class actions during the pendency of this action. My firm has
13 litigated over 50 other class actions, in both state and federal courts. My billing rate on this matter
14 is \$850 per hour. Attached as **Exhibit 1** is a true and correct copy of my firm's curriculum vitae.

15 4. Arns Davis Law has been approved by federal courts in the Ninth Circuit to serve as Class
16 Counsel in multiple other class actions, including:

- 17 a. *Torres v. North Pacific Seafoods Inc.*, United States District Court for the Western
18 District of Washington, No. 2:20-cv-01545-JLR;
- 19 b. *Ohring v. Unisea, Inc.*, United States District Court for the Western District of
20 Washington, No. 2:21-CV-00359-TSZ
- 21 c. *Angel Fraley v. Facebook Inc.*, United States District Court for the Northern
22 District of California, No. C 11-1726 RS;
- 23 d. *Thomas Harold MacRae v. Manor Care Services*, United States District Court for
24 the Central District of California Southern Division, Case No. SA CV 14-00715-
25 DOC (RNBx); and
- 26 e. *Hazel Walsh v. Kindred Healthcare*, United States District Court for the Northern
27 District of California, No. C 11-00050 JSW.

1 **Services Provided:**

2 5. Arns Davis Law has been involved in the litigation of this matter since its inception. Once
3 the case was consolidated with the *C.C.* action, the Class Counsel team included experienced
4 attorneys from law firms in New Jersey and California, each with special skills and resources that
5 contributed to the investigation, prosecution, and resolution of this action.

6 6. When this case was accepted, my office agreed to bear the risks and costs of litigation on
7 a contingency basis. We acknowledged the risk of nonpayment but considered the possibility of a
8 risk-related enhancement award as justification. Additionally, we were cognizant of the fact that
9 adverse conditions could affect the financial health of the defendants, including intervention of
10 government entities, which would pose a significant risk of non-payment even in the event counsel
11 were successful, or could outright end the litigation.

12 7. Before and throughout the duration of this litigation, attorneys working on this case from
13 my office met with attorneys from our co-counsel firms to discuss ways to efficiently divide the
14 work and allocate resources so as to avoid unnecessary overlap and duplication of efforts, costs,
15 and expenses. Over the course of the litigation, we were required to perform an independent
16 investigation, review thousands of photographs, bills, videos, medical records, and other
17 documents, and litigate the case vigorously through settlement, many provided by the Class
18 Representatives.

19 8. Following a period of significant case investigation, my firm filed the *Torres* action on
20 March 28, 2023, in the Northern District of California. Following that initial filing, the case has
21 involved significant motion practice by the parties, Defendant 7-Eleven seeking interlocutory
22 review of this Court's order on the motion to dismiss, and significant discovery prior to the
23 institution of settlement discussion with Defendant Botanic Tonics, LLC and Hydra 623 Holdings,
24 LLC.

25 9. I, and other Class Counsel spent a considerable amount of time reviewing extensive
26 information and data relating to Class Members' purchase histories, marketing and advertising
27 materials, social media engagement, and Botanic Tonics' financial condition.

10. We noticed and set the depositions of six executives and officers, before agreeing to postpone the depositions until after the mediation set for April 4, 2024.

11. Following the outset of litigation, it rapidly became apparent that the Defendants lacked sufficient insurance coverage for the claims. That lack of insurance, when coupled with the Botanic Tonics Defendants' financial circumstances, called into question whether we would be able to obtain any meaningful financial recovery even if we were to prevail on the merits of the action.

12. Moreover, continued litigation would continue to strain the Defendants financial. Additionally, the Federal Government had previously seized product and precursor ingredients, and additional similar seizures could potentially push the Defendants into insolvency.

13. Additionally, the factual nature of the claims and potentially differing experiences of a large number of Class Members created significant procedural hurdles with the litigation, including addressing the numerous defenses raised by Defendants related to the merits of the claim, damages suffered, and hurdles to class certification.

14. Kratom, which is not heavily regulated at the federal level, has differing effects on people, all of which would need to be addressed by experts.

15. Despite all this, I and members of my firm considered the possibility of risk-related enhancements to our fee awards as justification for accepting contingent fees.

16. After two, full-day mediation sessions, the Parties reached the proposed settlement after extensive, arms-length negotiations between counsel for the Parties. In advance of the first mediation, I took lead on preparing a comprehensive mediation brief and damages analyses, which I believe were instrumental in reaching a settlement.

17. After the tentative settlement was reached, the parties engaged in over two months of settlement negotiations to reach a final settlement. Class Counsel was heavily involved in the drafting, editing, and negotiating of the terms of the Settlement.

18. The Settlement Agreement ultimately creates common fund for the Class of \$8,750,000. Accounting for risks associated with continuing litigation, the risks posed by potential individual issues at class certification and prevailing on the merits discussed in the Motion for Preliminary

1 Approval, I believe the settlement amount represents a significant result for the members of the
2 Class.

3 19. We also negotiated as part of the Settlement that, subject to Court Approval, Feel Free
4 products containing Kratom leaf you display a warning message that advises potential customers
5 of potential health effects, and advises those with a history of substance abuse to consider avoiding
6 the product.

7 20. As part of the research for this case, I and other attorneys at my office have spoken to many
8 individuals who have used Feel Free products before. Many, if not most of them, specifically noted
9 they hoped for some sort of injunctive-style relief to inform others about the potential negative
10 effects of the product as they experienced them.

11 **Attorney's Fees:**

12 21. Before and throughout the duration of this litigation, attorneys working on this case from
13 my office met with attorneys from our co-counsel firms to discuss ways to efficiently divide the
14 work and allocate resources so as to avoid unnecessary overlap and duplication of efforts, costs,
15 and expenses. Over the course of the litigation, we were required to perform an independent
16 investigation, review thousands of photographs, bills, videos, medical records, and other
17 documents, and litigate the case vigorously through settlement.

18 22. Part of the work performed by myself and other Class Counsel included obtaining
19 documents by subpoena from third parties, speaking with class members and individuals with
20 knowledge of Botanic Tonics' operations.

21 23. We reached the proposed settlement after extensive, arms-length negotiations between
22 counsel for the Parties and through mediation sessions and discussions. Class Counsel prepared a
23 comprehensive mediation brief and damages analyses, which I believe were instrumental in
24 reaching a settlement. Even once an agreement in principal was reached, negotiating and drafting
25 the settlement, and drafted the preliminary approval motion required further efforts by myself,
26 class counsel, and the named Plaintiffs.

24. I reviewed the hours kept by the attorneys at my office to reduce the total hours recorded where, in retrospect, the time expended appears unnecessarily large. I carefully reviewed my time records and believe that they fairly reflect the amount of time we spent in this matter. In fact, I believe the hours submitted by the firm are a conservative calculations of actual hours expended. Additionally, where appropriate, I have further reduced or eliminated time which I felt exceeded what was necessary for a given task.

25. The lawyers of Arns Davis Law, like the other counsel for Plaintiffs and the Settlement Class in this action, consist of a team of experienced attorneys with skills and resources that contributed to the investigation and resolution of this action. These specialized skills come from, in part, the considerable time spent litigating complex cases, including those which are consumer class actions.

26. My firm, along with the other Class Counsel, have coordinated their efforts to maximize efficiency and avoid duplication, with each firm taking a leadership role in certain aspects of the case to advance the litigation.

27. Class Counsel consulted with one another regularly to devise strategy, make key decisions, and prepare work product necessary to prosecute and resolve the case on behalf of the Class Members.

28. I oversaw the delegation of various tasks within my firm, and note that the delegation and cooperation regarding high-stakes decisions and briefing was instrumental to the case's successful settlement, and were always carried out with the benefit of the Class in mind.

29. Lawyers from Arns Davis Law have worked a total of **329.8 hours** in this litigation, representing a total lodestar of **\$245,610** and an overall blended rate (lodestar divided by total hours) of **\$744.72 per hour**. I was the primary attorney on this case for my firm, and all of the work represented by these hours was for the benefit of the class, and the time spent on said work was reasonable. This work included drafting pleadings, assisting with the drafting motions and briefs, preparation for oral argument, and working on case strategy and participating in settlement discussions. At some periods during the negotiations, communications between Defense Counsel

and Class Counsel were practically continuous as we attempted to coordinate positions, language, and meet and confer deadlines.

30. When not working on this case, I and other attorneys at my firm routinely work on other class actions, complex tort cases, and employment and civil rights matters. The time and resource requirements of this action precluded me from working on other cases.

31. Below is breakdown of hours worked by each attorney.

Name:	Year Barred:	Title:	Hours:	Rate:	Lodestar:
Shounak Dharap	2016	Partner	238.1	\$850/hr	\$202,385
Katherine Rabago	2021	Associate Attorney	81.9	\$450/hr	\$36,855
Robert Foss	2011	Senior Counsel	9.8	\$650/hr	\$6,370

32. Copies of detailed timesheets and expenses contain work product information that will need to be anonymized, but they will be made available by all Class Counsel for the Court's *in camera* review upon request.

33. The rates for the attorneys in my firm, as listed herein, represent our typical billing rates and are in line with rates approved elsewhere. These rates are in line with those which have been approved in other actions in state and federal courts within the Ninth Circuit. Additionally, a significant amount of time was spent by non-attorney support staff at my firm performing work related to working with clients and members of the Class, coordination of schedules between the various attorneys, coordinating mediation and other negotiations between the parties, as well as other tasks related to the case. My firm is not seeking any reimbursement for these numerous hours.

34. I have reviewed the hours entered by Katherine A. Rabago, who is an associate at Arns Davis Law and they comport with my recollection of the time which she spent on this case. Ms. Rabago has a total of 81.9 hours on this case. Ms. Rabago's practice at Arns Davis Law involves class actions, mass torts, and other complex cases, including those involving wrongful death and sexual abuse. Her billing rate is \$450 per hour. Her total lodestar is \$36,855.

35. I have reviewed the hours entered by Robert Foss, who is Senior Counsel at Arns Davis Law and they comport with my recollection of the time that he spent on this case. Mr. Foss has a total of 9.8 hours on this case. Mr. Foss' practice at Arns Davis Law involves class actions, mass torts, and other complex cases, including those involving wrongful death and sexual abuse. His billing rate is \$650 per hour. His total lodestar is \$6,370.

36. Additional attorney hours will be necessary to ensure final approval and proper administration of the Settlement. This future work is not reflected in the lodestar before the court. Neither I nor my co-counsel has received any compensation for any hours we have worked on this case.

37. Reviewing the declarations of other counsel, I understand that the total lodestar of all firms working as Class Counsel to be \$587,545, based on 687.7 hours of work. This represents a blended hourly rate across all firms of \$854.36. This blended rate is somewhat higher because several firms, mine included, did not seek any reimbursement for work performed by legal assistants and support staff. Adding these individuals' time would have increased the lodestar amount, and reduced the blended hourly rate.

38. While collaboration between firms was necessary, where possible, the firms made efforts to minimize duplicative work. Nevertheless, I and other members of the Class Counsel consulted with one another regularly where necessary to devise strategy, make key decisions, and prepare work product necessary to prosecute the action.

Litigation Expenses

39. To date, my firm has incurred \$10,395.14 in litigation expenses including costs for mediation, travel for the purpose of mediation, and legal research. I worked to keep these costs at a bare minimum, and they were reasonable and necessary for the investigation, prosecution, and eventual settlement of this action. I understand, from having reviewed the Declarations of other Class Counsel, that collectively, the firms have spent \$38,508.95 in litigations expenses, however

1 agreed to only see up to \$35,000. These litigation expenses were incurred knowing that this was a
2 contingency fee matter, and that repayment was not certain.

3 **Service Awards:**

4 40. Based on the time and effort they devoted to this litigation, I believe a service award of
5 \$5,000 to named Plaintiffs is reasonable and appropriate in light of the efforts and risks taken by
6 them for the benefit of the Class. Several of the Class Representatives filed declarations in support
7 of the Motion for Preliminary Approval outlining their responsibilities. See Dkt. 125, Exhibits 7
8 through 9. I personally communicated with both Mr. Torres and Mr. Rosenfield on a routine basis,
9 and they were both instrumental in gathering the information we needed to investigate and pursue
10 the case. They were also both involved in the settlement discussions and negotiations.

11 41. I believe this award is appropriate as the Class Representatives subjected themselves to
12 public attention related to a product and topics that are potentially embarrassing and may invite
13 scrutiny and ridicule, including addiction, substance abuse disorders, and job loss.

14
15 I declare under penalty of perjury under the laws of the State of California and the United States
16 that foregoing is true and correct. Executed in Palo Alto, California on August 4, 2025.

17
18
19 

20 SHOUNAK S. DHARAP

**Investigator**

Jerry Lambert

Hearing Representatives

Kaory Pacheco
 Ramon Cuevas

Profile

Arns Davis Law is a distinguished nine-lawyer plaintiffs' firm, headquartered in San Francisco with an additional office in Reno. Renowned for securing over \$1 billion in verdicts and settlements for our clients, our firm specializes in representing groups of individuals in class, collective, and representative actions; as well as representing individuals in catastrophic injury and wrongful death actions. We are proud advocates for the building and trade unions, reflecting our commitment to challenging insurance companies, banks, and corporate interests in defense of our clients' rights.

**Class
Counsel**

Our firm has been appointed class counsel in numerous state and federal court cases, consistently achieving outstanding results. Notable class action settlements that have received final court approval include:

- *Blue Shield of California Affordable Care Act Cases*, San Francisco Superior Court, Case No. CJC-14-004800
- *Maria Hernandez v. Golden Gate Equity Holdings, LLC*, San Francisco Superior Court, Case No. CGC-10-505288
- *Blau v. Dollar Financial (We the People)*, Alameda County Superior Court, Case No. RG07347097
- *David Dalao v. LifeHouse Holdings*, Alameda County Superior Court, Case No. RG12660602
- *Laigo v. Life Generations Healthcare LLC.*, Alameda County Superior Court, Case No. RG18890341
- *Vulfrano Perez and James Mercado v. USIG.*, Alameda County Superior Court, Case No. RG15774021
- *Homer Reyes and Isidro Echeverria v. Floormasters, Inc.*, Alameda County Superior Court, Case No. RG13702584
- *Estela Ruiz v. Jack in the Box Inc.*, Alameda County Superior Court, Case No. RG168007477
- *Thomas Harold MacRae v. Manor Care Services*, United States District Court for the Central District of California Southern Division, Case No. SA CV 14-00715-DOC (RNBx)

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Arns Davis Law Firm CV

- *Hazel Walsh v. Kindred Healthcare*, United States District Court for the Northern District of California, No. C 11-00050 JSW
- *Angel Fraley v. Facebook Inc.*, United States District Court for the Northern District of California, No. C 11-1726 RS
- *Pedro Torres v. North Pacific Seafoods Inc.*, United States District Court for the Western District of Washington, No. 2:20-cv-01545-JLR
- *Casey Camp v. Instacart*, Los Angeles Superior Court, Case No. BC652216
- *Rebecca Lehman & Heather Womick v. Health Net of California, Inc.*, Los Angeles Superior Court, Case No. BC567361
- *Jaime Ugarte v. Professional Flooring Installation, Inc., et al.*, Los Angeles Superior Court, Case No. BC613043
- *Petra Godinez; Jose Rodriguez; Florentino Gayoso v. El Pollo Loco, Inc.*, Santa Clara County Superior Court, Case No. 17CV317828
- *Matthew Miskimon, David Ortega, and Garry Narron v. Ashbritt Inc.*, Sonoma County Superior Court, Case No. SCV-262302

Verdicts & Settlement

Arns Davis Law specializes in prosecuting cases through trial. The Firm is proud of its trial verdicts that have been issued by juries throughout the state of California. The following is a sample of such verdicts as well as settlements above \$10 million.

- \$21,000,000 Verdict: *England v. SME Steel Contractors, Inc. and Swinerton Builders, Inc.* for a family whose husband was rendered a paraplegic at a construction site in San Mateo. The case was tried in San Francisco.
- \$20,000,000 Confidential Settlement in class action for violations of right of publicity.
- \$19,000,000 Confidential Settlement for head injury causing disability.
- \$15,000,000 Confidential Settlement for defective roadway condition causing wrongful death.
- \$14,000,000 Verdict, plus \$2,100,000 workers' compensation payment for construction worker who fell on job site.
- \$11,000,000 Settlement for failure to give CPR resulting in brain damage.

Arns Davis Law Firm CV

- \$10,500,000 Verdict: *Gorewitz v. Toyota Transport* for family of Airborne Express driver killed by a Toyota transport truck while driving to work.
- \$10,500,000 Verdict: *Vargas v. Carmel Development Company* for ironworker who became a paraplegic as a result of construction site injury.

**Awards &
Honors**

University of San Francisco School of Law Co-Alumni of the Year Robert Arns

San Francisco Trial Lawyer of the Year Robert Arns

California Trial Lawyer of the Year Robert Arns

Professor of Law at the University of San Francisco Robert Arns

"Superstars of Trial" Presenter Robert Arns

Top 100 Super Lawyers in Northern California Robert Arns

Super Lawyers in Northern California Jonathan Davis

The Best Lawyers in America® Robert Arns and Jonathan Davis

American Board of Trial Advocates Robert Arns

AV Rating - Preeminent Robert Arns

AV Rating - Preeminent Jonathan Davis

Author, Rutter Guide – The Trial Wheel and The Evidence Wheel Robert Arns

Super Lawyer Rising Star Zachariah Hansen and Shounak Dharap

National Trial Lawyers Top 40 Under 40 Shounak Dharap

Robert S. Arns, State Bar No. 65071 (rsa@arnslaw.com)
Jonathan E. Davis, State Bar No. 191346 (jed@arnslaw.com)
Shounak S. Dharap, State Bar No. 311557 (ssd@arnslaw.com)
Katherine A. Rabago, State Bar No. 333374 (kar@arnslaw.com)

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Steven A. Kronenberg, State Bar No. 215541 (al.team@veenfirm.com)

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San Francisco, CA 94102
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Fax: (415) 771-5845

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE BOTANIC TONICS LITIGATION

Master File No. 3:23-cv-01460-VC

This Document Relates to All Actions

**DECLARATION OF ANTHONY L.
LABEL IN SUPPORT OF
PLAINTIFFS' MOTION FOR FEES,
COSTS AND SERVICE AWARDS**

1 I, Anthony Label, declare as follows:

2 1. I am a partner at The Veen Firm, LLP., counsel of record for Plaintiffs in this
3 matter. I have been admitted before this Court and all California District Courts. I am a member
4 in good standing of the bar of the State of California. I respectfully submit this declaration in
5 support of Plaintiffs' motion for fees, costs, and service awards in the above-captioned class
6 action ("Motion").

7 2. I have been actively involved in the litigation of this matter, which began as a
8 putative class action filed on behalf of all persons who purchased the product "Feel Free" in the
9 United States. Along with Arns Davis Law, my firm filed an initial complaint in the Northern
10 District of California on March 28, 2023.

11 **Experience and Background**

12 3. My partners and I have extensive experience in class action litigation and
13 extensive experience in plaintiff's contingency litigation. In my over 25 years of experience, I
14 have litigated dozens of class actions and hundreds of individual or mass plaintiff's cases. I have
15 been a Trial Team Leader with The Veen Firm since 2009, and I am currently a partner and
16 owner. I am an attorney of record for Plaintiffs and acted as co-lead trial attorney throughout this
17 litigation.

18 4. I graduated from the University of California, Hastings College of the Law, in 1999.
19 During law school, I served as a judicial extern for two judges in the United States District Court.
20 I practiced law as a commercial litigator at a nationwide law firm from 1999 to 2002, and from
21 2002 to 2003 with The Furth Firm, a plaintiff's class action firm with a nationwide practice. From
22 2003 to present, I have practiced law at The Veen Firm. In 2012, I received the Distinguished
23 Lawyer Referral and Information Service ("LRIS") Panel Member Award from the Bar
24 Association of San Francisco for outstanding representation of injured plaintiffs. My litigation
25 expertise resulted in my client obtaining the highest settlement award in LRIS history at that time,
26 which still stands. From 2012 to present, I have been selected for inclusion in Super Lawyers, and
27 in 2015 and 2016, I was in the list of the Top 100 Northern California Super Lawyers. I was
28

1 awarded the Marin Trial Lawyers Association Trial Lawyer of the Year in 2019 for outstanding
2 trial results. I have been awarded Best Lawyers “Lawyer of the Year” in 2020 for Product Liability
3 litigation, and in 2025 for both Product Liability and Personal Injury. I have held leadership
4 positions and served the legal community in several capacities, including Past President of the San
5 Francisco Trial Lawyers Association and Consumer Attorneys of California Board of Governors.
6 I have authored numerous articles and lectured on numerous occasions to attorneys and medical
7 professionals at those and other organization’s seminars.

8 5. Theo Emison graduated magna cum laude from the University of San Francisco
9 School of Law in 2000. Theo began his legal career at Brobeck, Phleger & Harrison, an
10 internationally respected litigation firm. At Brobeck and its successor firm Morgan, Lewis &
11 Bockius, Theo handled complex business litigation and class action matters. Theo represents
12 plaintiffs in personal injury, wrongful death, and medical malpractice cases. Theo has successfully
13 obtained jury verdicts or arbitration awards in medical malpractice, wrongful death, auto accident,
14 and personal injury cases. In 2008, Theo obtained the third largest arbitration award against Kaiser
15 Permanente in the state of California. In 2009, 2010, 2011 and 2012, Theo was selected by
16 California Super Lawyers magazine as a “Rising Star” in personal injury litigation, an honor
17 bestowed on less than 2 1/2% of the attorneys in California under the age of 40. Beginning in 2013
18 and continuing in each subsequent year of his career, Theo was selected as a “Super Lawyer,” an
19 honor bestowed on less than 5% of practicing attorneys in the State. Theo has served as a member
20 of the Board of Governors of the Consumer Attorneys of California and the CAOC Kaiser
21 Committee as well as on the San Francisco Trial Lawyers Association Alternative Dispute
22 Resolution Kaiser Sub-Committee. Both the CAOC and SFTLA organizations are dedicated to the
23 advancement and protection of consumer safety, civil rights, and the rule of law.

24 6. Steven Kronenberg is a partner at the Veen Firm. His practice focuses on
25 catastrophic injury, construction/industrial injuries, dangerous public roads, defective products,
26 and consumer protection with an emphasis on food related issues. Mr. Kronenberg has over 20
27 years of experience litigating personal injury and product liability cases from their inception
28

1 through trial and appeal. Mr. Kronenberg has been selected for inclusion in Super Lawyers and
2 Best Lawyers for multiple years. He lives in San Ramon, where he enjoys spending time with his
3 family.

4 **Attorneys' Fees**

5 7. Before and throughout the duration of this litigation, attorneys working on this case
6 from my office met with attorneys from our co-counsel firms to discuss ways to efficiently divide
7 the work and allocate resources so as to avoid unnecessary overlap and duplication of efforts,
8 costs, and expenses. Over the course of the litigation, Class Counsel was required to perform an
9 independent investigation, review thousands of photographs, bills, videos, medical records, and
10 other documents, and litigate the case vigorously through settlement.

11 8. We reached the proposed settlement after extensive, arms-length negotiations
12 between counsel for the Parties and through multiple mediation sessions and discussions. Class
13 Counsel prepared a comprehensive mediation brief and damages analyses, which I believe were
14 instrumental in reaching a settlement.

15 9. All attorneys at my firm prepare timesheets contemporaneously. I carefully
16 reviewed my time records and those of my attorneys and believe that they fairly reflect the amount
17 of time we spent in this matter. Where appropriate, I have reduced or eliminated time which I felt
18 exceeded what was necessary for a given task.

19 10. The Veen Firm has worked a total of 77hours in this litigation, representing a total
20 lodestar of \$85,470.00 and an overall blended rate (lodestar divided by total hours) of \$1,100 . All
21 of the work represented by these hours was for the benefit of the class, and the time spent on said
22 work was reasonable. This work included drafting pleadings, assisting with the drafting motions
23 and briefs, preparation for oral argument, and working on case strategy and participating in
24 settlement discussions.

25 11. These rates are our firm's usual and customary hourly rate charged for class action
26 cases.

27 12. Below is breakdown of hours worked by each attorney.

1 13. **Anthony Label:** I billed a total of 45 hours in this case, which amounts to a lodestar
2 of \$49,500.00

3 14. **Theo Emison:** I have reviewed the hours entered by my colleague, Theo Emison,
4 and they comport with my recollection of the time which he spent on this case. Mr. Emison has a
5 total of 9.0 hours on this case, for a total lodestar is \$9,900.00.

6 15. **Steven A. Kronenberg:** I have reviewed the hours entered by my colleague, Steven
7 A. Kronenberg, and they comport with my recollection of the time which he spent on this case.
8 Mr. Kronenberg has a total of 23.7 hours on this case, for a total lodestar is \$26,070.00.

9 16. Copies of detailed timesheets and expenses are proprietary, but they will be made
10 available for the Court's review upon request.

11 17. Of all hours worked on this case by the various attorneys, there was little to no
12 duplication of effort, as we divide work as noted into discrete tasks. For all hours worked, including
13 by me, I exercised my discretion to cut hours where I felt time was non-compensable or exceeded
14 what was reasonably necessary to accomplish the task in question. We consciously assigned work
15 as efficiently and effectively as possible in accordance with our respective skills, expertise, and
16 availability. I believe this division of effort contributed to efficiently obtaining the settlement
17 reached between the parties.

18 18. Additional attorney hours will be necessary to ensure final approval and proper
19 administration of the Settlement. This future work is not reflected in the lodestar before the court.

20 19. Neither I nor my co-counsel has received any compensation for any hours we have
21 worked on this case.

22 **Litigation Expenses**

23 20. To date, my firm has incurred \$23,699.47 in litigation expenses.

24 //

25 //

26 //

1 I declare under penalty of perjury under the laws of the State of California and the United
2 States that foregoing is true and correct. Executed in San Francisco, California on July 25, 2025.

3
4 Dated: August 4, 2025


5 ANTHONY L. LABEL

Robert S. Arns, State Bar No. 65071 (rsa@arnslaw.com)
Jonathan E. Davis, State Bar No. 191346 (jed@arnslaw.com)
Shounak S. Dharap, State Bar No. 311557 (ssd@arnslaw.com)
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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE BOTANIC TONICS LITIGATION

Master File No. 3:23-cv-01460-VC

This Document Relates to All Actions

**DECLARATION OF JOEL D. SMITH
IN SUPPORT OF PLAINTIFFS'
MOTION FOR FEES, COSTS, AND
SERVICE AWARDS**

1 I, Joel D. Smith, declare as follows:

2 1. I am a partner at Smith Krivoshey, P.C., counsel of record for Plaintiffs in this
3 matter. I have been admitted before this Court and am a member in good standing of the bar of
4 the State of California. I respectfully submit this declaration in support of Plaintiffs' motion for
5 fees, costs, and service awards in the above-captioned class action ("Motion").

6 2. I have been actively involved in the litigation of this matter from the beginning.

7 3. When this matter was first filed on May 15, 2023, I and my colleague Yeremey
8 Krivoshey were partners at Bursor & Fisher, and were the lead attorneys at the firm working on
9 this case.

10 4. In early 2024, Mr. Krivoshey and I left Bursor & Fisher to start our own firm, but
11 we continued to work on the matter with Bursor & Fisher. In particular, Mr. Krivoshey and I had
12 an active and substantive role during the mediation that led to settlement in this matter.

13 5. With a combined experience of over thirty years, my partner Yeremey Krivoshey
14 and I practice almost exclusively in class action litigation and have been approved as class counsel
15 in numerous class actions and class action settlements. Before starting our own firm in early 2024,
16 and while still at Bursor & Fisher, Mr. Krivoshey and I were lead or co-lead counsel in many of
17 the firm's significant cases. A true and correct copy of my firm's resume is attached hereto as
18 **Exhibit 1.**

19 6. I and the other attorneys at my law firm work very hard, and within 18 months of
20 the firm's founding we won two contested class certification motions, with one court citing our
21 attorneys' "extensive" experience in representing consumers in class actions;¹ filed another still-
22 pending motion for class certification; obtained final approval in a class action against Jaguar/Land
23 Rover; and filed motions for either preliminary or final approval class settlements in three other
24 cases.

25
26
27 ¹ *Chaisson et al. v. University of S. Cal.*, L.A. Superior Court Case No. 20STCV27062, July 25,
28 2025 Order; *see also Kirkbride v. Kroger Co.*, 349 F.R.D. 160 (S.D. Ohio 2025).

1 7. A portion of the time that Mr. Krivoshey and I spent on this matter occurred while
2 we were still at Bursor & Fisher, and that information is already provided with the concurrently-
3 filed Declaration of Neal J. Deckant. Therefore, to avoid duplicative information, this Declaration
4 focuses on work our firm performed after our departure from Bursor & Fisher.

5 8. As reflected in the time records, our firm primarily played a role in settlement
6 negotiations and related tasks concerning drafting the settlement agreement, analyzing and
7 approving notice documents, and settlement administration matters.

8 9. Accordingly, I can confirm the parties reached the proposed settlement after
9 extensive, arms-length negotiations between counsel for the Parties and through multiple
10 mediation sessions and discussions.

11 10. I can also confirm that I participated in no negotiations concerning attorneys fees
12 or service awards until the parties had first agreed to the material terms of the settlement.

13 11. All attorneys at my firm maintain their time records contemporaneously using the
14 PracticePanther software. I carefully reviewed all time records and believe that they fairly reflect
15 the amount of time we spent in this matter.

16 12. Excluding additional time spent while at Bursor & Fisher, my firm has worked a
17 total of 56.4 hours in this litigation, representing a total lodestar of \$57,955.

18 13. This time and lodestar calculation does not include any time spent working on the
19 motion for approval for fees and service awards, including work preparing this supporting
20 declaration. It also does not include anticipated work attending to miscellaneous class settlement
21 administration issues that tend to arise in class settlements, nor does it factor in future work related
22 to final approval.

14. Below is breakdown of hours worked by each attorney.

<u>Name</u>	<u>Title</u>	<u>Class Year</u>	<u>Initials</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Joel D. Smith	Partner	2006	JDS	36.8	\$1,100	\$40,480
Yeremey O. Krivoshey	Partner	2013	YOK	19.3	\$900	\$17,370
Kimberly Kittleson	Senior Paralegal	n/a	KK	.3	\$350	\$105

15. Copies of detailed timesheets and expenses will be made available for the Court's review upon request.

16. Additional attorney hours will be necessary to ensure final approval and proper administration of the Settlement. This future work is not reflected in the lodestar before the court.

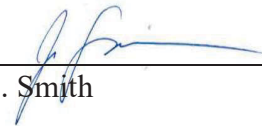
17. Neither I nor my co-counsel has received any compensation for any hours we have worked on this case.

18. During the course of the above-described litigation, I was personally in contact with the named Plaintiff Paul Teitler to keep him updated on the events of the case and whether anything was needed from him. He always promptly responded to requests for information or other needs of the case. He conveyed an interest in the case and a willingness to do his part in discovery and anything else needed from him. He assisted with counsel's investigation and approved the consolidated complaint before it was filed.

19. In my view, Plaintiff Teitler's participation in this case was critical to its ultimate resolution. He appeared to take his role as class representatives seriously, devoting his time and effort to obtain relief for the class. The class settlement in this case could not have happened without his willingness to assume the responsibilities of serving as class representatives.

I declare under penalty of perjury that foregoing is true and correct. Executed in Danielson, Connecticut on July 30, 2025.

1 Dated: July 30, 2025

2 
Joel D. Smith



SMITH KRIVOSHEY, PC

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FIRM RESUME

The attorneys of Smith Krivoshey, PC have decades of experience litigating complex, record-breaking cases to trial and have secured hundreds of millions in class recoveries in the process. They have secured well publicized trial victories, verdicts, and settlements on behalf of both plaintiffs and defendants. With offices in San Francisco and Boston, they run a busy class action practice spanning the country, in both state and federal courts.

The founders of Smith Krivoshey have never lost a trial, having won every case tried to verdict. In 2019, Mr. Krivoshey secured a \$267 million class action verdict in *Perez v. Rash Curtis & Associates* after a jury trial in the Northern District of California, which was the 12th largest verdict in the United States in all practice areas that year, and the 3rd highest class action verdict. In 2021, the case settled for \$75.6 million while on appeal, still the largest consumer class action settlement in the history of the Telephone Consumer Protection Act. Mr. Smith has trial experience on both sides of the aisle. In a highly publicized trial against a Sacramento subsidiary of Entercom Communications Corp., Mr. Smith was part of a trial team that secured a successful outcome for his client (a radio station manager) despite his client's employer being hit with a \$16.5 million jury award. With a proven trial track record, the founders of Smith Krivoshey have also secured numerous favorable settlements on the eve of trial.

Judges throughout the country have commended Smith Krivoshey and its attorneys on their experience and qualifications. For instance, in appointing Smith Krivoshey as Class Counsel in July 2024 in a case against the University of Southern California, Judge Kenneth Freeman noted that "the experience of [Smith Krivoshey] in representing consumers in class actions is extensive."

Prior to forming Smith Krivoshey, Mr. Krivoshey and Mr. Smith were partners at Bursor & Fisher, P.A., a prestigious class action law firm, for over a decade. The attorneys at Smith Krivoshey have also represented some of the largest Fortune 500 companies, public entities, and privately held companies in the world working at firms including Folger Levin & Kahn, Crowell & Morning, Dentons, and Littler Mendelson.

Mr. Smith and Mr. Krivoshey have served as lead or co-lead class counsel in dozens of class actions throughout the country. In the process, they have obtained hundreds of millions in recoveries for class members, including settlements of \$83.6 million in a class case against *Six Flags*, \$75.6 million in *Perez* (paid out by the Indian Harbor Insurance Company, a defendant in a spin-off bad faith insurance case), \$74 million in a class case against BMW, \$40 million in a class case against Harbor Freight Tools, \$35 million in a class case against Western Dental, \$20.4 million in a class case against Alterra Mountain Company, and many more millions in class settlements against Turkish Airlines, Lufthansa, Kimberly-Clark, Millennium Products, National Credit Adjusters, The Regents of the University of California, Jaguar Land Rover North America, Mattress Firm, Health-Ade, and others.

Most recently, in January 2025, Smith Krivoshey obtained preliminary approval of a \$30 million settlement in a TCPA class action brought against Momentum Solar. The settlement is

the biggest non-reversionary cash common fund *ever* in a pure telemarketing class action brought under the TCPA, and the biggest non-reversionary cash common fund in *any* TCPA action settled after the Supreme Court's decision in *Facebook, Inc. v. Duguid*, 592 U.S. 395 (2021), which effectively gutted the TCPA's restrictions on the use of automatic telephone dialing systems.

Smith Krivoshey is well funded and staffed to take cases the distance. The firm is efficient, and does not overbill. Its attorneys have repeatedly proven that they excel at the highest levels of civil litigation, and have the determination, skill, experience, and knowledge necessary to maximize recoveries for class members. They are passionate about what they do, and they do it well.

JOEL D. SMITH

Joel D. Smith is a founding member of Smith Krivoshey. Joel is a trial and appellate attorney who has practiced in lower court and appeals courts across the country, as well as the U.S. Supreme Court.

A no-nonsense, hardworking, and well-organized litigator, Joel has been appointed lead or co-lead counsel in numerous class actions across the country, including in cases against Facebook, major automotive manufacturers, and public entities. He is skilled at managing complex, multi-party litigation and works well with co-counsel and opposing counsel alike. For example, Joel represented four major U.S. retailers in a highly publicized case arising from an arson fire and ensuing state of emergency in Roseville, California, which settled on the eve of a trial that was expected to last several months and involve more than forty witnesses. He managed the litigation in *In re Welspun*, a case against five corporate giants arising from what one journalist described as the "biggest counterfeit story in retail history." He has obtained hundreds of millions of dollars for class members in class settlements.

Joel co-founded Smith Krivoshey after nearly twenty years of experience on both sides of the aisle at Folger Levin & Kahn, Crowell & Moring, and Bursor & Fisher. He has both represented, and litigated against, some of the largest Fortune 500 companies, public entities, and privately held companies in the United States.

A graduate of U.C. Berkeley's School of Law, Joel is admitted in Massachusetts, New Jersey, and California, as well as numerous district and circuit courts across the country. He is a member of the Massachusetts Chapter of the Federal Bar Association, where he volunteers in the FBA's Lift Up Leaders Mentorship Program and serves on the Professional Development Committee. He also is a member of the American Association for Justice, and the Public Justice Foundation.

Selected Published Decisions:

Krikbridge et al. v. The Kroger Co., Case No. 2:21-cv-00022 (S.D. Oh. Mar. 28, 2025), granting class certification in class action concerning Kroger's alleged overcharging for prescription medication.

Stoffel v. Regents of the University of California, 2024 WL 3155551 (Cal. App. June 25, 2024), reversing dismissal in class action concerning the U.C. system's transition to remote learning during the COVID-19 pandemic.

Javier v. Assurance IQ, LLC, --- Fed App'x --- 2022 WL 1744107 (9th Cir. May 31, 2022), reversing dismissal in a class action alleging surreptitious monitoring of internet communications.

Revitch v. DIRECTV, LLC, 977 F.3d 713 (9th Cir. 2020), affirming denial of motion to compel arbitration in putative class action alleging unlawful calls under the Telephone Consumer Protection Act.

Foot Locker Retail, Inc. v. Madison Bay Fair LLC, 2018 WL 6191353 (Cal. App. Nov. 28, 2018), reversing a bench trial judgement and award of costs and fees against Mr. Smith's client.

Sarkissian Mason, Inc. v. Enterprise Holdings, Inc., 572 Fed. Appx. 19 (2nd Cir. 2014), affirming summary judgment in favor of Mr. Smith's client in breach of contract and trade secrets case.

Ecological Rights Foundation v. Pacific Gas & Elec. Co., 713 F.3d 502 (9th Cir. 2013), affirming dismissal in favor of Mr. Smith's client in Clean Water Act case.

Chaisson, et al. v. University of Southern California (Cal. Sup. Ct. July 25, 2024), granting class certification of class of students that were charged late fees and appointing Smith Krivoshey as class counsel.

In re Nissan N. America, Inc. Litig., 2023 WL 2749161 (M.D. Tenn. Mar. 31, 2023), granting certification of ten state damages classes in automotive defect case.

Kaupelis v. Harbor Freight Tools USA, Inc., 2020 WL 5901116 (C.D. Cal. Sept. 23, 2020), granting class certification of consumer protection claims brought by purchasers of defective chainsaws.

Revich v. New Moosejaw, LLC, 2019 WL 5485330 (N.D. Cal. Oct. 23, 2019), highly-cited order denying in part a motion to dismiss in matter alleging internet wiretapping

Selected Class Settlements:

In re Beyond Meat, Inc. Protein Content Marketing & Sales Practices Litigation, Case No. 1:23-cv-00669 (N.D. Ill.) – final approval granted for settlement resolving claims that Beyond Meat misled customers about the protein content of its products.

George et al. v. Jaguar Land Rover N. America, LLC, Case No. 2:20-cv-17561-JSA (D.N.J.) – final approval granted for settlement providing relief for Jaguar and Land Rover owners to resolve allegations that the vehicle's infotainment systems were defective.

Recinos et al. v. The Regents of the University of California, Superior Court for the State of California, County of Alameda, Case No. RG19038659 – final approval granted for a settlement providing debt relief and refunds to University of California students who were charged late fees.

Crandell et al. v. Volkswagen Group of America, Case No. 2:18-cv-13377-JSA (D.N.J.) – final approval granted for a settlement providing relief for Volkswagen Touareg owners to resolve allegations that defects in Touareg vehicles caused the engines to ingest water when driving in the rain.

Isley et al. v. BMW of N. America, LLC, Case No. 2:19-cv-12680-ESK (D.N.J.) – final approval granted for settlement providing BMW owners with reimbursements and credit vouchers to resolve allegations that defects in the BMW N63TU engine caused excessive oil consumption.

Kaupelis v. Harbor Freight Tools USA, Inc., 8:19-cv-01203-JVS-DFM (C.D. Cal.) – final approval granted for a settlement valued up to \$40 million to resolve allegations that Harbor Freight sold chainsaws with a defective power switch that could prevent the chainsaws from turning off.

Payero et al. v. Mattress Firm, Case No. 7:21-cv-03061-VLB (S.D.N.Y.) final approval granted for \$4.9 million settlement resolving allegations that Mattress Firm sold dangerously defective bed frames.

YEREMEY KRIVOSHEY

Yeremey Krivoshey is a founding partner at Smith Krivoshey. He is one of the leading class action litigation attorneys in the country and has achieved extraordinarily rare results in the field. Mr. Krivoshey has extensive expertise litigating class cases concerning unlawful fees and liquidated damages in consumer contracts, statutory damages class actions, TCPA cases, product recall cases, privacy cases, and fraud and false advertising class actions. He has represented clients in a wide array of civil litigation in state and federal courts throughout the country, including appeals before the Ninth Circuit.

In 2021, Mr. Krivoshey secured the largest-ever consumer class action settlement in a case brought under the Telephone Consumer Protection Act. The settlement followed a class action trial win in the Northern District of California, where the federal court awarded a \$267 million judgment after a jury trial. While many class action attorneys *claim* to be trial attorneys, very few have actually litigated a certified class action through trial, and won.

Mr. Krivoshey has routinely drawn praise from judges for his work as class counsel. For instance, in January 2024, Judge Michael A. Hammer (D.N.J.) appointed Mr. Krivoshey as lead interim class counsel in a putative class action against one of the top private solar companies in the country, finding that he had the “requisite experience in handling class actions” and “clearly has established a knowledge of the applicable law.” The Court was also “satisfied from its oversight of this matter that proposed interim class counsel have committed, and will continue to commit, the necessary resources to represent the class.” When awarding a \$28 million attorneys’ fees award in 2021 at the conclusion of the *Perez* case, which Mr. Krivoshey spearheaded from its inception, Judge Yvonne Gonzalez Rogers (N.D. Cal.) remarked: “This Court does not often offer praise, expecting high performance from all counsel. Here though, experienced counsel has

done an excellent job on behalf of plaintiff and the class and vigorously pursued the claim despite numerous hurdles.” Similarly, in January 2023, Judge Raymond P. Moore (D. Co.) commended Mr. Krivoshey’s “high level of skill and expertise” in navigating a class action through “uncharted legal territory” as appointed class counsel against one of the top two ski resort companies in the country.

Mr. Krivoshey brings a diverse and unique perspective to class action litigation. He emigrated from Belarus as a refugee at 8 years old, and spent the first years in America living in a tiny basement apartment with a large family, pets included. Though the accent is long gone, the connection to underrepresented and distressed communities continues to fuel his passion for consumer advocacy. Consumer class actions provide a tremendous tool to fight the feeling of being taken advantage of when facing corporate power as an individual. This work is personal, and uplifting.

Mr. Krivoshey sought to experience as much of America's immensely rich and diverse culture as possible from an early age. He grew up in Louisville, Kentucky, received undergraduate degrees in Political Science and Psychology from Vanderbilt University in Nashville, Tennessee, and graduated from New York University School of Law. In that span, he worked for the Department of Justice on bankruptcy and employment cases, at the ACLU focused on first and fourth amendment issues, and at an environmental NGO in Honolulu, Hawaii.

After law school, Mr. Krivoshey spent over a decade litigating consumer class actions at Bursor & Fisher, P.A. San Francisco Bay Area office. Mr. Krivoshey made partner in 2018, and gained a national reputation through victories and class settlements in federal and state courts throughout the country. Mr. Krivoshey then co-founded Smith Krivoshey to pursue his vision of a modern, diverse, and responsible class action litigation firm.

Selected Published Decisions:

Bayol v. Zipcar, Inc., 2014 WL 4793935 (N.D. Cal. Sept. 25, 2014), denying enforcement of forum selection clause based on public policy grounds.

Bayol v. Zipcar, Inc., 78 F. Supp. 3d 1252 (N.D. Cal. Jan. 29, 2015), denying car-rental company’s motion to dismiss its subscriber’s allegations of unlawful late fees.

Brown v. Comcast Corp., 2016 WL 9109112 (C.D. Cal. Aug. 12, 2016), denying internet service provider’s motion to compel arbitration of claims alleged under the Telephone Consumer Protection Act.

Chaisson, et al. v. University of Southern California (Cal. Sup. Ct. Mar. 25, 2021), denying university’s demurrer as to its students’ allegations of unfair and unlawful late fees.

Chaisson, et al. v. University of Southern California (Cal. Sup. Ct. July 25, 2024), granting class certification of class of students that were charged late fees and appointing Smith Krivoshey as class counsel.

Choi v. Kimberly-Clark Worldwide, Inc., 2019 WL 4894120 (C.D. Cal. Aug. 28, 2019), denying tampon manufacturer's motion to dismiss its customer's design defect claims.

Goodrich, et al. v. Alterra Mountain Co., et al., 2021 WL 2633326 (D. Col. June 25, 2021), denying ski pass company's motion to dismiss its customers' allegations concerning refunds owed due to cancellation of ski season due to COVID-19.

Horanzy v. Vemma Nutrition Co., Case No. 15-cv-298-PHX-JJT (D. Ariz. Apr. 16, 2016), denying multi-level marketer's and its chief scientific officer's motion to dismiss their customer's fraud claims.

McMillion, et al. v. Rash Curtis & Associates, 2017 WL 3895764 (N.D. Cal. Sept. 6, 2017), granting nationwide class certification of Telephone Consumer Protection Act claims by persons receiving autodialed and prerecorded calls without consent.

McMillion, et al. v. Rash Curtis & Associates, 2018 WL 692105 (N.D. Cal. Feb. 2, 2018), granting plaintiffs' motion for partial summary judgment on Telephone Consumer Protection Act violations in certified class action.

Perez v. Indian Harbor Ins. Co., 2020 WL 2322996 (N.D. Cal. May 11, 2020), denying insurance company's motion to dismiss or stay assigned claims of bad faith and fair dealing arising out of \$267 million trial judgment.

Perez v. Rash Curtis & Associates, 2020 WL 1904533 (N.D. Cal. Apr. 17, 2020), upholding constitutionality of \$267 million class trial judgment award.

Salazar v. Honest Tea, Inc., 2015 WL 7017050 (E.D. Cal. Nov. 12, 2015), denying manufacturer's motion for summary judgment as to customer's false advertising claims.

Sholopa v. Turk Hava Yollari A.O., Inc. (d/b/a Turkish Airlines), 2022 WL 976825 (S.D.N.Y. Mar. 31, 2022), denying airline's motion to dismiss its customers claims for failure to refund flights cancelled due to COVID-19.

Selected Class Settlements:

Perez v. Rash Curtis & Associates, Case No. 16-cv-03396-YGR (N.D. Cal. Oct. 1, 2021) granting final approval to a \$75.6 million non-reversionary cash common fund settlement, the largest ever consumer class action settlement stemming from a violation of the Telephone Consumer Protection Act.

Strassburger v. Six Flags Theme Parks Inc., et al. (Ill. Cir. Ct. 2022) granting final approval to \$83.6 million settlement to resolve claims of theme park members for alleged wrongful charging of fees during the COVID-19 pandemic.

Juarez-Segura, et al. v. Western Dental Services, Inc. (Cal. Sup. Ct. Aug. 9, 2021) granting final approval to \$35 million settlement to resolve claims of dental customers for alleged unlawful late fees.

Niemczyk v. Pro Custom Solar LLC (D.N.J. Sep. 20, 2024) \$22-30 million non-reversionary cash common fund settlement to resolve claims of class members receiving unsolicited telemarketing calls.

Goodrich v. Alterra Mountain Company (D. Colo. Jan. 27, 2023) granting final approval to \$20.4 million settlement to resolve claims of ski pass customers for alleged wrongful withholding of refunds due to shortened 2019-2020 ski season.

Sholopa v. Turkish Airlines (S.D.N.Y. Aug. 25, 2023) granting final approval to \$14.1 million settlement to resolve claims of airline passengers for alleged late or missing refunds for flights cancelled due to COVID-19.

Moore v. Kimberly-Clark Worldwide, Inc. (Ill. Cir. Ct. July 22, 2020) granting final approval to \$11.2 million settlement to resolve claims of tampon purchasers for alleged defective products.

Retta v. Millennium Prods., Inc., 2017 WL 5479637 (C.D. Cal. Aug. 22, 2017) granting final approval to \$8.25 million settlement to resolve claims of kombucha purchasers for alleged false advertising.

Cortes v. National Credit Adjusters, L.L.C. (E.D. Cal. Dec. 7, 2020) granting final approval to \$6.8 million settlement to resolve claims of persons who received alleged autodialed calls without prior consent in violation of the TCPA.

Bayol et al. v. Health-Ade LLC, et al. (N.D. Cal. Oct. 11, 2019) – granting final approval to \$3,997,500 settlement to resolve claims of kombucha purchasers for alleged false advertising.

BRITTANY SCOTT

Brittany is a partner at Smith Krivoshey. Brittany is admitted to the State Bar of California and is a member of the bars of the United States District Court for the Northern, Central, Eastern, and Southern Districts of California, the Eastern District of Wisconsin, the Northern District of Illinois, the Western District of Michigan, the Second Circuit Court of Appeals, the Seventh Circuit Court of Appeals, and the Ninth Circuit Court of Appeals.

She is skilled at efficiently managing complex litigation and moving cases forward expediently for the benefit of her clients and class members. Brittany's practice has spanned the breadth of consumer protection litigation from false and misleading advertising to data privacy claims under statutes such as the Illinois Biometric Information Privacy Act, California Invasion of Privacy Act, and the Fair Credit Reporting Act. Brittany has been lead and co-lead counsel in class actions across the country, including *In Re: Apple Data Privacy Litigation*, Case No. 5:22-cv-07069 (N.D. Cal.). She has recovered millions of dollars for consumers in state and federal courts throughout the United States.

Prior to joining Smith Krivoshey, Brittany worked for Bursor & Fisher, P.A. During that time, she litigated hundreds of consumer class cases with a focus on false and misleading advertising and data privacy.

Brittany received her Juris Doctor from the University of California Law, San Francisco, graduating *cum laude*. During law school, she was a member of the Constitutional Law Quarterly, for which she was the Executive Notes Editor. Brittany published a note in the Constitutional Law Quarterly entitled “Waiving Goodbye to First Amendment Protections: First Amendment Waiver by Contract.” Brittany also served as a judicial extern to the Honorable Andrew Y.S. Cheng for the San Francisco Superior Court. Brittany graduated from the University of California with a B.A. in Political Science.

Selected Published Decisions:

Gibson v. Albertsons Companies, Inc., 2024 WL 4514041 (N.D. Ill. Oct. 17, 2024), denying cough suppressant retailer’s motion to dismiss purchaser’s false advertising claims.

Ramirez v. Trusper, Inc., 2024 WL 4479862 (N.D. Cal. Oct. 11, 2024), denying health care provider’s motion to compel arbitration in putative class action alleging wiretapping under California’s Invasion of Privacy Act.

St. Aubin v. Carbon Health Techs., Inc., 2024 WL 4369675 (N.D. Cal. Oct. 1, 2024), denying health care provider’s motion to dismiss its patient’s allegations of wiretapping.

Mitchell v. Sonesta Int’l Hotels Corp., 2024 WL 4471772 (C.D. Cal. Oct. 4, 2024), adopted as modified, 2024 WL 4474491 (C.D. Cal. Oct. 4, 2024), denying hotel’s motion to dismiss its guest’s allegation of wiretapping.

Lawrence v. Finicity Corp., 716 F. Supp. 3d 851, 870 (E.D. Cal. 2024), denying motion to dismiss and motion to compel arbitration of claims under California’s Anti-Phishing Act.

Natale v. 9199-4467 Quebec Inc., 2023 WL 4850531 (E.D.N.Y. July 28, 2023), denying pet supply company’s motion to dismiss purchaser’s false advertising claims.

Locklin v. StriVectin Operating Co., Inc., 2022 WL 867248 (N.D. Cal. Mar. 23, 2022), denying sunscreen manufacturer’s motion to dismiss purchaser’s false advertising claims.

Selected Class Settlements:

Morrissey v. Tula Life, Inc., Case No. 2021L0000646 (Cir. Ct. DuPage Cnty. 2021) – final approval granted for \$4 million class settlement to resolve claims of cosmetics purchasers for alleged false advertising.

Clarke et al. v. Lemonade Inc., Case No. 2022LA000308 (Cir. Ct. DuPage Cnty. 2022) – final approval granted for \$4 million class settlement to resolve claims for alleged BIPA violations.

Whitlock v. Jabil Inc., Case No. 2021CH00626 (Cir. Ct. Cook Cnty. 2022) – final approval granted for \$995,000 class settlement to resolve claims for alleged BIPA violations.

Darnall et al. v. Dude Products Inc., Case No. 2023LA000761 (Cir. Ct. Cook Cnty. 2023) – final approval granted for \$9 million class settlement to resolve claims of wipe purchasers for alleged false advertising.

Natale et al. v. 9199-4467 Quebec Inc. d/b/a Earth Rated, Case No. 2:21-cv-6775 (S.D.N.Y. 2023) – final approval granted for \$825,000 class settlement to resolve claims of dog waste bag purchasers for false advertising.

ALEKSANDR LITVINOV

Aleksandr Litvinov works for Smith Krivoshey as Counsel. He is an ardent trial lawyer, advisor, and problem solver. Prior to Smith Krivoshey, Mr. Litvinov spent nearly a decade advising and defending corporations with a primary focus on employment litigation and compliance. He has worked at some of the world's largest corporate law firms and employment boutiques, including Dentons, Hogan Lovells, Fisher Phillips, and Littler Mendelson. Mr. Litvinov has helped guide industry giants such as Amazon, FedEx, Uber, Kroger, and Humana through a variety of legal claims in jurisdictions across the country. This experience has developed Mr. Litvinov's understanding of litigation strategies and how corporations and insurance adjusters investigate, value, and defend claims.

Mr. Litvinov has successfully litigated harassment, discrimination, and retaliation claims, wage and hour claims, employment-related torts, and contract claims. He has secured dismissal and summary judgment on behalf of public employers as well as private employers in the retail, supply chain, distribution, manufacturing, tech, healthcare, energy, and hospitality industries. For example, in *Lainhart, et al. v. Louisville-Jefferson County Metro Government*, Mr. Litvinov assisted a trial team who saved the city of Louisville over \$150 million in alleged back pay in a high-profile, multi-plaintiff wage and hour dispute involving uncompensated "on call" time. Mr. Litvinov has likewise successfully handled administrative actions before the EEOC, state civil rights agencies, and state labor departments, and enjoys working on administrative and judicial appeals and issues of first impression. In *Kentucky Restaurant Association, et al. v. Louisville-Jefferson County Metro Government*, Mr. Litvinov saved all Kentucky employers from perpetual increased payroll costs by challenging and defeating an unprecedented local minimum wage ordinance at the Kentucky Supreme Court on behalf of retail and restaurant trade associations. And in *Collins v. Tyson Foods, Inc.*, Mr. Litvinov set a new precedent throughout Kentucky when he successfully argued that Tyson Foods was shielded from employment discrimination claims relating to its COVID vaccine mandate.

At Smith Krivoshey, in addition to a busy employment practice, Mr. Litvinov has devoted himself to the firm's consumer class action practice. Mr. Litvinov has handled dozens of class actions for false advertising, product defect and recalls, gambling, and the TCPA. He is involved in every facet of the firm's litigation practice, working on cases from inception through class resolution.

A graduate of The George Washington University Law School, Mr. Litvinov is admitted in Kentucky and Indiana, and has been permitted to practice in numerous district and circuit courts around the United States. He is a member of the National Employment Lawyers Association, and the Employment Law sections of the Kentucky and Indiana Bar Associations. Mr. Litvinov dedicates time each year to pro bono efforts benefiting workers with workplace issues who are unable to afford counsel.

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE BOTANIC TONICS LITIGATION

Master File No. 3:23-cv-01460-VC

This Document Relates to All Actions

**DECLARATION OF MATTHEW R.
MENDELSON IN SUPPORT OF
PLAINTIFFS' MOTION FOR FEES,
COSTS, AND SERVICE AWARDS**

1 I, Matthew R. Mendelsohn, declare as follows:

2 1. I am an attorney with Mazie Slate Katz Freeman, LLC (“Mazie Slater”), counsel for
3 Plaintiffs in this matter. I am a member in good standing of the bars of the State of New Jersey and State
4 of New York. I respectfully submit this declaration in support of Plaintiffs’ motion for fees, costs, and
5 service awards in the above-captioned class action (“Motion”).

6 2. I have personal knowledge of the facts set forth in this declaration and, if called as a
7 witness, I could and would competently testify under oath to the matters set forth in this Declaration.

8 3. Mazie Slater has extensive experience in complex civil litigation, in general, and class
9 actions and consolidated proceedings specifically. The attorneys at Mazie Slater have obtained numerous
10 noteworthy verdicts and settlements. Our firm is one of the most highly regarded trial law firms in New
11 Jersey, based on the results achieved and the diverse scope of cases that we handle.

12 4. I graduated from Rutgers University in 2002 and then attended Seton Hall University
13 School of Law, from which I graduated in 2005. I am a partner at Mazie Slater, where I have worked since
14 2006. I have extensive experience in complex civil litigation in general, and class actions and consolidated
15 proceedings specifically.

16 5. I have been continuously litigating consumer class action lawsuits since 2007. During that
17 time, I have repeatedly been appointed as Class Counsel by courts throughout the country and have
18 successfully resolved many cases on behalf of millions of class members. Examples of cases where I have
19 been appointed as class counsel and achieved a successful resolution on behalf of the class include, but
20 are not limited to:

- 21 • *In Re Subaru Battery Drain Prod. Liab. Lit.* (D.N.J. No.: 1:20-cv-03095);
- 22 • *Niemczyk v. Pro Custom Solar, LLC* (D.N.J. No.: 2:19-cv-7846);
- 23 • *Rolland v. Spark Energy, LLC* (D.N.J. No.: 3:17-cv-2680)
- 24 • *Linardi v. Astral Energy, LLC* (N.J. Sup. Ct. No: BER-L-003724-18);
- 25 • *Feldman v. BRP US, Inc.* (S.D. FL. No.: 17-cv-61150);
- 26 • *Ahmed v. HSBC Bank USA* (C.D. Cal. No.:5:15-cv-02057);
- 27 • *Gray v. BMW of North America, LLC* (D.N.J. No.: 13-cv-3417);

- *Bauman v. V Theater, et al* (D. NV. No.: 2:14-cv-01125);
- *Haghyayeghi v. Guess?, Inc.*, (S.D. Cal. No.: 14-cv-00020);
- *Majdipour v. Jaguar Land Rover N. Am., LLC* ((D.N.J No.: 2:12-cv-07849);
- *Meyer v. bebe stores, inc.*, (N.D. Cal. No.: 14-cv-00267-YGR);
- *McLaughlin v. IDT Energy* (S.D.N.Y. No.: 1:14-cv-04107);
- *In re Hiko Energy LLC Litigation* (S.D.N.Y. No.: 14-cv-1771);
- *Claridge v. North American Power & Gas, LLC*, (S.D.N.Y. No.: 15-cv-1261);
- *Overton v. sanofi-aventis US, LLC*, (D.N.J. No.: 3:13-cv-05535);
- *Zakskorn v. American Honda Motor Co.*, (E.D.Cal. No.: 2:11-cv-2610);
- *Aarons v. BMW of North America, LLC* (C.D. Cal. No.: 2:11-cv-7667);
- *Keegan v. American Honda Motor Co.* (C.D. Cal. No.: 10-cv-09508);
- *In re Nissan Radiator/Transmission Cooler Liti.* (S.D.N.Y. No.: 10-cv-7493);
- *Alin v. American Honda Motor Co., Inc.*, (D.N.J. No.: 2:08-cv-04825).

6. I continue to litigate numerous consumer class actions in various courts throughout the United States.

7. In the course of litigating consumer class action cases, I have helped to shape the law in this area, resulting in numerous reported decisions including: *Cummings v. FCA US LLC*, 401 F.Supp.3d 288 (S.D.N.Y. 2019); *Haghyayeghi v. Guess?, Inc.*, 168 F.Supp.3d 1277 (S.D. Cal. 2016); *Neale v. Volvo Cars of North America, LLC*, 794 F.3d 353 (3d Cir. 2015); *Dewey v. Volkswagen Aktiengesellschaft*, 558 Fed.Appx. 191 (3d Cir. 2014); *Gray v. BMW of North America, LLC*, 22 F.Supp.3d 373 (D.N.J. 2014); *Dewey v. Volkswagen Aktiengesellschaft*, 681 F.3d 170 (3d Cir 2012); *Keegan v. Am. Honda Motor Co.*, 838 F.Supp.2d 929 (C.D. Cal. 2012); *Keegan v. Am. Honda Motor Co.*, 284 F.R.D. 504 (C.D. Cal. 2012); *Delguercio v. Volkswagen of America*, 558 F. Supp. 2d 505 (D.N.J. 2008).

8. Finally, unlike many class action attorneys I maintain an active trial practice, having tried numerous complex cases to verdict. In recognition of this active trial practice, I have been designated by the New Jersey Supreme Court as a Certified Civil Trial Attorney. Attached as **Exhibit 1** is a true and accurate copy of Mazie Slater's current Firm Resume.

1 9. I have been actively involved in the litigation of this matter, which began as a putative class
2 action bringing claims on behalf of all persons who purchased the product “Feel Free” in the United States.

3 10. Prior to commencing this action, Mazie Slater attorneys spent many hours investigating
4 the potential claims against defendants. Mazie Slater’s factual and legal investigation included gathering
5 information about defendants’ marketing, as well as a review of existing legal authority regarding potential
6 claims. A great deal of work was performed before the lawsuit was filed. This information was essential
7 to our ability to understand the nature of defendants’ conduct and the potential relief and remedies for
8 putative class members.

9 11. My firm, along with co-counsel, filed a complaint on behalf of Plaintiff C.C. in the Central
10 District of California, C.D. Cal. Case No. 2:23-cv-3687, on May 15, 2023. We began the discovery process
11 and exchanged written discovery thereafter. On August 14, 2023, the Central District action was
12 transferred to the Northern District of California and assigned Case No. 3:23-cv-04136. These matters
13 were consolidated on January 30, 2024.

14 12. Before and throughout this litigation, I have worked with co-counsel to to efficiently divide
15 the work and allocate resources so as to avoid unnecessary overlap and duplication of efforts, costs, and
16 expenses. Over the course of the litigation, we were required to perform an independent investigation,
17 propound and respond to discovery requests, review thousands of pages of documents, and litigate the
18 case through settlement.

19 13. The proposed settlement was reached after extensive, arms-length negotiations between
20 counsel for the Parties and through multiple mediation sessions and discussions. Plaintiffs’ counsel
21 prepared a comprehensive mediation brief and damages analyses, which I believe were instrumental in
22 reaching a settlement.

23 14. All Mazie Slater attorneys have recorded their time spent on this matter in one-tenth hours
24 increments. I have carefully reviewed Mazie Slater’s time records, and believe that they fairly reflect the
25 amount of time spent in this matter.

26 15. My firm has worked a total of 120.80 hours in this litigation, representing a total lodestar
27 of \$111,290.00. This time and lodestar calculation does not include any time spent working on the motion
28

for attorneys' fees and service awards, including work preparing this supporting declaration. It also does not include anticipated work attending to miscellaneous class settlement administration issues that tend to arise in class settlements, nor does it factor in future work related to final approval.

16. All of the work represented by these hours was for the benefit of the class, and the time spent on said work was reasonable. This work included investigating the claims, drafting pleadings, case strategy and settlement.

17. Below of is breakdown of hours worked by each Mazie Slater attorney:

Name	Title	Class Year	Hours	Rate	Total
David M. Freeman	Partner	1988	7.0	\$1,100.00	\$7,700.00
Matthew R. Mendelsohn	Partner	2005	102.50	\$950.00	\$97,375.00
Samuel G. Wildman	Associate	2019	11.3	\$550.00	\$6,215.00

18. These rates are Mazie Slater's current usual and customary hourly rates, and the firm's rates have repeatedly been approved as reasonable and appropriate by multiple courts. *See, e.g., In Re Subaru Battery Drain Prod. Liab. Litig.*, 1:20-cv-3095 (D.N.J. Jan 24, 2023) (approving Mazie Slater's hourly rates of \$450 to \$950); *Majdipour v. Jaguar Land Rover N. Am., LLC*, 2:12-cv-07849 (D.N.J. Feb. 3, 2020) (approving Mazie Slater's hourly rates); *Feldman v. BRP US, Inc.*, Civ. Ac. No. 17-cv-61150 (S.D. FL. Nov. 19, 2018) (same); *Gray v. BMW of N. Am., LLC*, Civ. Ac. No. 13-cv-3417 (D.N.J Aug. 24, 2017) (same).

19. Copies of detailed timesheets will be made available for the Court's review upon request.

20. To date, my firm has incurred \$1,509.34 in litigation expenses. Those litigation expenses are made up of \$20 in court fees, \$1.84 in postage and \$1,487.50 in mediation fees.

21. During the course of this case, I was personally in contact with Plaintiff C.C. to keep him updated on the events of the case and whether anything was needed from him. He always promptly responded to requests for information or other needs of the case. He conveyed an interest in the case and a willingness to do his part in discovery and anything else needed from him. He assisted with counsel's

1 investigation, responded to discovery requests, reviewed and approved pleadings and was consulted
2 during settlement discussions.

3 22. In my view, Plaintiff C.C.'s participation in this case was critical to its ultimate resolution.
4 He appeared to take his role as class representative seriously, devoting his time and effort to obtain relief
5 for the class. The class settlement in this case could not have happened without his willingness to assume
6 the responsibilities of serving as class representative.

7 I declare under penalty of perjury that foregoing is true and correct. Executed in Roseland, New
8 Jersey on July 30, 2025.

9
10 Dated: July 30, 2025


MATTHEW R. MENDELSON

EXHIBIT 1



FIRM RESUME 2025

THE FIRM

Mazie Slater is one of the most highly regarded trial law firms in New Jersey, based on the results achieved and the diverse scope of cases that we handle. Unlike most trial firms, our practice is not limited to a particular niche or subset of civil litigation, and this versatility sharply increases our capabilities. Our practice spans the fields of class action and mass tort litigation, commercial litigation, insurance coverage litigation, professional malpractice, product liability, and personal injury. Perhaps most important, we have earned a reputation as trial lawyers who will take complex, expensive cases to trial and achieve large verdicts. The following are some of the settlements and verdicts we achieved:

In re Benicar (Olmesarten) Products Liability Litigation: \$380 million settlement for individuals who sustained alleged gastrointestinal injuries caused by the blood pressure drug Benicar, manufactured by Daiichi Sankyo, Inc. and Forest Laboratories, Inc.

Escobar v. DYFS: \$166 million verdict for negligence against New Jersey child protection agency. This is the largest personal injury jury verdict in New Jersey history. The Appellate Division subsequently reversed the verdict.

Verni v. Aramark: \$135 million liquor liability verdict against Aramark, which is the second largest personal injury verdict in New Jersey history. The Appellate Division subsequently reversed the verdict and the case was thereafter settled for \$26 million.

Meister v. Verizon: \$125 million settlement for a woman who was crushed by a Verizon utility pole. This is the largest single personal injury recovery in New Jersey history. In fact, no single personal injury settlement has ever come close to this amount.

Dewey v. Volkswagen of America, Inc.: \$69 million class action settlement relating to water ingress caused by defects in over 3 million Volkswagen and Audi vehicles.

McGinnis v. C.R. Bard: \$68 million jury verdict. This was a first bellwether case to proceed to verdict against Bard in the New Jersey MCL.

Alin v. American Honda Motor Co., Inc.: \$40 million recovery on behalf of Honda and Acura vehicle owners regarding air conditioning system defects.

Sutter v. Horizon Blue Cross Blue Shield of New Jersey: \$36 million to \$55 million class action settlement on behalf of more than 20,000 New Jersey Physicians relating to improper claims handling practices by Horizon.

Confidential: \$33.9 million product liability settlement on behalf of worker injured by a defective product in the workplace. This is the largest product liability settlement in New Jersey history.

Henderson v. Elizabethtown Gas: \$19.2 million settlement resulting from a natural gas explosion in a home that caused severe burn injuries to several of our clients, three of whom died from their burn injuries.

Morgan v. Newark Beth Israel Hospital: \$18.5 million verdict for birth injuries.

Confidential: \$15.75 million audit malpractice settlement. This case involved allegations that malpractice by an accounting firm resulted in erroneous financial statements, which allegedly allowed an insolvent company to continue in business. The case settled for \$15.75 million, which brought the total recovery by our law firm in litigation relating to the insolvent company to \$25 million.

New Jersey Eye Center Coverage Litigation: \$15.3 million verdict against insurance company. This was a case in which an insurance carrier declined to pay multiple settlements against a single eye surgeon. Following a two week trial, the trial judge ruled that the insurance carrier, Princeton Insurance Company, had to pay the settlements.

Hrymoc v. Ethicon, Inc.: \$15 million jury verdict. The verdict, for \$5 million in compensatory damages to and \$10 million in punitives, was awarded after a three-week trial. The jury found that the pelvic mesh products sued were defectively designed and failed to contain adequate warnings.

Cohen v. Benzel-Busch Motor Car Corp.: \$14.7 million settlement in a case where the plaintiff suffered Complex Regional Pain Syndrome (sometimes referred to as RSD).

Confidential: \$13 million settlement where our client suffered a birth injury which caused cerebral palsy.

Gillespie v. NJ Transit: \$12.75 million settlement a man in his 40's who was hit by a New Jersey Transit bus while crossing the street.

Hammons v. Ethicon, Inc.: \$12.5 million jury verdict. This case is one of more than 40,000 pending against Johnson & Johnson and Ethicon around the country, for injuries suffered by victims of the Prolift and the other similar pelvic mesh devices sold by Johnson & Johnson and Ethicon. After a three week trial the jury awarded \$12.5 million, consisting of \$5.5 million in compensatory and \$7 million in punitive damages.

Confidential: \$12.5 million settlement for a young child was hospitalized after complications from a tonsillectomy.

Keller v. Flugrad: \$12 million jury verdict for dental malpractice and wrongful death. This case involved medical malpractice committed by an oral surgeon whose negligence

resulted in the death of a 21-year old man within 12 hours after having his wisdom teeth removed. It is believed that this is the largest oral surgery malpractice verdict in New Jersey and one of the largest in the U.S. history.

Confidential: \$11.24 million settlement for a client that suffered quadriplegia in an accident involving the product.

Gross v. Ethicon, Inc.: \$11.1 million jury verdict against Johnson & Johnson in the first pelvic mesh trial in the United States. On February 25, 2013, a New Jersey jury awarded our client, a 47-year old nurse, \$3.35 million in damages against Johnson & Johnson in the first of 1800 mesh lawsuits to go to trial in New Jersey. On February 27, 2013, the jury awarded an additional \$7.75 million in punitive damages, bringing the total verdict to \$11.1 million.

Blake v. City of New York: \$10 million jury verdict for failure to provide police protection. Action brought on behalf of a young child who was severely burned by a Molotov Cocktail explosive device that was thrown into the bedroom of his family's apartment by an unapprehended perpetrator. The jury awarded \$10 million in compensatory and punitive damages, which award was reduced by the trial judge to \$2.4 million and affirmed on appeal.

Zhong v. NJ Transit: \$10 million settlement for a passenger on a New Jersey Transit bus, was injured while retrieving her luggage from the bus. As our client was in the luggage compartment, the bus drove away causing severe injuries which required partial amputation of our client's leg.

Ingram v. Camden County Police Dept.: \$10 million settlement for Xavier Ingram who was left a paralyzed, quadriplegic after he was beaten by Camden County Police. This is the largest police brutality settlement in New Jersey history, and one of the largest police brutality settlements in the nation's history.

In 2023 and 2021 The National Law Journal named Mazie Slater an **"Elite Trial Lawyers"** in the medical malpractice category and the Medical Malpractice Law Firm of the Year in 2023. Likewise, in 2018 The National Law Journal named Mazie Slater as **"Elite Trial Lawyers"** in the categories of medical malpractice and product liability. In 2018 Mazie Slater was also named **"Product Liability Litigation Department of the Year"** by the New Jersey Law Journal. In 2014 Mazie Slater Katz & Freeman, LLC was one of twelve firms in the nation named to the **"Plaintiffs' Hot List"** by The National Law Journal, one of fifty firms recognized as **"America's**

Elite Trial Lawyers” by The National Law Journal, and in 2013 Mazie Slater was named **“Litigation Department of the Year”** by the New Jersey Law Journal. Our lawyers have also been listed in “Best Lawyers in America,” “New Jersey Superlawyers,” and “Lawdragon 500.”

In addition, Mazie Slater and/or its attorneys has been appointed Class Counsel, Lead Counsel and Liaison Counsel in various matters, including, but not limited to: In re Allergan Biocell Textured Breast Implant Products Liability Litigation, (Sup. Ct. N.J. MCL No. 634)(appointed Liaison Counsel in ongoing “mass tort” involving injuries to women that have had certain Allergan breast implants implanted); In re Valsartan Products Liability Litigation, (D.N.J. 1:19-md-02875)(appointed Co-Lead Counsel, Co-Liaison Counsel, and Executive Committee member in ongoing MDL involving drugs contaminated with cancer-causing agents); In re Benicar (Olmesarten) Products Liability Litigation, (D.N.J. 15-cv-2606-RBK-JS)(appointed Co-Lead Counsel in ongoing MDL involving gastrointestinal injuries due to hypertension medication, resulting in \$380+ million settlement); In re Pelvic Mesh Litigation (Gynecare & Bard) (Sup. Ct. N.J. MCL No. 291) (appointed Co-Liaison Counsel in ongoing “mass tort” involving injuries to women that have had pelvic mesh medical devices surgically implanted); Dewey v. Volkswagen, (D.N.J. 2:07-CV-2249-FSH-PS); (Co-Class Counsel in \$69 million nationwide class action settlement involving 3 million vehicles owned or leased by approximately 5.5 million Class Members over the course of 12 years, providing a unique set of monetary and non-monetary benefits); Alin v. American Honda Motor Co., Inc., (D.N.J. 2:08-cv-04825)(Co-Class Counsel in \$40 million nationwide class action settlement on behalf of hundreds of thousands of Honda vehicle owners alleging defects in their vehicles air-conditioning systems); In re Nissan Radiator/Transmission Cooler Litigation, (S.D.N.Y. 10-cv-7493-VLB) (Co-Class Counsel in \$20+ million nationwide class action settlement on behalf of more than 800,000 class members relating to defects in the radiator which caused catastrophic transmission failure); Aarons v. BMW of North America, LLC, (C.D. Cal. 2:11-cv-7667-PSG-CW)(Co-Class Counsel

in nationwide class action settlement involving transmission failure in certain Mini Cooper vehicles); Keegan v. American Honda Motor Co., (C.D. Cal. 2:10-cv-09508-MMM-AJW)(Co-Class Counsel in nationwide class action settlement involving suspension defect in certain Honda Vehicles); Zakskorn v. American Honda Motor Co., Inc., (E.D. Cal. 2:11-cv-2610-KJM-KJN)(appointed Co-Lead class counsel in nationwide class action settlement on behalf of 1.68 million class members involving alleged brake defects in certain Honda Civic vehicles); Kirsch, D.D.S. v. Horizon, (Docket No. ESX-L-4216-05) (16,000 dental provider class); Jungels v. Delta Dental of New Jersey (District of New Jersey Civil Action No. 07-186) (160,000 dental provider national class); Sutter, M.D. v. Oxford Health Plans (American Arbitration Association Case No. 18 193 20593 02) (20,000 physician class).

MSKF ATTORNEYS

PARTNERS

David A. Mazie graduated from Rutgers University in 1983, and George Washington University School of Law in 1986. He was admitted to the bars of State of New Jersey and District of New Jersey in 1986. Mr. Mazie focuses his practice on complex civil litigation, including personal injury, medical malpractice, product liability, commercial litigation, and class actions. He has been a certified civil trial attorney since 1996, and has obtained approximately 40 jury verdicts and settlements exceeding \$1 million, including the landmark \$166 million verdict against the NJDYFS, which is the largest personal injury verdict in New Jersey history. The Appellate Division reversed this verdict. Mr. Mazie also obtained a \$135 million liquor liability verdict against Aramark, the second largest personal injury verdict in New Jersey history. The Appellate Division subsequently reversed the jury's verdict and the case was thereafter settled for \$26 million. In 2020 Mr. Mazie secured a \$125 million settlement for a woman crushed by utility pole which is the largest personal injury settlement in New Jersey history. In recent years, Mr. Mazie has obtained an \$33.9 million product liability settlement, a \$18.5 million wrongful birth jury verdict, a \$15.75 million audit malpractice settlement, a \$12 million wrongful death jury verdict, a \$11.1 million "mass tort" verdict, a \$7.25 million actuarial malpractice settlement, and a multi-million dollar Lasik malpractice settlement which is believed to be the largest Lasik malpractice recovery in New Jersey history. He also tried -- and successfully settled -- the case of Ravin Sarasohn v. Lowenstein Sandler involving unfair competition between competing law firms. In addition to the representation of private clients, over the past twenty-four years he has represented the New Jersey Commissioner of Banking and Insurance as liquidator of several failed insurance companies, handling numerous multi-million dollar commercial litigations on the Commissioner's

behalf. He also has numerous reported decisions, many of which have changed the law: Ravin, Sarasohn v. Lowenstein Sandler, 365 N.J. Super. 241 (App. Div. 2003); Taglieri v. Moss, 367 N.J. Super. 184 (App. Div. 2004); Reynolds v. Guard Dogs Unlimited, Inc. 325 N.J. Super. 298 (App. Div. 1999); Nubenco Enterprises, Inc. v. Inversiones Barberena, S.A., 963 F.Supp. 353 (D.N.J. 1997); Integrity Insurance Co. v. Teitelbaum, 245 N.J. Super. 133 (Law Div. 1990); In re Integrity Insurance Company, 193 N.J. 86 (2007); Resolution Trust Corp. v. Edie, 1994 WL 744672 (D.N.J. Oct. 4, 1994); Ladner v. Mercedes-Benz of North America, Inc. 266 N.J. Super. 481 (App. Div. 1993); Home State Insurance Co. v. Continental Insurance Co., 313 N.J. Super. 584 (App. Div. 1998); Home State Insurance Co. v. Continental Insurance Co., 158 N.J. 104 (1999); In re Phenylpropanolamine (PPA), 2003 WL 22417238 (N.J. Super., July. 21, 2003); Fillebrown v. Steelcase, Inc., 63 Fed Appx. 54, 2003 WL 1191162 (3d Cir. 2003); Verni v. Harry M. Stevens, et al, 387 N.J. Super. 160 (App. Div. 2006); Liss v. Federal Insurance Co., 2006 WL 2844468 (App. Div. 2006); Clark v. University Hospital/UMDNJ 390 N.J. Super 108 (App. Div. 2006); New Jersey Eye Center v. Princeton Ins. Co., 394 N.J. Super. 557 (App. Div. 2007); Verni v. Lanzaro, 404 N.J. Super. 16 (App. Div. 2008); Liss v. Federal Ins. Co., 2009 WL 231992 (App. Div. 2009); Beye v. Horizon Blue Cross Blue Shield, 2008 WL 3064757 (D.N.J. 2008); Beye v. Horizon Blue Cross Blue Shield, 558 F. Supp. 2d 556 (D.N.J. 2008); Alin v. American Honda Motor Co., Inc., 2010 WL 1372308 (D.N.J. March 31, 2010). Mr. Mazie has been named to the Best Lawyers in America numerous times, and one of the top 500 lawyers in America by Law Dragon. Mr. Mazie has personally received the most votes of any New Jersey trial attorney in the 2005, 2006 and 2007 Super Lawyers rankings, and has been ranked in the top ten every year since 2009. In 2005, the New Jersey Law Journal named Mr. Mazie “Lawyer of the Year,” and in 2014 he was inducted into the “Personal Injury Hall of Fame.”

Adam M. Slater is a partner and senior trial lawyer at Mazie Slater. Mr. Slater's practice is focused on complex civil litigation, product liability, medical malpractice, personal injury, consumer litigation, and class action law. Mr. Slater is a 1989 graduate of Tulane University and a 1993 graduate of Boston University School of Law. Mr. Slater was admitted to the bars of the State of New Jersey and District of New Jersey in 1994. He is also admitted in the State of New York, the District of Columbia, the State of Colorado, and the Third Circuit Court of Appeals. Mr. Slater was certified as a civil trial attorney by the New Jersey Supreme Court in 2000, only six years after admission to the bar, and has been recertified. Mr. Slater lectures frequently on trial practice for New Jersey ICLE including seminars titled: Trying Cases: Proven Tactics & New Strategies for Success, Trying the Breast Cancer Case, Winning the Big Verdict, Trying Your Case the Right Way, and Not Just Another Discovery Seminar. He has been named to the Best Lawyers in America and as a Top 100 "Super Lawyer" in the State of New Jersey. He also has numerous published opinions, including but not limited to Liguori v. Elmann, 191 N.J. 527 (2007); New Jersey Eye Center, P.A. v. Princeton Ins. Co., 394 N.J. Super. 557 (App. Div. 2007); Baldassano v. High Point Insurance Company, 396 N.J. Super. 448 (App. Div. 2007); La v. Hayducka, 269 F.Supp. 2d 566 (D.N.J. 2003); In re Glatstian, 215 B.R. 495 (Bankr. D.N.J. 1997); Meth v. Gorfine, 34 A.D. 3d 267 (N.Y.A.D. 1st Dept. 2006), Dewey v. Volkswagen, AG., 558 F.Supp. 2d 505 (D.N.J. 2008); Dewey v. Volkswagen, AG., --- F.Supp. 2d --- (D.N.J. 2010). Over his career, Mr. Slater has obtained numerous verdicts and settlements in excess of one million dollars, with many in the multi-millions, including a \$69 Million class action settlement in Dewey v. Volkswagen. In addition, Mr. Slater has also appointed as Liaison Counsel in In re Allergan Biocell Textured Breast Implant Products Liability Litigation, (Sup. Ct. N.J. MCL No. 634); Co-Liaison Counsel in In re Pelvic Mesh Litigation – J&J/Bard; Co-Lead Counsel in In re: Benicar (Olmesartan) Products

Liability Litigation; and Co-Lead Counsel in In re Valsartan Products Liability Litigation, (D.N.J. 1:19-md-02875).

Eric D. Katz is a partner at Mazie Slater. Mr. Katz is a 1988 graduate of Polytechnic University of New York (now Polytechnic Institute of NYU) and a 1991 graduate of Pace Law School, where he was an editor on the law review, and was admitted to the bar of the State of New Jersey and the District of New Jersey in 1991. Mr. Katz is a certified civil trial attorney, and concentrates his practice in managed care, class action, product liability, ERISA, and medical provider law. In 2013, Mr. Katz successfully argued on behalf of the Respondent, John Ivan Sutter, M.D. in the Supreme Court of the United States in the matter of Oxford Health Plans v. Sutter, 133 S. Ct. 2064 (2013), in which the Supreme Court in an unanimous decision affirmed the Third Circuit upholding an arbitrator's award that 20,000 New Jersey physicians may arbitrate their claims payment disputes on a class-wide basis against Oxford Health Plans. Mr. Katz has been appointed class counsel in several class actions, and has been selected a New Jersey Super Lawyer annually since 2007 in the area of class action law, as well as selected to The Best Lawyers in America annually since 2012. In addition to his complex litigation and class action experience, Mr. Katz is a recognized published authority in this state on the subjects of product liability and toxic tort law, having co-written with Hon. William A. Dreier, P.J.A.D. (Ret.) and Hon. John E. Keefe, P.J.A.D. (Ret.), the most-widely cited treatise on these areas of the law entitled New Jersey Products Liability and Toxic Tort Law (published annually by Gann Law Books). Since its initial printing, the treatise was adopted by the Administrative Office of the Courts as a bench book on product liability and, for a number of years, was distributed to the entire state judiciary on an annual basis. To date, the treatise has been cited on twenty (20) or more occasions in published opinions. In addition to his Supreme Court decision, Mr. Katz has several other reported decisions, for example Sutter v. Oxford Health Plans, 675 F.3d 215 (3d Cir. 2013), aff'd 133 S. Ct. 2064

(2013); Kaufman v. Allstate Ins. Co., 561 F.3d 144 (3d Cir. 2009); Sutter v. Horizon Blue Cross Blue Shield, 406 N.J. Super. 86 (App. Div. 2009); and Kirsch v. Delta Dental of New Jersey, 2008 WL 441860 (D.N.J. 2008). Mr. Katz has multiple seven-figure settlements, including the landmark \$39 million Sutter v. Horizon class action settlement.

David M. Freeman is a partner at Mazie Slater and a 1985 graduate of Lehigh University and a 1988 graduate of University of Pennsylvania Law School. Mr. Freeman was admitted to the bar of the State of New Jersey and the District of New Jersey in 1988. Mr. Freeman concentrates his practice in the area of complex litigation, including commercial litigation, product liability, professional malpractice, insurance insolvency, and personal injury. Mr. Freeman has several reported and unreported decisions, for example Liss v. Federal Ins. Co., 2009 WL 231992 (App. Div. 2009); In re Integrity Insurance Company, 193 N.J. 86 (2007); Liss v. Federal Insurance Co., 2006 WL 2844468 (App. Div. 2006); Klein v. Auttek, 147 Fed.Appx. 270 (3d. Cir 2005); Ravin Sarasohn v. Lowenstein Sandler, 365 N.J. Super. 241, (App. Div. 2003); Lascurain v. City of Newark, 349 N.J. Super. 251, 793 A.2d 731, (App. Div. 2002); RFE Industries v. SPM Corp., 103 F.3d 923 (4th Cir. 1997); National Property Investors VIII v. Shell Oil Co., 950 F.Supp 710 (E.D.N.C. 1996); National Property Investors VIII v. Shell Oil Co., 917 F.Supp 324 (D.N.J. 1995); and S&R Associates v. Shell Oil Co., 725 A.2d 431 (Del. Supr. 1998); Matter of Integrity Ins. Co., 1991 WL 213899 (D.N.J. 1991).

Matthew R. Mendelsohn is a partner with Mazie Slater and concentrates his practice in complex civil litigation, specializing in class action and personal injury litigation. Mr. Mendelsohn is a 2002 graduate of Rutgers University and a 2005 graduate of Seton Hall School of Law. He has been admitted to practice in New Jersey, New York, U.S. District Court, District of New Jersey, Southern District of New York, and the Third and Ninth Circuit Court of Appeals. Mr. Mendelsohn has been Certified by the Supreme Court of New Jersey as a Civil Trial Attorney,

a distinction held by less than 3% of practicing attorneys in NJ. Mr. Mendelsohn has litigated numerous cases resulting in multi-million dollar verdicts and settlements including, but not limited to, the \$69 Million class action settlement in Dewey v. Volkswagen, a \$40 million class action settlement in Alin v. Honda, a \$30+ million class action settlement in In re Subaru Battery Drain Litigation; a \$20+ million class action settlement in In re Nissan Radiator/Oil Cooler Litigation; a \$19.2 million settlement for injuries sustained as a result of a gas explosion; a \$7 million settlement on behalf of an injured construction worker; a \$6 million settlement in a bus accident case, \$5 million settlement in a truck accident case, \$4.7 million settlement in product liability case, and a \$4.5 million settlement in a medical malpractice action. In recognition of his accomplishments, in both 2023 and 2024 Mr. Mendelsohn was listed as one of the “500 Leading Consumer Plaintiff Lawyers” by Lawdragon, selected as a “New Leader of the Bar” (formerly known as “40 under 40”) by the New Jersey Law Journal in 2012, selected as a member of “The Top 40 under 40” by The National Trial Lawyers in 2012, selected as a “Top 100 Trial Lawyer” by The National Trial Lawyers and selected as a New Jersey “Super Lawyer” every year since 2015. Mr. Mendelsohn has also personally been appointed Class Counsel in 18 nationwide consumer class actions. Mr. Mendelsohn has several reported decisions to his credit, including; Cummings v. FCA US LLC, 401 F.Supp.3d 288 (S.D.N.Y. 2019); Haghighyeghi v. Guess?, Inc., 168 F. Supp. 3d 1277 (S.D. Cal. 2016); Neale v. Volvo Cars Of North America, LLC; 794 F.3d 353 (3d Cir. 2015); Gray v. BMW of North America, LLC, 22 F.Supp.3d 373, (D.N.J. 2014); Dewey v. Volkswagen Aktiengesellschaft, 558 Fed.Appx. 191 (3d Cir. 2014); Dewey v. Volkswagen of America, 909 F.Supp.2d 373 (D.N.J. 2012); Keegan v. American Honda, 284 F.R.D. 504 (C.D. Cal 2012); Keegan v. American Honda, 838 F.Supp.2d 929 (C.D. Cal. 2012); Sutter v. Horizon Blue Cross Blue Shield, 406 N.J. Super. 86 (App. Div. 2009); and Dewey v. Volkswagen, AG, 558 F.Supp. 2d 505 (D.N.J. 2008).

Beth G. Baldinger is an experienced trial attorney for over 25 years and has extensive experience in complex civil litigation. Nationally recognized in the field of crime victims' rights, Ms. Baldinger has championed the rights of children injured in state foster care and daycare settings; survivors of sexual assaults and domestic violence; estates of those lost to homicides; citizen's whose civil rights were violated by police misconduct; and those injured due to inadequate security. In both state and federal courts Ms. Baldinger has pressed forward with cutting-edge claims and novel issues in individual cases, class actions, mass tort matters and multi district litigation. She has a proven track record in cases of child abuse, medical, legal and professional malpractice, products liability, health care and health insurance rights, traumatic brain injuries, sports injuries and wrongful death claims against government entities, multi-national corporations, individuals, as well as non-profit entities.

In 2022, Ms. Baldinger won a \$10 million settlement in the Xavier Ingram police brutality case. This the largest police brutality settlement in New Jersey history, and one of the largest in the nation's history. In 2023, Ms. Baldinger was named the New Jersey Law Journal's Attorney of the Year for her many successes. Ms. Baldinger was also awarded the American Association for Justice Leonard Weinglass award for Defense of Civil Liberties. In 2024, Ms. Baldinger was named to the Forbes America's Top 200 Lawyers List. She has also been selected in New Jersey multiple times to Super Lawyers list, listed in the Best Lawyers in America, and selected to the 500 leading plaintiff consumer lawyers in the country as listed by Lawdragon. Her cases have been publicized in the national and local media.

Ms. Baldinger lectures nationally on victims' rights and has volunteered for national and local organizations. Ms. Baldinger has the following reported opinions to her credit: Beye v. Horizon, 568 F.Supp. 566 (D.N.J. 2008); Brennan v. Orban, 145 N.J. 282 (1996); Aldrich v.

Schwartz, 258 N.J. Super. 300 (App. Div. 1992); Blake v. City of New York, 157 A.D.2d 482 (1st Dep’t 1990).

David M. Estes is a partner at Mazie Slater. Mr. Estes graduated Nyack College in 2000, and Rutgers University School of Law in 2011. While in law school Mr. Estes served as the Lead Editor of the Rutgers Journal of Law and Religion, and was a Finalist of the Willem C. Vis International Commercial Arbitration Moot. Mr. Estes concentrates his practice in class action, product liability, and personal injury litigation. Prior to joining the firm, Mr. Estes served as law clerk to the Honorable Victor Ashrafi of the New Jersey Superior Court, Appellate Division. He also served as summer clerk to the Honorable Jerome Simandle of the U.S. District Court of New Jersey, and judicial intern to the Honorable Theodore McKee of the U.S. Court of Appeals for the Third Circuit. Mr. Estes is admitted to practice law in New Jersey.

Adam M. Epstein is a partner at Mazie Slater. Mr. Epstein graduated from Pennsylvania State University in 2006 and Brooklyn Law School in 2010. Mr. Epstein concentrates his practice in personal injury, medical malpractice and class action litigation. He is known for his aggressive yet tactical pursuit of justice on behalf of his clients who have been harmed as a result of the negligence of others. He has helped recover millions of dollars for his clients in numerous complex and high-profile matters. Some examples of the cases he has worked on include: \$125 Million Settlement for Woman Crushed by Utility Pole, \$12.75 Million Settlement For A Man Hit By A Bus Which Caused A Brain Injury, \$4.5 Million Settlement For Failure To Diagnose Malaria and \$4 Million Settlement For Medical Malpractice Death. Because of his many successes, Mr. Epstein has been named a Super Lawyers Rising Star every year since 2018 (2018 – 2022). His clients have written extensive positive reviews regarding his work ethic, guidance, empathy and results. Prior to joining the firm, Mr. Epstein worked at a prominent defense litigation firm,

defending the very type of cases that he now pursues. Mr. Epstein is admitted to law in both New and New York.

ASSOCIATES

Karen G. Kelsen is an associate at Mazie Slater. Ms. Kelsen graduated from Queens College in 2005 and Hofstra University School of Law in 2008. Ms. Kelsen concentrates her practice in complex civil litigation, including class action, products liability, personal injury, and medical malpractice. She has been admitted to practice in the State of New Jersey and the U.S. District Court, District of New Jersey since 2008. Ms. Kelsen is also admitted in the State of New York. Ms. Kelsen was heavily involved in the discovery phase in Dewey v. Volkswagen, and currently is a member of the team handling In re Gynecare/Ethicon Pelvic Mesh Litigation.

Cory J. Rothbort is an associate at Mazie Slater. Mr. Rothbort is admitted to practice in New Jersey and New York, and before the United States District Court for the District of New Jersey. He is an active member of the Essex County and New Jersey State Bar Associations and Brennan-Vanderbilt American Inn of Court. Mr. Rothbort presently serves as Secretary of the Executive Committee of the NJ State Bar Young Lawyers Division. In 2019, Mr. Rothbort was recognized as the Outstanding Young Lawyer of the Year by the Essex County Bar Association. Mr. Rothbort is an active speaker, participating on various panels discussing issues related to his practice such as Practical Evidence, Ethical Considerations for the Young Lawyer & Small Practitioner and Using Depositions & Discovery for Killer Cross-Examinations. Prior to entering private practice, Mr. Rothbort completed a judicial clerkship with The Honorable Heidi Willis Currier, J.S.C. in Middlesex Vicinage in New Brunswick, NJ. Before his clerkship, Mr. Rothbort attended the Boston University School of Law, graduating with a Concentration in Litigation and Dispute Resolution. Prior to attending Law School, Mr. Rothbort graduated cum laude from

Rutgers University. He was also a four-year member of the Rutgers University Mock Trial Association.

Michael R. Griffith is an associate at Mazie Slater. Mr. Griffith graduated from The College of New Jersey in 2013 and Rutgers University School of Law in 2016. Mr. Griffith concentrates his practice in mass torts, products liability, personal injury and commercial litigation. Prior to joining the firm, Mr. Griffith was a Law Clerk to the Honorable Robert P. Contillo, P.J.Ch. and the Honorable Menelaos W. Toskos, J.S.C. Mr. Griffith is admitted to practice in New Jersey.

Christopher J. Geddis is an associate at Mazie Slater. He graduated from William & Mary Law School and received a Bachelor of Arts in philosophy from Dartmouth College. Prior to joining the firm, he served a clerkship for the Honorable Richard S. Hoffman of the Superior Court of New Jersey, Appellate Division. During law school, he worked for the College of William & Mary's Office of University Counsel and served as a Senior Articles Editor of the William & Mary Bill of Rights Journal. He also interned for the Honorable Marie E. Lihotz of the Superior Court of New Jersey, Appellate Division, and the Honorable Lynn N. Hughes of the United States District Court. He is admitted to practice law in New Jersey and Pennsylvania.

Samuel D. Wildman is an associate at Mazie Slater. He is admitted to practice in New Jersey. Before joining the firm, he served as a law clerk to the Honorable Robert J. Gilson, J.A.D. of the Appellate Division of the Superior Court of New Jersey. Mr. Wildman attended Cornell Law School, where he graduated with honors and a concentration in general practice. Mr. Wildman was an acquisitions editor on Journal of Law and Public Policy and a member of the Cornell Law School Securities Law Clinic. Mr. Wildman also completed an externship and internship with the U.S. Department of Justice, where he gained valuable experience in administrative and constitutional law and multibillion-dollar affirmative False Claims Act

litigation. During his 1L summer, he also worked as a judicial intern for the Honorable John M. Leventhal of the Appellate Division, Second Department of New York. Mr. Wildman graduated magna cum laude from Boston University with a B.A. in philosophy and psychology and minors in both history and political science. Mr. Wildman concentrated his studies on applied and medical ethics, statistics, and experimental design. Mr. Wildman continues to pursue these interests as a volunteer with the Center for Mind and Culture. During his junior year, he served as an intern for Ian Lucas, M.P., the British Labour Party's shadow secretary for Africa and the Middle East.

Julia S. Slater is an associate at Mazie Slater. Prior to joining Mazie Slater Katz & Freeman, Ms. Slater was an associate at a personal injury law firm in Manhattan, where she focused on representing and advocating for her clients who had been injured due to another's fault. Ms. Slater received her Juris Doctor from Benjamin N. Cardozo School of Law in 2019. Prior to that, she graduated from Syracuse University in 2016 with a Bachelor of Arts in Political Science. While in law school, Ms. Slater participated in the Trial Advocacy Program, served as a mediator in the Divorce Mediation Clinic, helping people to resolve difficult familial issues, and she was also a member of the Cardozo Arts & Entertainment Law Journal.

Trevor Dickson is an associate at Mazie Slater. Before joining the firm, he served as a law clerk to the Honorable Stephanie A. Mitterhoff of the Appellate Division of the Superior Court of New Jersey. Mr. Dickson is admitted to practice in the State of New Jersey, the United States District Court for the District of New Jersey, and the United States Court of Appeals for the Third Circuit. Prior to his clerkship, Mr. Dickson attended Rutgers Law School – Newark, where he graduated magna cum laude and was elected to the Order of the Coif. During an internship with the Honorable Joseph A. Dickson, U.S.M.J., he gained valuable experience involving federal trial practice. Before law school, Mr. Dickson graduated from the University of Miami with both a Bachelor of Arts in Political Science and History, and a Master's degree in public administration.

Carissa Thompson is an associate at Mazie Slater. Ms. Thompson graduated from Regent University School of Law in 2024 where she was a member of the Regent Law Trial Advocacy Executive Board. While in law school Ms. Thompson participated in several trial advocacy competitions and was recognized for her oral advocacy skills. Before law school Ms. Thompson graduated from Pennsylvania State University where she earned a Bachelor of Science in Nursing and was a Division I student athlete. Ms. Thompson is also a registered nurse (RN) in New Jersey and Pennsylvania.

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE BOTANIC TONICS LITIGATION

Master File No. 3:23-cv-01460-VC

This Document Relates to All Actions

**DECLARATION OF NEAL J.
DECKANT IN SUPPORT OF
PLAINTIFFS' MOTION FOR FEES,
COSTS, AND SERVICE AWARDS**

1 I, Neal J. Deckant, declare as follows:

2 1. I am a partner at Bursor and Fisher, P.A., counsel of record for Plaintiffs in this
3 matter. I have been admitted before this Court and am a member in good standing of the bar of
4 the State of California. I respectfully submit this declaration in support of Plaintiffs' motion for
5 fees, costs, and service awards in the above-captioned class action ("Motion").

6 2. I have been actively involved in the litigation of this matter, which began as a
7 putative class action bringing claims on behalf of all persons who purchased the product "Feel
8 Free" in the United States. My firm filed an initial complaint on behalf of Plaintiff C.C. in the
9 Central District of California, C.D. Cal. Case No. 2:23-cv-3687, on May 15, 2023. We began the
10 discovery process and exchanged written discovery thereafter. On August 14, 2023, the Central
11 District action was transferred to the Northern District of California and assigned Case No. 3:23-
12 cv-04136. These matters were consolidated on January 30, 2024.

13 **Experience and background**

14 3. My partners and I have extensive experience in class action litigation and have been
15 approved as class counsel in numerous class actions and class action settlements. In my over 14
16 years of experience, I have litigated over 200 class actions. Our experience includes federal and
17 state class actions in Washington, California, New York, New Jersey, Illinois, Florida, and many
18 other states. A true and correct copy of my firm's curriculum vitae is attached hereto as **Exhibit**
19 **1**.

20 4. My firm has also been recognized by courts across the country, including in this
21 Circuit, for its expertise litigating Rule 23 class action claims to trial. *See Ebin v. Kangadis Food*
22 *Inc.*, 297 F.R.D. 561, 566 (S.D.N.Y. Feb. 25, 2014) ("Bursor & Fisher, P.A., are class action
23 lawyers who have experience litigating consumer claims. ... The firm has been appointed class
24 counsel in dozens of cases in both federal and state courts, and has won multi-million dollar
25 verdicts or recoveries in five class action jury trials since 2008."); *In re Welspun Litigation*, No.
26 1L16-cv-06792-RJS (S.D.N.Y. January 26, 2017) (appointing Bursor & Fisher interim lead
27 counsel to represent a proposed nationwide class of purchasers of mislabeled Egyptian cotton
28

1 bedding products); *Williams v. Facebook, Inc.*, No. 3:18-cv-01881, Dkt. 51 (N.D. Cal June 26,
2 2018) (“[The] Bursor firm ... ha[s] extensive experience in handling class actions and complex
3 litigation, including products liability and consumer protection cases; appear[s] to have knowledge
4 of applicable law; and ha[s] extensive resources.”) (appointing Bursor & Fisher class counsel to
5 represent a putative nationwide class of all persons who installed Facebook Messenger
6 applications and granted Facebook permission to access their contact list).

7 **Attorneys’ Fees**

8 5. Before and throughout the duration of this litigation, attorneys working on this case
9 from my office met with attorneys from our co-counsel firms to discuss ways to efficiently divide
10 the work and allocate resources so as to avoid unnecessary overlap and duplication of efforts, costs,
11 and expenses. Over the course of the litigation, Class Counsel was required to perform an
12 independent investigation, review thousands of photographs, bills, videos, medical records, and
13 other documents, and litigate the case vigorously through settlement.

14 6. We reached the proposed settlement after extensive, arms-length negotiations
15 between counsel for the Parties and through multiple mediation sessions and discussions. Class
16 Counsel prepared a comprehensive mediation brief and damages analyses, which I believe were
17 instrumental in reaching a settlement.

18 7. All attorneys at my firm prepare timesheets contemporaneously. I carefully
19 reviewed my time records and those of my attorneys and believe that they fairly reflect the amount
20 of time we spent in this matter. Where appropriate, I have reduced or eliminated time which I felt
21 exceeded what was necessary for a given task.

22 8. My firm has worked a total of 103.0 hours in this litigation, representing a total
23 lodestar of \$87,220.00 and an overall blended rate (lodestar divided by total hours) of \$846.80. All
24 of the work represented by these hours was for the benefit of the class, and the time spent on said
25 work was reasonable. This work included drafting pleadings, assisting with the drafting motions
26 and briefs, preparation for oral argument, and working on case strategy and participating in
27 settlement discussions.
28

9. These rates are our firm's usual and customary hourly rate charged for class action cases and have been approved as reasonable and appropriate in multiple courts, for example:

- *Taylor v. Trusted Media Brands, Inc.*, No. 7:16-cv-01812, Dkt. 89 (S.D.N.Y. Feb. 1, 2018) (Final Judgment And Order Of Dismissal With Prejudice).
- *Russett v. Northwestern Mutual Life Insurance Co.*, No. 7:19-cv-07414 (S.D.N.Y. Oct. 6, 2020) (Final Judgment And Order Of Dismissal With Prejudice).
- *Edwards v. Hearst Communications, Inc.*, No. 1:15-cv-09279 (S.D.N.Y. Apr. 24, 2019) (Final Judgment And Order Of Dismissal With Prejudice).
- *Rodriguez v. CitiMortgage, Inc.*, No. 7:11-cv-4718 (S.D.N.Y. Oct. 6, 2015), (concluding during the fairness hearing that Bursor & Fisher's rates for two of its partners, Joseph Marchese and Scott Bursor, were "reasonable").
- *Perez v. Rash Curtis & Associates*, 2020 WL 1904533, at *20 (N.D. Cal. Apr. 17, 2020) (concluding that "blended rate of \$634.48 is within the reasonable range of rates").
- *In re Haier Freezer Consumer Litig.*, No. C11-02911 EJD (N.D. Cal. Oct. 25, 2013) (Final Judgment And Order Granting Plaintiffs' Motion For Final Approval Of Class Action Settlement And For Award Of Attorneys' Fees, Costs And Incentive Awards).
- *Kokoszki v. Playboy Enterprises, Inc.*, No. 2:19-cv-10302 (E.D. Mich. Aug. 19, 2020) (Final Judgment And Order Of Dismissal With Prejudice).
- *Moeller v. American Media, Inc.*, No. 2:16-cv-11367 (E.D. Mich. Sept. 28, 2017) (Order And Judgment Of Dismissal With Prejudice).
- *In re Michaels Stores Pin Pad Litigation*, No. 1:11-cv-03350 (N.D. Ill. Apr. 17, 2013) (Order Approving Settlement).
- *In re Blue Buffalo Company, Ltd. Marketing and Sales Practices Litigation*, No. 4:14-md-02562 (E.D. Mo. June 16, 2016) (Order Awarding Fees And Costs).
- *Rossi v. The Procter & Gamble Co.*, No. 11-7238 (D.N.J. Oct. 3, 2013) (Final Approval Order And Judgment).

10. Below is breakdown of hours worked by each attorney.

<u>Name</u>	<u>Title</u>	<u>Class Year</u>	<u>Initials</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
L. Timothy Fisher	Partner	1997	LTF	0.4	\$1,250.00	\$500.00
Joel D. Smith	Partner	2006	JDS	44.2	\$1,000.00	\$44,200.00
Neal J. Deckant	Partner	2011	NJD	20.8	\$950.00	\$19,760.00
Yeremey O. Kriveshey	Partner	2013	YOK	17.1	\$800.00	\$13,680.00
Debbie L. Schroeder	Senior Litigation Support Specialist	n/a	DLS	6.9	\$400.00	\$2,760.00
Rebecca S. Richter	Senior Litigation Support Specialist	n/a	RSR	0.3	\$400.00	\$120.00
Molly C. Sasseen	Senior Litigation Support Specialist	n/a	MCS	6.3	\$400.00	\$2,520.00
Judy Fontanilla	Senior Litigation Support Specialist	n/a	JMF	5.4	\$400.00	\$2,160.00

11. **Neal Deckant:** I billed a total of 20.8 hours in this case, which amounts to a lodestar of \$19,760.00.

12. Of all hours worked on this case by the various attorneys, there was little to no duplication of effort, as we divide work as noted into discrete tasks. For all hours worked, including by me, I exercised my discretion to cut hours where I felt time was non-compensable or exceeded what was reasonably necessary to accomplish the task in question. We consciously assigned work as efficiently and effectively as possible in accordance with our respective skills, expertise, and availability. I believe this division of effort contributed to efficiently obtaining the settlement reached between the parties.

13. Additional attorney hours will be necessary to ensure final approval and proper administration of the Settlement. This future work is not reflected in the lodestar before the court.

15. To date, my firm has incurred \$1,676.50 in litigation expenses.

I declare under penalty of perjury under the laws of the State of California and the United States that foregoing is true and correct. Executed in San Francisco, California on July 30, 2025.

Dated: August 4, 2025

NEAL J. DECKANT



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FIRM RESUME

With offices in Florida, New York, and California, BURSOR & FISHER lawyers have represented both plaintiffs and defendants in state and federal courts throughout the country.

The lawyers at our firm have an active civil trial practice, having won multi-million-dollar verdicts or recoveries in six of six class action jury trials since 2008. Our most recent class action trial victory came in May 2019 in *Perez v. Rash Curtis & Associates*, in which Mr. Bursor served as lead trial counsel and won a \$267 million jury verdict against a debt collector found to have violated the Telephone Consumer Protection Act. During the pendency of the defendant's appeal, the case settled for \$75.6 million, the largest settlement in the history of the Telephone Consumer Protection Act.

In August 2013 in *Ayyad v. Sprint Spectrum L.P.*, in which Mr. Bursor served as lead trial counsel, we won a jury verdict defeating Sprint's \$1.06 billion counterclaim and securing the class's recovery of more than \$275 million in cash and debt relief.

In *Thomas v. Global Vision Products, Inc. (II)*, we obtained a \$50 million jury verdict in favor of a certified class of 150,000 purchasers of the Avacor Hair Regrowth System. The legal trade publication VerdictSearch reported that this was the second largest jury verdict in California in 2009, and the largest in any class action.

The lawyers at our firm have an active class action practice and have won numerous appointments as class counsel to represent millions of class members, including customers of Honda, Verizon Wireless, AT&T Wireless, Sprint, Haier America, and Michaels Stores as well as purchasers of Avacor™, Hydroxycut, and Sensa™ products. Bursor & Fisher lawyers have been court-appointed Class Counsel or Interim Class Counsel in:

1. *O'Brien v. LG Electronics USA, Inc.* (D.N.J. Dec. 16, 2010) to represent a certified nationwide class of purchasers of LG French-door refrigerators,
2. *Ramundo v. Michaels Stores, Inc.* (N.D. Ill. June 8, 2011) to represent a certified nationwide class of consumers who made in-store purchases at Michaels Stores using a debit or credit card and had their private financial information stolen as a result,
3. *In re Haier Freezer Consumer Litig.* (N.D. Cal. Aug. 17, 2011) to represent a certified class of purchasers of mislabeled freezers from Haier America Trading, LLC,

4. *Rodriguez v. CitiMortgage, Inc.* (S.D.N.Y. Nov. 14, 2011) to represent a certified nationwide class of military personnel against CitiMortgage for illegal foreclosures,
5. *Rossi v. The Procter & Gamble Co.* (D.N.J. Jan. 31, 2012) to represent a certified nationwide class of purchasers of Crest Sensitivity Treatment & Protection toothpaste,
6. *Dzielak v. Whirlpool Corp. et al.* (D.N.J. Feb. 21, 2012) to represent a proposed nationwide class of purchasers of mislabeled Maytag Centennial washing machines from Whirlpool Corp., Sears, and other retailers,
7. *In re Sensa Weight Loss Litig.* (N.D. Cal. Mar. 2, 2012) to represent a certified nationwide class of purchasers of Sensa weight loss products,
8. *In re Sinus Buster Products Consumer Litig.* (E.D.N.Y. Dec. 17, 2012) to represent a certified nationwide class of purchasers,
9. *Ebin v. Kangadis Food Inc.* (S.D.N.Y. Feb. 25, 2014) to represent a certified nationwide class of purchasers of Capatriti 100% Pure Olive Oil,
10. *Forcellati v. Hyland's, Inc.* (C.D. Cal. Apr. 9, 2014) to represent a certified nationwide class of purchasers of children's homeopathic cold and flu remedies,
11. *Ebin v. Kangadis Family Management LLC, et al.* (S.D.N.Y. Sept. 18, 2014) to represent a certified nationwide class of purchasers of Capatriti 100% Pure Olive Oil,
12. *In re Scotts EZ Seed Litig.* (S.D.N.Y. Jan. 26, 2015) to represent a certified class of purchasers of Scotts Turf Builder EZ Seed,
13. *Dei Rossi v. Whirlpool Corp., et al.* (E.D. Cal. Apr. 28, 2015) to represent a certified class of purchasers of mislabeled KitchenAid refrigerators from Whirlpool Corp., Best Buy, and other retailers,
14. *Hendricks v. StarKist Co.* (N.D. Cal. July 23, 2015) to represent a certified nationwide class of purchasers of StarKist tuna products,
15. *In re NVIDIA GTX 970 Graphics Card Litig.* (N.D. Cal. May 8, 2015) to represent a proposed nationwide class of purchasers of NVIDIA GTX 970 graphics cards,
16. *Melgar v. Zicam LLC, et al.* (E.D. Cal. March 30, 2016) to represent a certified ten-jurisdiction class of purchasers of Zicam Pre-Cold products,
17. *In re Trader Joe's Tuna Litigation* (C.D. Cal. December 21, 2016) to represent purchaser of allegedly underfilled Trader Joe's canned tuna.
18. *In re Welspun Litigation* (S.D.N.Y. January 26, 2017) to represent a proposed nationwide class of purchasers of Welspun Egyptian cotton bedding products,
19. *Retta v. Millennium Products, Inc.* (C.D. Cal. January 31, 2017) to represent a certified nationwide class of Millennium kombucha beverages,
20. *Moeller v. American Media, Inc.*, (E.D. Mich. June 8, 2017) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
21. *Hart v. BHH, LLC* (S.D.N.Y. July 7, 2017) to represent a nationwide class of purchasers of Bell & Howell ultrasonic pest repellers,

22. *McMillion v. Rash Curtis & Associates* (N.D. Cal. September 6, 2017) to represent a certified nationwide class of individuals who received calls from Rash Curtis & Associates,
23. *Lucero v. Solarcity Corp.* (N.D. Cal. September 15, 2017) to represent a certified nationwide class of individuals who received telemarketing calls from Solarcity Corp.,
24. *Taylor v. Trusted Media Brands, Inc.* (S.D.N.Y. Oct. 17, 2017) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
25. *Gasser v. Kiss My Face, LLC* (N.D. Cal. Oct. 23, 2017) to represent a proposed nationwide class of purchasers of cosmetic products,
26. *Gastelum v. Frontier California Inc.* (S.F. Superior Court February 21, 2018) to represent a certified California class of Frontier landline telephone customers who were charged late fees,
27. *Williams v. Facebook, Inc.* (N.D. Cal. June 26, 2018) to represent a proposed nationwide class of Facebook users for alleged privacy violations,
28. *Ruppel v. Consumers Union of United States, Inc.* (S.D.N.Y. July 27, 2018) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
29. *Bayol v. Health-Ade* (N.D. Cal. August 23, 2018) to represent a proposed nationwide class of Health-Ade kombucha beverage purchasers,
30. *West v. California Service Bureau* (N.D. Cal. September 12, 2018) to represent a certified nationwide class of individuals who received calls from California Service Bureau,
31. *Gregorio v. Premier Nutrition Corporation* (S.D.N.Y. Sept. 14, 2018) to represent a nationwide class of purchasers of protein shake products,
32. *Moeller v. Advance Magazine Publishers, Inc. d/b/a Condé Nast* (S.D.N.Y. Oct. 24, 2018) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
33. *Bakov v. Consolidated World Travel Inc. d/b/a Holiday Cruise Line* (N.D. Ill. Mar. 21, 2019) to represent a certified class of individuals who received calls from Holiday Cruise Line,
34. *Martinelli v. Johnson & Johnson* (E.D. Cal. March 29, 2019) to represent a certified class of purchasers of Benecol spreads labeled with the representation “No Trans Fat,”
35. *Edwards v. Hearst Communications, Inc.* (S.D.N.Y. April 24, 2019) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
36. *Galvan v. Smashburger* (C.D. Cal. June 25, 2019) to represent a proposed class of purchasers of Smashburger’s “Triple Double” burger,
37. *Kokoszki v. Playboy Enterprises, Inc.* (E.D. Mich. Feb. 7, 2020) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
38. *Russett v. The Northwestern Mutual Life Insurance Co.* (S.D.N.Y. May 28, 2020) to represent a class of insurance policyholders that were allegedly charged unlawful paper billing fees,

39. *In re: Metformin Marketing and Sales Practices Litigation* (D.N.J. June 3, 2020) to represent a proposed nationwide class of purchasers of generic diabetes medications that were contaminated with a cancer-causing carcinogen,
40. *Hill v. Spirit Airlines, Inc.* (S.D. Fla. July 21, 2020) to represent a proposed nationwide class of passengers whose flights were cancelled by Spirit Airlines due to the novel coronavirus, COVID-19, and whose tickets were not refunded,
41. *Kramer v. Alterra Mountain Co.* (D. Colo. July 31, 2020) to represent a proposed nationwide class of purchasers to recoup the unused value of their Ikon ski passes after Alterra suspended operations at its ski resorts due to the novel coronavirus, COVID-19,
42. *Qureshi v. American University* (D.D.C. July 31, 2020) to represent a proposed nationwide class of students for tuition and fee refunds after their classes were moved online by American University due to the novel coronavirus, COVID-19,
43. *Hufford v. Maxim Inc.* (S.D.N.Y. Aug. 13, 2020) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
44. *Desai v. Carnegie Mellon University* (W.D. Pa. Aug. 26, 2020) to represent a proposed nationwide class of students for tuition and fee refunds after their classes were moved online by Carnegie Mellon University due to the novel coronavirus, COVID-19,
45. *Heigl v. Waste Management of New York, LLC* (E.D.N.Y. Aug. 27, 2020) to represent a class of waste collection customers that were allegedly charged unlawful paper billing fees,
46. *Stellato v. Hofstra University* (E.D.N.Y. Sept. 18, 2020) to represent a proposed nationwide class of students for tuition and fee refunds after their classes were moved online by Hofstra University due to the novel coronavirus, COVID-19,
47. *Kaupelis v. Harbor Freight Tools USA, Inc.* (C.D. Cal. Sept. 23, 2020), to represent consumers who purchased defective chainsaws,
48. *Soo v. Lorex Corporation* (N.D. Cal. Sept. 23, 2020), to represent consumers whose security cameras were intentionally rendered non-functional by manufacturer,
49. *Miranda v. Golden Entertainment (NV), Inc.* (D. Nev. Dec. 17, 2020), to represent consumers and employees whose personal information was exposed in a data breach,
50. *Benbow v. SmileDirectClub, Inc.* (Cir. Ct. Cook Cnty. Feb. 4, 2021), to represent a certified nationwide class of individuals who received text messages from SmileDirectClub, in alleged violation of the Telephone Consumer Protection Act,
51. *Suren v. DSV Solutions, LLC* (Cir. Ct. DuPage Cnty. Apr. 8, 2021), to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
52. *De Lacour v. Colgate-Palmolive Co.* (S.D.N.Y. Apr. 23, 2021), to represent a certified class of consumers who purchased allegedly “natural” Tom’s of Maine products,

53. *Wright v. Southern New Hampshire University* (D.N.H. Apr. 26, 2021), to represent a certified nationwide class of students for tuition and fee refunds after their classes were moved online by Southern New Hampshire University due to the novel coronavirus, COVID-19,
54. *Sahlin v. Hospital Housekeeping Systems, LLC* (Cir. Ct. Williamson Cnty. May 21, 2021), to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
55. *Landreth v. Verano Holdings LLC, et al.* (Cir. Ct. Cook Cnty. June 2, 2021), to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act.
56. *Rocchio v. Rutgers, The State University of New Jersey*, (Sup. Ct., Middlesex Cnty. October 27, 201), to represent a certified nationwide class of students for fee refunds after their classes were moved online by Rutgers due to the novel coronavirus, COVID-19,
57. *Malone v. Western Digital Corp.*, (N.D. Cal. Dec. 22, 2021), to represent a class of consumers who purchased hard drives that were allegedly deceptively advertised,
58. *Jenkins v. Charles Industries, LLC*, (Cir. Ct. DuPage Cnty. Dec. 21, 2021) to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
59. *Frederick v. Examsoft Worldwide, Inc.*, (Cir. Ct. DuPage Cnty. Jan. 6, 2022) to represent a certified class of exam takers who used virtual exam proctoring software, in alleged violation of the Illinois Biometric Information Privacy Act,
60. *Isaacson v. Liqui-Box Flexibles, LLC, et al.*, (Cir. Ct. Will Cnty. Jan. 18, 2022) to represent a certified class of employees who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
61. *Goldstein et al. v. Henkel Corp.*, (D. Conn. Mar. 3, 2022) to represent a proposed class of purchasers of Right Guard-brand antiperspirants that were allegedly contaminated with benzene,
62. *McCall v. Hercules Corp.*, (N.Y. Sup. Ct., Westchester Cnty. Mar. 14, 2022) to represent a certified class of who laundry card purchasers who were allegedly subjected to deceptive practices by being denied cash refunds,
63. *Lewis v. Trident Manufacturing, Inc.*, (Cir. Ct. Kane Cnty. Mar. 16, 2022) to represent a certified class of workers who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
64. *Croft v. Spinx Games Limited, et al.*, (W.D. Wash. Mar. 31, 2022) to represent a certified class of Washington residents who lost money playing mobile applications games that allegedly constituted illegal gambling under Washington law,
65. *Fischer v. Instant Checkmate LLC*, (N.D. Ill. Mar. 31, 2022) to represent a certified class of Illinois residents whose identities were allegedly used without their consent in alleged violation of the Illinois Right of Publicity Act,
66. *Rivera v. Google LLC*, (Cir. Ct. Cook Cnty. Apr. 25, 2022) to represent a certified class of Illinois residents who appeared in a photograph in Google Photos, in alleged violation of the Illinois Biometric Information Privacy Act,

67. *Loftus v. Outside Integrated Media, LLC*, (E.D. Mich. May 5, 2022) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
68. *D'Amario v. The University of Tampa*, (S.D.N.Y. June 3, 2022) to represent a certified nationwide class of students for tuition and fee refunds after their classes were moved online by The University of Tampa due to the novel coronavirus, COVID-19,
69. *Fittipaldi v. Monmouth University*, (D.N.J. Sept. 22, 2022) to represent a certified nationwide class of students for tuition and fee refunds after their classes were moved online by Monmouth University due to the novel coronavirus, COVID-19,
70. *Armstead v. VGW Malta Ltd. et al.* (Cir. Ct. Henderson Cnty. Oct. 3, 2022) to present a certified class of Kentucky residents who lost money playing mobile applications games that allegedly constituted illegal gambling under Kentucky law,
71. *Cruz v. The Connor Group, A Real Estate Investment Firm, LLC*, (N.D. Ill. Oct. 26, 2022) to represent a certified class of workers who used a fingerprint clock-in system, in alleged violation of the Illinois Biometric Information Privacy Act,
72. *Delcid et al. v. TCP HOT Acquisitions LLC et al.* (S.D.N.Y. Oct. 28, 2022) to represent a certified nationwide class of purchasers of Sure and Brut-brand antiperspirants that were allegedly contaminated with benzene,
73. *Kain v. The Economist Newspaper NA, Inc.* (E.D. Mich. Dec. 15, 2022) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
74. *Strano v. Kiplinger Washington Editors, Inc.* (E.D. Mich. Jan. 6, 2023) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
75. *Moeller v. The Week Publications, Inc.* (E.D. Mich. Jan. 6, 2023) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
76. *Ambrose v. Boston Globe Media Partners, LLC* (D. Mass. May 25, 2023) to represent a nationwide class of newspaper subscribers who were also Facebook users under the Video Privacy Protection Act,
77. *In re: Apple Data Privacy Litigation*, (N.D. Cal. July 5, 2023) to represent a putative nationwide class of all persons who turned off permissions for data tracking and whose mobile app activity was still tracked on iPhone mobile devices,
78. *Young v. Military Advantage, Inc. d/b/a Military.com* (Cir. Ct. DuPage Cnty. July 26, 2023) to represent a nationwide class of website subscribers who were also Facebook users under the Video Privacy Protection Act,
79. *Whiting v. Yellow Social Interactive Ltd.* (Cir. Ct. Henderson Cnty. Aug. 15, 2023) to represent a certified class of Kentucky residents who lost money playing mobile applications games that allegedly constituted illegal gambling under Kentucky law,
80. *Kotila v. Charter Financial Publishing Network, Inc.* (W.D. Mich. Feb. 21, 2024) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,

81. *Schreiber v. Mayo Foundation for Medical Education and Research* (W.D. Mich. Feb. 21, 2024) to represent a class of magazine subscribers under the Michigan Preservation of Personal Privacy Act,
82. *Norcross v. Tishman Speyer Properties, et al.* (S.D.N.Y. May 17, 2024) to represent a class of online ticket purchasers under New York Arts & Cultural Affairs Law § 25.07(4).

SCOTT A. BORSOR

Mr. Borsor has an active civil trial practice, having won multi-million verdicts or recoveries in six of six civil jury trials since 2008. Mr. Borsor's most recent victory came in May 2019 in *Perez v. Rash Curtis & Associates*, in which Mr. Borsor served as lead trial counsel and won a \$267 million jury verdict against a debt collector for violations of the Telephone Consumer Protection Act (TCPA).

In *Ayyad v. Sprint Spectrum L.P.* (2013), where Mr. Borsor served as lead trial counsel, the jury returned a verdict defeating Sprint's \$1.06 billion counterclaim and securing the class's recovery of more than \$275 million in cash and debt relief.

In *Thomas v. Global Vision Products, Inc.* (2009), the jury returned a \$50 million verdict in favor of the plaintiff and class represented by Mr. Borsor. The legal trade publication VerdictSearch reported that this was the second largest jury verdict in California in 2009.

Class actions are rarely tried to verdict. Other than Mr. Borsor and his partner Mr. Fisher, we know of no lawyer that has tried more than one class action to a jury. Mr. Borsor's perfect record of six wins in six class action jury trials, with recoveries ranging from \$21 million to \$299 million, is unmatched by any other lawyer. Each of these victories was hard-fought against top trial lawyers from the biggest law firms in the United States.

Mr. Borsor graduated from the University of Texas Law School in 1996. He served as Articles Editor of the Texas Law Review, and was a member of the Board of Advocates and Order of the Coif. Prior to starting his own practice, Mr. Borsor was a litigation associate at a large New York based law firm where he represented telecommunications, pharmaceutical, and technology companies in commercial litigation.

Mr. Borsor is a member of the state bars of New York, Florida, and California, as well as the bars of the United States Court of Appeals for the Second, Third, Fourth, Sixth, Ninth and Eleventh Circuits, and the bars of the United States District Courts for the Southern and Eastern Districts of New York, the Northern, Central, Southern and Eastern Districts of California, the Southern and Middle Districts of Florida, and the Eastern District of Michigan.

Representative Cases

Mr. Borsor was appointed lead or co-lead class counsel to the largest, 2nd largest, and 3rd largest classes ever certified. Mr. Borsor has represented classes including more than 160 million class members, roughly 1 of every 2 Americans. Listed below are recent cases that are representative of Mr. Borsor's practice:

Mr. Bursor negotiated and obtained court-approval for two landmark settlements in *Nguyen v. Verizon Wireless* and *Zill v. Sprint Spectrum* (the largest and 2nd largest classes ever certified). These settlements required Verizon and Sprint to open their wireless networks to third-party devices and applications. These settlements are believed to be the most significant legal development affecting the telecommunications industry since 1968, when the FCC's Carterfone decision similarly opened up AT&T's wireline telephone network.

Mr. Bursor was the lead trial lawyer in *Ayyad v. Sprint Spectrum, L.P.* representing a class of approximately 2 million California consumers who were charged an early termination fee under a Sprint cellphone contract, asserting claims that such fees were unlawful liquidated damages under the California Civil Code, as well as other statutory and common law claims. After a five-week combined bench-and-jury trial, the jury returned a verdict in June 2008 and the Court issued a Statement of Decision in December 2008 awarding the plaintiffs \$299 million in cash and debt cancellation. Mr. Bursor served as lead trial counsel for this class again in 2013 during a month-long jury trial in which Sprint asserted a \$1.06 billion counterclaim against the class. Mr. Bursor secured a verdict awarding Sprint only \$18.4 million, the exact amount calculated by the class's damages expert. This award was less than 2% of the damages Sprint sought, less than 6% of the amount of the illegal termination fees Sprint charged to class members. In December 2016, after more than 13 years of litigation, the case was settled for \$304 million, including \$79 million in cash payments plus \$225 million in debt cancellation.

Mr. Bursor was the lead trial lawyer in *White v. Cellco Partnership d/b/a Verizon Wireless* representing a class of approximately 1.4 million California consumers who were charged an early termination fee under a Verizon cellphone contract, asserting claims that such fees were unlawful liquidated damages under the California Civil Code, as well as other statutory and common law claims. In July 2008, after Mr. Bursor presented plaintiffs' case-in-chief, rested, then cross-examined Verizon's principal trial witness, Verizon agreed to settle the case for a \$21 million cash payment and an injunction restricting Verizon's ability to impose early termination fees in future subscriber agreements.

Mr. Bursor was the lead trial lawyer in *Thomas v. Global Visions Products Inc.* Mr. Bursor represented a class of approximately 150,000 California consumers who had purchased the Avacor® hair regrowth system. In January 2008, after a four-week combined bench-and-jury trial, Mr. Bursor obtained a \$37 million verdict for the class, which the Court later increased to \$40 million.

Mr. Bursor was appointed class counsel and was elected chair of the Official Creditors' Committee in *In re Nutraquest Inc.*, a Chapter 11 bankruptcy case before Chief Judge Garrett E. Brown, Jr. (D.N.J.) involving 390 ephedra-related personal injury and/or wrongful death claims, two consumer class actions, four enforcement actions by governmental agencies, and multiple adversary proceedings related to the Chapter 11 case. Working closely with counsel for all parties and with two mediators, Judge Nicholas Politan (Ret.) and Judge Marina Corodemus (Ret.), the committee chaired by Mr. Bursor was able to settle or otherwise resolve every claim and reach a fully consensual Chapter 11 plan of reorganization, which Chief Judge Brown approved in late 2006. This settlement included a \$12.8 million recovery to a nationwide class of consumers who alleged they were defrauded in connection with the purchase of Xenadrine® dietary supplement products.

Mr. Bursor was the lead trial lawyer in *In re: Pacific Bell Late Fee Litigation*. After filing the first class action challenging Pac Bell's late fees in April 2010, winning a contested motion to certify a statewide California class in January 2012, and defeating Pac Bell's motion for summary judgment in February 2013, Mr. Bursor obtained final approval of the \$38 million class settlement. The settlement, which Mr. Bursor negotiated the night before opening statements were scheduled to commence, included a \$20 million cash payment to provide refunds to California customers who paid late fees on their Pac Bell wireline telephone accounts, and an injunction that reduced other late fee charges by \$18.6 million.

L. TIMOTHY FISHER

L. Timothy Fisher has an active practice in consumer class actions and complex business litigation and has also successfully handled a large number of civil appeals.

Mr. Fisher has been actively involved in numerous cases that resulted in multi-million dollar recoveries for consumers and investors. Mr. Fisher has handled cases involving a wide range of issues including nutritional labeling, health care, telecommunications, corporate governance, unfair business practices and consumer fraud. With his partner Scott A. Bursor, Mr. Fisher has tried five class action jury trials, all of which produced successful results. In *Thomas v. Global Vision Products*, Mr. Fisher obtained a jury award of \$50,024,611 — the largest class action award in California in 2009 and the second-largest jury award of any kind. In 2019, Mr. Fisher served as trial counsel with Mr. Bursor in *Perez. v. Rash Curtis & Associates*, where the jury returned a verdict for \$267 million in statutory damages under the Telephone Consumer Protection Act.

Mr. Fisher was admitted to the State Bar of California in 1997. He is also a member of the bars of the United States Court of Appeals for the Ninth Circuit, the United States District Courts for the Northern, Central, Southern and Eastern Districts of California, the Northern District of Illinois, the Eastern District of Michigan, and the Eastern District of Missouri. Mr. Fisher taught appellate advocacy at John F. Kennedy University School of Law in 2003 and 2004. In 2010, he contributed jury instructions, a verdict form and comments to the consumer protection chapter of Justice Elizabeth A. Baron's *California Civil Jury Instruction Companion Handbook* (West 2010). In January 2014, Chief Judge Claudia Wilken of the United States District Court for the Northern District of California appointed Mr. Fisher to a four-year term as a member of the Court's Standing Committee on Professional Conduct.

Mr. Fisher received his Juris Doctor from Boalt Hall at the University of California at Berkeley in 1997. While in law school, he was an active member of the Moot Court Board and participated in moot court competitions throughout the United States. In 1994, Mr. Fisher received an award for Best Oral Argument in the first-year moot court competition.

In 1992, Mr. Fisher graduated with highest honors from the University of California at Berkeley and received a degree in political science. Prior to graduation, he authored an honors thesis for Professor Bruce Cain entitled "The Role of Minorities on the Los Angeles City Council." He is also a member of Phi Beta Kappa.

Representative Cases

Thomas v. Global Vision Products, Inc. (Alameda County Superior Court). Mr. Fisher litigated claims against Global Vision Products, Inc. and other individuals in connection with the sale and marketing of a purported hair loss remedy known as Avacor. The case lasted more than seven years and involved two trials. The first trial resulted in a verdict for plaintiff and the class in the amount of \$40,000,000. The second trial resulted in a jury verdict of \$50,024,611, which led to a \$30 million settlement for the class.

In re Cellphone Termination Fee Cases - Handset Locking Actions (Alameda County Superior Court). Mr. Fisher actively worked on five coordinated cases challenging the secret locking of cell phone handsets by major wireless carriers to prevent consumers from activating them on competitive carriers' systems. Settlements have been approved in all five cases on terms that require the cell phone carriers to disclose their handset locks to consumers and to provide unlocking codes nationwide on reasonable terms and conditions. The settlements fundamentally changed the landscape for cell phone consumers regarding the locking and unlocking of cell phone handsets.

In re Cellphone Termination Fee Cases - Early Termination Fee Cases (Alameda County Superior Court and Federal Communications Commission). In separate cases that are a part of the same coordinated litigation as the Handset Locking Actions, Mr. Fisher actively worked on claims challenging the validity under California law of early termination fees imposed by national cell phone carriers. In one of those cases, against Verizon Wireless, a nationwide settlement was reached after three weeks of trial in the amount of \$21 million. In a second case, which was tried to verdict, the Court held after trial that the \$73 million of flat early termination fees that Sprint had collected from California consumers over an eight-year period were void and unenforceable.

Selected Published Decisions

Melgar v. Zicam LLC, 2016 WL 1267870 (E.D. Cal. Mar. 30, 2016) (certifying 10-jurisdiction class of purchasers of cold remedies, denying motion for summary judgment, and denying motions to exclude plaintiff's expert witnesses).

Salazar v. Honest Tea, Inc., 2015 WL 7017050 (E.D. Cal. Nov. 12, 2015) (denying motion for summary judgment).

Dei Rossi v. Whirlpool Corp., 2015 WL 1932484 (E.D. Cal. Apr. 27, 2015) (certifying California class of purchasers of refrigerators that were mislabeled as Energy Star qualified).

Bayol v. Zipcar, Inc., 78 F.Supp.3d 1252 (N.D. Cal. 2015) (denying motion to dismiss claims alleging unlawful late fees under California Civil Code § 1671).

Forcellati v. Hyland's, Inc., 2015 WL 9685557 (C.D. Cal. Jan. 12, 2015) (denying motion for summary judgment in case alleging false advertising of homeopathic cold and flu remedies for children).

Bayol v. Zipcar, Inc., 2014 WL 4793935 (N.D. Cal. Sept. 25, 2014) (denying motion to transfer venue pursuant to a forum selection clause).

Forcellati v. Hyland's Inc., 2014 WL 1410264 (C.D. Cal. Apr. 9, 2014) (certifying nationwide class of purchasers of homeopathic cold and flu remedies for children).

Hendricks v. StarKist Co., 30 F.Supp.3d 917 (N.D. Cal. 2014) (denying motion to dismiss in case alleging underfilling of 5-ounce cans of tuna).

Dei Rossi v. Whirlpool Corp., 2013 WL 5781673 (E.D. Cal. October 25, 2013) (denying motion to dismiss in case alleging that certain KitchenAid refrigerators were misrepresented as Energy Star qualified).

Forcellati v. Hyland's Inc., 876 F.Supp.2d 1155 (C.D. Cal. 2012) (denying motion to dismiss complaint alleging false advertising regarding homeopathic cold and flu remedies for children).

Clerkin v. MyLife.com, 2011 WL 3809912 (N.D. Cal. August 29, 2011) (denying defendants' motion to dismiss in case alleging false and misleading advertising by a social networking company).

In re Cellphone Termination Fee Cases, 186 Cal.App.4th 1380 (2010) (affirming order approving \$21 million class action settlement).

Gatton v. T-Mobile USA, Inc., 152 Cal.App.4th 571 (2007) (affirming order denying motion to compel arbitration).

Selected Class Settlements

Melgar v. Zicam (Eastern District of California) - \$16 million class settlement of claims alleging cold medicine was ineffective.

Gastelum v. Frontier California Inc. (San Francisco Superior Court) - \$10.9 million class action settlement of claims alleging that a residential landline service provider charged unlawful late fees.

West v. California Service Bureau, Inc. (Northern District of California) - \$4.1 million class settlement of claims under the Telephone Consumer Protection Act.

Gregorio v. Premier Nutrition Corp. (Southern District of New York) - \$9 million class settlement of false advertising claims against protein shake manufacturer.

Morris v. SolarCity Corp. (Northern District of California) - \$15 million class settlement of claims under the Telephone Consumer Protection Act.

Retta v. Millennium Products, Inc. (Central District of California) - \$8.25 million settlement to resolve claims of bottled tea purchasers for alleged false advertising.

Forcellati v. Hyland's (Central District of California) – nationwide class action settlement providing full refunds to purchasers of homeopathic cold and flu remedies for children.

Dei Rossi v. Whirlpool (Eastern District of California) – class action settlement providing \$55 cash payments to purchasers of certain KitchenAid refrigerators that allegedly mislabeled as Energy Star qualified.

In Re NVIDIA GTX 970 Graphics Chip Litigation (Northern District of California) - \$4.5 million class action settlement of claims alleging that a computer graphics card was sold with false and

misleading representations concerning its specifications and performance.

Hendricks v. StarKist Co. (Northern District of California) – \$12 million class action settlement of claims alleging that 5-ounce cans of tuna were underfilled.

In re Zakskorn v. American Honda Motor Co. Honda (Eastern District of California) – nationwide settlement providing for brake pad replacement and reimbursement of out-of-pocket expenses in case alleging defective brake pads on Honda Civic vehicles manufactured between 2006 and 2011.

Correa v. Sensa Products, LLC (Los Angeles Superior Court) - \$9 million settlement on behalf of purchasers of the Sensa weight loss product.

In re Pacific Bell Late Fee Litigation (Contra Costa County Superior Court) - \$38.6 million settlement on behalf of Pac Bell customers who paid an allegedly unlawful late payment charge.

In re Haier Freezer Consumer Litigation (Northern District of California) - \$4 million settlement, which provided for cash payments of between \$50 and \$325.80 to class members who purchased the Haier HNCM070E chest freezer.

Thomas v. Global Vision Products, Inc. (Alameda County Superior Court) - \$30 million settlement on behalf of a class of purchasers of a hair loss remedy.

Guyette v. Viacom, Inc. (Alameda County Superior Court) - \$13 million settlement for a class of cable television subscribers who alleged that the defendant had improperly failed to share certain tax refunds with its subscribers.

JOSEPH I. MARCHESE

Joseph I. Marchese is a Partner with Bursor & Fisher, P.A. Joe focuses his practice on consumer class actions, employment law disputes, and commercial litigation. He has represented corporate and individual clients in a wide array of civil litigation, and has substantial trial and appellate experience.

Joe has diverse experience in litigating and resolving consumer class actions involving claims of mislabeling, false or misleading advertising, privacy violations, unlawful and junk fees, data breach claims, and violations of the Telephone Consumer Protection Act and Servicemembers Civil Relief Act.

Joe also has significant experience in multidistrict litigation proceedings. Recently, he served on the Plaintiffs' Executive Committee in *In Re: Blue Buffalo Company, Ltd. Marketing And Sales Practices Litigation*, MDL No. 2562, which resulted in a \$32 million consumer class settlement. Currently, he serves on the Plaintiffs' Steering Committee for Economic Reimbursement in *In Re: Valsartan Products Liability Litigation*, MDL No. 2875.

Joe is admitted to the State Bar of New York and is a member of the bars of the United States District Courts for the Southern District of New York, the Eastern District of New York,

and the Eastern District of Michigan, as well as the United States Courts of Appeals for the First, Second and Sixth Circuits.

Joe graduated from Boston University School of Law in 2002 where he was a member of The Public Interest Law Journal. In 1998, Joe graduated with honors from Bucknell University.

Selected Published Decisions:

Farwell v. Google, LLC, 595 F. Supp. 3d 702 (C.D. Ill. Mar. 31, 2022), denying defendant's motion to dismiss BIPA claims brought on behalf of Illinois students using Google's Workspace for Education platform.

Boelter v. Hearst Communications, Inc., 269 F. Supp. 3d 172 (S.D.N.Y. Sept. 7, 2017), granting plaintiff's motion for partial summary judgment on state privacy law violations in putative class action.

Boelter v. Hearst Communications, Inc., 192 F. Supp. 3d 427 (S.D.N.Y. June 17, 2016), denying publisher's motion to dismiss its subscriber's allegations of state privacy law violations in putative class action.

In re Scotts EZ Seed Litigation, 304 F.R.D. 397 (S.D.N.Y. 2015), granting class certification of false advertising and other claims brought by New York and California purchasers of grass seed product.

Ebin v. Kangadis Food Inc., 297 F.R.D. 561 (S.D.N.Y. 2014), granting nationwide class certification of false advertising and other claims brought by purchasers of purported "100% Pure Olive Oil" product.

In re Michaels Stores Pin Pad Litigation, 830 F. Supp. 2d 518 (N.D. Ill. 2011), denying retailer's motion to dismiss its customers' state law consumer protection and privacy claims in data breach putative class action.

Selected Class Settlements:

Schreiber v. Mayo Foundation, Case No. 22-cv-0188-HYJ-RSK (W.D. Mich. 2024) – final approval granted for \$52.5 million class settlement to resolve claims of periodical subscribers for alleged statutory privacy violations.

Edwards v. Mid-Hudson Valley Federal Credit Union, Case No. 22-cv-00562-TJM-CFH (N.D.N.Y. 2023) – final approval granted for \$2.2 million class settlement to resolve claims alleging unlawfully charged overdraft fees on accounts with sufficient funds.

Benbow v. SmileDirectClub, LLC, Case No. 2020-CH-07269 (Cir. Ct. Cook Cnty. 2022) – final approval granted for \$11.5 million class settlement to resolve claims for alleged TCPA violations.

Marquez v. Google LLC, Case No. 2021-CH-1460 (Cir. Ct. Cook Cnty. 2022) – final approval granted for \$100 million class settlement to resolve alleged BIPA violations of Illinois residents appearing on the Google Photos platform.

Edwards v. Hearst Communications, Inc., Case No. 15-cv-09279-AT (S.D.N.Y. 2019) – final approval granted for \$50 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

Moeller v. Advance Magazine Publishers, Inc. d/b/a Condé Nast, Case No. 15-cv-05671-NRB (S.D.N.Y. 2019) – final approval granted for \$13.75 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

In re Scotts EZ Seed Litigation, Case No. 12-cv-4727-VB (S.D.N.Y. 2018) – final approval granted for \$47 million class settlement to resolve false advertising claims of purchasers of combination grass seed product.

In Re: Blue Buffalo Marketing And Sales Practices Litigation, Case No. 14-MD-2562-RWS (E.D. Mo. 2016) – final approval granted for \$32 million class settlement to resolve claims of pet owners for alleged false advertising of pet foods.

Rodriguez v. Citimortgage, Inc., Case No. 11-cv-4718-PGG (S.D.N.Y. 2015) – final approval granted for \$38 million class settlement to resolve claims of military servicemembers for alleged foreclosure violations of the Servicemembers Civil Relief Act, where each class member was entitled to \$116,785 plus lost equity in the foreclosed property and interest thereon.

O'Brien v. LG Electronics USA, Inc., et al., Case No. 10-cv-3733-DMC (D.N.J. 2011) – final approval granted for \$23 million class settlement to resolve claims of Energy Star refrigerator purchasers for alleged false advertising of the appliances' Energy Star qualification.

SARAH N. WESTCOT

Sarah N. Westcot is the Managing Partner of Bursor & Fisher's Miami office. She focuses her practice on consumer class actions, complex business litigation, and mass torts.

She has represented clients in a wide array of civil litigation, and has substantial trial and appellate experience. Sarah served as trial counsel in *Ayyad v. Sprint Spectrum L.P.*, where Bursor & Fisher won a jury verdict defeating Sprint's \$1.06 billion counterclaim and securing the class's recovery of more than \$275 million in cash and debt relief.

Sarah also has significant experience in high-profile, multi-district litigations. She currently serves on the Plaintiffs' Steering Committee in *In re Zantac (Ranitidine) Products Liability Litigation*, MDL No. 2924 (S.D. Florida). She also serves on the Plaintiffs' Executive Committee in *In re Apple Inc. App Store Simulated Casino-Style Games Litigation*, MDL No. 2985 (N.D. Cal.) and *In Re: Google Play Store Simulated Casino-Style Games Litigation*, MDL No. 3001 (N.D. Cal.).

Sarah is admitted to the State Bars of California and Florida, and is a member of the bars of the United States District Courts for the Northern, Central, Southern, and Eastern Districts of California, the United States District Courts for the Southern and Middle Districts of Florida, and the bars of the United States Courts of Appeals for the Second, Eighth, and Ninth Circuits.

Sarah received her Juris Doctor from the University of Notre Dame Law School in 2009. During law school, she was a law clerk with the Cook County State's Attorney's Office in Chicago and the Santa Clara County District Attorney's Office in San Jose, CA, gaining early trial experience in both roles. She graduated with honors from the University of Florida in 2005.

Sarah is a member of The National Trial Lawyers Top 100 Civil Plaintiff Lawyers, and was selected to The National Trial Lawyers Top 40 Under 40 Civil Plaintiff Lawyers for 2022.

NEAL J. DECKANT

Neal J. Deckant is a Partner with Bursor & Fisher, P.A., where he serves as the firm's Head of Information & e-Discovery. Neal focuses his practice on complex business litigation and consumer class actions. Prior to joining Bursor & Fisher, Neal counseled low-income homeowners facing foreclosure in East Boston.

Neal is admitted to the State Bars of California and New York, and is a member of the bars of the United States District Court for the Northern District of California, the United States District Court for the Eastern District of California, the United States District Court for the Central District of California, the United States District Court for the Southern District of California, the United States District Court for the Southern District of New York, the United States District Court for the Eastern District of New York, and the bars of the United States Courts of Appeals for the Second and Ninth Circuits.

Neal received his Juris Doctor from Boston University School of Law in 2011, graduating cum laude with two Dean's Awards. During law school, Neal served as a Senior Articles Editor for the Review of Banking and Financial Law, where he authored two published articles about securitization reforms, both of which were cited by the New York Court of Appeals, the highest court in the state. Neal was also awarded Best Oral Argument in his moot court section, and he served as a Research Assistant for his Securities Regulation professor. Neal has also been honored as a 2014, 2015, 2016, and 2017 Super Lawyers Rising Star. In 2007, Neal graduated with Honors from Brown University with a dual major in East Asian Studies and Philosophy.

Selected Published Decisions:

Martinelli v. Johnson & Johnson, 2019 WL 1429653 (N.D. Cal. Mar. 29, 2019), granting class certification of false advertising and other claims brought by purchasers of Benecol spreads labeled with the representation "No Trans Fats."

Dzielak v. Whirlpool Corp., 2017 WL 6513347 (D.N.J. Dec. 20, 2017), granting class certification of consumer protection claims brought by purchasers of Maytag Centennial washing machines marked with the "Energy Star" logo.

Duran v. Obesity Research Institute, LLC, 204 Cal. Rptr. 3d 896 (Cal. Ct. App. 2016), reversing and remanding final approval of a class action settlement on appeal, regarding allegedly mislabeled dietary supplements, in connection with a meritorious objection.

Marchuk v. Faruqi & Faruqi, LLP, et al., 100 F. Supp. 3d 302 (S.D.N.Y. 2015), granting individual and law firm defendants' motion for judgment as a matter of law on plaintiff's claims for retaliation and defamation, as well as for all claims against law firm partners, Nadeem and Lubna Faruqi.

Ebin v. Kangadis Food Inc., 297 F.R.D. 561 (S.D.N.Y. 2014), granting nationwide class certification of false advertising and other claims brought by purchasers of purported "100% Pure Olive Oil" product.

Ebin v. Kangadis Food Inc., 2014 WL 737878 (S.D.N.Y. Feb. 25, 2014), denying distributor's motion for summary judgment against nationwide class of purchasers of purported "100% Pure Olive Oil" product.

Selected Class Settlements:

In Re NVIDIA GTX 970 Graphics Chip Litigation, Case No. 15-cv-00760-PJH (N.D. Cal. Dec. 7, 2016) – final approval granted for \$4.5 million class action settlement to resolve claims that a computer graphics card was allegedly sold with false and misleading representations concerning its specifications and performance.

Hendricks v. StarKist Co., 2016 WL 5462423 (N.D. Cal. Sept. 29, 2016) – final approval granted for \$12 million class action settlement to resolve claims that 5-ounce cans of tuna were allegedly underfilled.

In re: Kangadis Food Inc., Case No. 8-14-72649 (Bankr. E.D.N.Y. Dec. 17, 2014) – class action claims resolved for \$2 million as part of a Chapter 11 plan of reorganization, after a corporate defendant filed for bankruptcy, following claims that its olive oil was allegedly sold with false and misleading representations.

Selected Publications:

Neal Deckant, *X. Reforms of Collateralized Debt Obligations: Enforcement, Accounting and Regulatory Proposals*, 29 Rev. Banking & Fin. L. 79 (2009) (cited in *Quadrant Structured Products Co., Ltd. v. Vertin*, 16 N.E.3d 1165, 1169 n.8 (N.Y. 2014)).

Neal Deckant, *Criticisms of Collateralized Debt Obligations in the Wake of the Goldman Sachs Scandal*, 30 Rev. Banking & Fin. L. 407 (2010) (cited in *Quadrant Structured Products Co., Ltd. v. Vertin*, 16 N.E.3d 1165, 1169 n.8 (N.Y. 2014)); *Lyon Village Venetia, LLC v. CSE Mortgage LLC*, 2016 WL 476694, at *1 n.1 (Md. Ct. Spec. App. Feb. 4, 2016); Ivan Ascher, *Portfolio Society: On the Capitalist Mode of Prediction*, at 141, 153, 175 (Zone Books / The MIT Press 2016); Devon J. Steinmeyer, *Does State National Bank of Big Spring v. Geithner Stand a Fighting Chance?*, 89 Chi.-Kent. L. Rev. 471, 473 n.13 (2014)).

YITZCHAK KOPEL

Yitzchak Kopel is a Partner with Bursor & Fisher, P.A. Yitz focuses his practice on consumer class actions and complex business litigation. He has represented corporate and individual clients before federal and state courts, as well as in arbitration proceedings.

Yitz has substantial experience in successfully litigating and resolving consumer class actions involving claims of consumer fraud, data breaches, and violations of the telephone consumer protection act. Since 2014, Yitz has obtained class certification on behalf of his clients five times, three of which were certified as nationwide class actions. Bursor & Fisher was appointed as class counsel to represent the certified classes in each of the cases.

Yitz is admitted to the State Bars of New York and New Jersey, the bar of the United States Court of Appeals for the Second, Eleventh, and Ninth Circuits, and the bars of the United States District Courts for the Southern District of New York, Eastern District of New York, Eastern District of Missouri, Eastern District of Wisconsin, Northern District of Illinois, and District of New Jersey.

Yitz received his Juris Doctorate from Brooklyn Law School in 2012, graduating *cum laude* with two Dean's Awards. During law school, Yitz served as an Articles Editor for the Brooklyn Law Review and worked as a Law Clerk at Shearman & Sterling. In 2009, Yitz graduated *cum laude* from Queens College with a B.A. in Accounting.

Selected Published Decisions:

Bassaw v. United Industries Corp., 482 F.Supp.3d 80, 2020 WL 5117916 (S.D.N.Y. Aug. 31, 2020), denying motion to dismiss claims in putative class action concerning insect foggers.

Poppiti v. United Industries Corp., 2020 WL 1433642 (E.D. Mo. Mar. 24, 2020), denying motion to dismiss claims in putative class action concerning citronella candles.

Bakov v. Consolidated World Travel, Inc., 2019 WL 6699188 (N.D. Ill. Dec. 9, 2019), granting summary judgment on behalf of certified class in robocall class action.

Krumm v. Kittrich Corp., 2019 WL 6876059 (E.D. Mo. Dec. 17, 2019), denying motion to dismiss claims in putative class action concerning mosquito repellent.

Crespo v. S.C. Johnson & Son, Inc., 394 F. Supp. 3d 260 (S.D.N.Y. 2019), denying defendant's motion to dismiss fraud and consumer protection claims in putative class action regarding Raid insect fogger.

Bakov v. Consolidated World Travel, Inc., 2019 WL 1294659 (N.D. Ill. Mar. 21, 2019), certifying a class of persons who received robocalls in the state of Illinois.

Bourbia v. S.C. Johnson & Son, Inc., 375 F. Supp. 3d 454 (S.D.N.Y. 2019), denying defendant's motion to dismiss fraud and consumer protection claims in putative class action regarding mosquito repellent.

Hart v. BHH, LLC, 323 F. Supp. 3d 560 (S.D.N.Y. 2018), denying defendants' motion for summary judgment in certified class action involving the sale of ultrasonic pest repellents.

Hart v. BHH, LLC, 2018 WL 3471813 (S.D.N.Y. July 19, 2018), denying defendants' motion to exclude plaintiffs' expert in certified class action involving the sale of ultrasonic pest repellents.

Penrose v. Buffalo Trace Distillery, Inc., 2018 WL 2334983 (E.D. Mo. Feb. 5, 2018), denying bourbon producers' motion to dismiss fraud and consumer protection claims in putative class action.

West v. California Service Bureau, Inc., 323 F.R.D. 295 (N.D. Cal. 2017), certifying a nationwide class of "wrong-number" robocall recipients.

Hart v. BHH, LLC, 2017 WL 2912519 (S.D.N.Y. July 7, 2017), certifying nationwide class of purchasers of ultrasonic pest repellents.

Browning v. Unilever United States, Inc., 2017 WL 7660643 (C.D. Cal. Apr. 26, 2017), denying motion to dismiss fraud and warranty claims in putative class action concerning facial scrub product.

Brenner v. Procter & Gamble Co., 2016 WL 8192946 (C.D. Cal. Oct. 20, 2016), denying motion to dismiss warranty and consumer protection claims in putative class action concerning baby wipes.

Hewlett v. Consolidated World Travel, Inc., 2016 WL 4466536 (E.D. Cal. Aug. 23, 2016), denying telemarketer's motion to dismiss TCPA claims in putative class action.

Bailey v. KIND, LLC, 2016 WL 3456981 (C.D. Cal. June 16, 2016), denying motion to dismiss fraud and warranty claims in putative class action concerning snack bars.

Hart v. BHH, LLC, 2016 WL 2642228 (S.D.N.Y. May 5, 2016) denying motion to dismiss warranty and consumer protection claims in putative class action concerning ultrasonic pest repellents.

Marchuk v. Faruqi & Faruqi, LLP, et al., 100 F. Supp. 3d 302 (S.D.N.Y. 2015), granting clients' motion for judgment as a matter of law on claims for retaliation and defamation in employment action.

In re Scotts EZ Seed Litigation, 304 F.R.D. 397 (S.D.N.Y. 2015), granting class certification of false advertising and other claims brought by New York and California purchasers of grass seed product.

Brady v. Basic Research, L.L.C., 101 F. Supp. 3d 217 (E.D.N.Y. 2015), denying diet pill manufacturers' motion to dismiss its purchasers' allegations for breach of express warranty in putative class action.

Ward v. TheLadders.com, Inc., 3 F. Supp. 3d 151 (S.D.N.Y. 2014), denying online job board's motion to dismiss its subscribers' allegations of consumer protection law violations in putative class action.

Ebin v. Kangadis Food Inc., 297 F.R.D. 561 (S.D.N.Y. 2014), granting nationwide class certification of false advertising and other claims brought by purchasers of purported "100% Pure Olive Oil" product.

Ebin v. Kangadis Food Inc., 2014 WL 737878 (S.D.N.Y. Feb. 25, 2014), denying distributor's motion for summary judgment against nationwide class of purchasers of purported "100% Pure Olive Oil" product.

Selected Class Settlements:

Hart v. BHH, LLC, Case No. 1:15-cv-04804 (S.D.N.Y. Sept. 22, 2020), resolving class action claims regarding ultrasonic pest repellers.

In re: Kangadis Food Inc., Case No. 8-14-72649 (Bankr. E.D.N.Y. Dec. 17, 2014), resolving class action claims for \$2 million as part of a Chapter 11 plan of reorganization, after a corporate defendant filed for bankruptcy following the certification of nationwide claims alleging that its olive oil was sold with false and misleading representations.

West v. California Service Bureau, Case No. 4:16-cv-03124-YGR (N.D. Cal. Jan. 23, 2019), resolving class action claims against debt-collector for wrong-number robocalls for \$4.1 million.

PHILIP L. FRAIETTA

Philip L. Fraietta is a Partner with Bursor & Fisher, P.A. Phil focuses his practice on data privacy, complex business litigation, consumer class actions, and employment law disputes. Phil has been named a "Rising Star" in the New York Metro Area by Super Lawyers® every year since 2019.

Phil has significant experience in litigating consumer class actions, particularly those involving privacy claims under statutes such as the Michigan Preservation of Personal Privacy Act, the Illinois Biometric Information Privacy Act, and Right of Publicity statutes. Since 2016, Phil has recovered over \$100 million for class members in privacy class action settlements. In addition to privacy claims, Phil has significant experience in litigating and settling class action claims involving false or misleading advertising.

Phil is admitted to the State Bars of New York, New Jersey, Illinois, Michigan, and California, the bars of the United States District Courts for the Southern District of New York, the Eastern District of New York, the Western District of New York, the Northern District of New York, the District of New Jersey, the Eastern District of Michigan, the Western District of Michigan, the Northern District of Illinois, the Central District of Illinois, and the United States Court of Appeals for the Second, Third, and Ninth Circuits. Phil was a Summer Associate with Bursor & Fisher prior to joining the firm.

Phil received his Juris Doctor from Fordham University School of Law in 2014, graduating cum laude. During law school, Phil served as an Articles & Notes Editor for the Fordham Law Review, and published two articles. In 2011, Phil graduated cum laude from Fordham University with a B.A. in Economics.

Selected Published Decisions:

Garner v. Me-TV National Limited Partnership, 132 F.4th 1022 (7th Cir. Mar. 28, 2025), reversing grant of motion to dismiss under federal Video Privacy Protection Act and specifying standard for being a “consumer” under the Act.

Jancik v. WebMD LLC, 2025 WL 560705 (N.D. Ga. Feb 20, 2025), certifying the first ever contested class under the federal Video Privacy Protection Act.

Fischer v. Instant Checkmate LLC, 2022 WL 971479 (N.D. Ill. Mar. 31, 2022), certifying class of Illinois residents for alleged violations of Illinois’ Right of Publicity Act by background reporting website.

Kolebuck-Utz v. Whitepages, Inc., 2021 WL 157219 (W.D. Wash. Apr. 22, 2021), denying defendant’s motion to dismiss for alleged violations of Ohio’s Right to Publicity Law.

Porter v. NBTY, Inc., 2019 WL 5694312 (N.D. Ill. Nov. 4, 2019), denying supplement manufacturer’s motion for summary judgment on consumers’ allegations of false advertising relating to whey protein content.

Boelter v. Hearst Communications, Inc., 269 F. Supp. 3d 172 (S.D.N.Y. 2017), granting plaintiff’s motion for partial summary judgment on state privacy law violations in putative class action.

Selected Class Settlements:

Ramos v. ZoomInfo Technologies, LLC, Case No. 21-cv-02032-CPK (N.D. Ill. 2024) – final approval granted for \$29.5 million class settlement to resolve claims for alleged statutory right of publicity violations.

Awad v. AMC Entertainment Holdings, Inc., Index No. 607322/2024 (Sup. Ct. Nassau Cnty. 2024) – final approval granted for \$12.3 million class settlement to resolve claims for alleged New York ticket fee claims.

Schreiber v. Mayo Foundation for Medical Education and Research, Case No. 22-cv-00188-HYJ (W.D. Mich. 2024) – final approval granted for \$52.5 million class settlement to resolve claims of newsletter subscribers for alleged statutory privacy violations.

Fischer v. Instant Checkmate LLC, Case No. 19-cv-04892-MSS (N.D. Ill. 2024) – final approval granted for \$10.1 million class settlement to resolve claims for alleged statutory right of publicity violations.

Young v. Military Advantage, Inc., Case No. 2023LA000535 (Cir. Ct. DuPage Cnty. 2023) – final approval granted for \$7.35 million class settlement to resolve claims of newsletter subscribers for alleged federal Video Privacy Protection Act claims.

Rivera v. Google LLC, Case No. 2021-CH-1460 (Cir. Ct. Cook Cnty. 2022) – final approval granted for \$100 million class settlement to resolve alleged BIPA violations of Illinois residents appearing in photos on the Google Photos platform.

Edwards v. Hearst Communications, Inc., Case No. 15-cv-09279-AT (S.D.N.Y. 2019) – final approval granted for \$50 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

Ruppel v. Consumers Union of United States, Inc., Case No. 16-cv-02444-KMK (S.D.N.Y. 2018) – final approval granted for \$16.375 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

Moeller v. Advance Magazine Publishers, Inc. d/b/a Condé Nast, Case No. 15-cv-05671-NRB (S.D.N.Y. 2019) – final approval granted for \$13.75 million class settlement to resolve claims of magazine subscribers for alleged statutory privacy violations.

Benbow v. SmileDirectClub, LLC, Case No. 2020-CH-07269 (Cir. Ct. Cook Cnty. 2021) – final approval granted for \$11.5 million class settlement to resolve claims for alleged TCPA violations.

Gregorio v. Premier Nutrition Corp., Case No. 17-cv-05987-AT (S.D.N.Y. 2019) – final approval granted for \$9 million class settlement to resolve claims of protein shake purchasers for alleged false advertising.

ALEC M. LESLIE

Alec Leslie is a Partner with Bursor & Fisher, P.A. He focuses his practice on consumer class actions, employment law disputes, and complex business litigation.

Alec is admitted to the State Bar of New York and is a member of the bar of the United States District Courts for the Southern and Eastern Districts of New York. Alec was a Summer Associate with Bursor & Fisher prior to joining the firm.

Alec received his Juris Doctor from Brooklyn Law School in 2016, graduating *cum laude*. During law school, Alec served as an Articles Editor for Brooklyn Law Review. In addition, Alec served as an intern to the Honorable James C. Francis for the Southern District of New York and the Honorable Vincent Del Giudice, Supreme Court, Kings County. Alec graduated from the University of Colorado with a B.A. in Philosophy in 2012.

Selected Class Settlements:

Gregorio v. Premier Nutrition Corp., Case No. 17-cv-05987-AT (S.D.N.Y. 2019) – final approval granted for class settlement to resolve claims of protein shake purchasers for alleged

false advertising.

Wright v. Southern New Hampshire Univ., Case No. 1:20-cv-00609-LM (D.N.H. 2021) – final approval granted for class settlement to resolve claims over COVID-19 tuition and fee refunds to students.

Mendoza et al. v. United Industries Corp., Case No. 21PH-CV00670 (Phelps Cnty. Mo. 2021) – final approval granted for class settlement to resolve false advertising claims on insect repellent products.

Kaupelis v. Harbor Freight Tools USA, Inc., Case No. 8:19-cv-01203-JVS-DFM (C.D. Cal. 2021) – final approval granted for class settlement involving allegedly defective and dangerous chainsaws.

Rocchio v. Rutgers Univ., Case No. MID-L-003039-20 (Middlesex Cnty. N.J. 2021) – final approval granted for class settlement to resolve claims over COVID-19 fee refunds to students.

Malone v. Western Digital Corporation, Case No. 5:20-cv-03584-NC (N.D. Cal.) – final approval granted for class settlement to resolve false advertising claims on hard drive products.

Frederick et al. v. ExamSoft Worldwide, Inc., Case No. 2021L001116 (DuPage Cnty. Ill. 2021) – final approval granted for class settlement to resolve claims over alleged BIPA violations with respect to exam proctoring software.

D'Amario et al. v. Univ. of Tampa, Case No. 7:20-cv-07344 (S.D.N.Y. 2022) – final approval granted for class settlement to resolve claims over COVID-19 fee refunds to students.

Olin et al. v. Meta Platforms, Inc., Case No. 3:18-cv-01881-RS (N.D. Cal. 2022) – final approval granted for class settlement involving invasion of privacy claims.

Croft v. SpinX Games et al., Case No. 2:20-cv-01310-RSM (W.D. Wash. 2022) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

Armstead v. VGW Malta Ltd. et al., Case No. 22-CI-00553 (Henderson Cnty. Ky. 2023) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

Barbieri v. Tailored Brands, Inc., Index No. 616696/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

Metzner et al. v. Quinnipiac Univ., Case No. 3:20-cv-00784 (D. Conn.) – final approval granted for class settlement to resolve claims over COVID-19 fee refunds to students.

In re GE/Canon Data Breach, Case No. 1:20-cv-02903 (S.D.N.Y.) – final approval granted for class settlement to resolve data breach claims.

Davis v. Urban Outfitters, Inc., Index No. 612162/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

Armstead v. VGW Malta LTD et al., Civil Action No. 22-CI-00553 (Henderson Cir. Ct. Ky.) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

Casler et al. v. Mclane Company, Inc. et al., Index No. 616432/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

Wyland v. Woopla, Inc., Civil Action No. 2023-CI-00356 (Henderson Cir. Ct. Ky.) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

Graziano et al. v. Lego Systems, Inc., Index No. 611615/2022 (Nassau Cnty. N.Y.) – final approval granted for class settlement involving untimely wage payments to employees.

Lipsky et al. v. American Behavioral Research Institute, LLC, Case No. 50-2023-CA-011526-XXXX-MB (Palm Beach Cnty. Fl.) – final approval granted to resolve allegedly deceptive automatic renewal and product efficacy claims.

Whiting v. Yellow Social Interactive Ltd., Civil Action No. 2023-CI-00358 (Henderson Cir. Ct. Ky.) – final approval granted for class settlement involving allegedly deceptive and/or illegal gambling practices.

STEPHEN BECK

Stephen is an Associate with Bursor & Fisher, P.A. Stephen focuses his practice on complex civil litigation and class actions.

Stephen is admitted to the State Bar of Florida and is a member of the bars of the United States District Courts for the Southern and Middle Districts of Florida, the Eastern District of Missouri, and the Northern District of Illinois.

Stephen received his Juris Doctor from the University of Miami School of Law in 2018. During law school, Stephen received an Honors distinction in the Litigation Skills Program and was awarded the Honorable Theodore Klein Memorial Scholarship for excellence in written and oral advocacy. Stephen also received the CALI Award in Legislation for earning the highest grade on the final examination. Stephen graduated from the University of North Florida with a B.A. in Philosophy in 2015.

STEFAN BOGDANOVICH

Stefan Bogdanovich is an Associate with Bursor & Fisher, P.A. Stefan litigates complex civil and class actions typically involving privacy, intellectual property, entertainment, and false advertising law.

Prior to working at Bursor & Fisher, Stefan practiced at two national law firms in Los Angeles. He helped represent various companies in false advertising and IP infringement cases, media companies in defamation cases, and motion picture producers in royalty disputes. He also advised corporations and public figures on complying with various privacy and advertising laws and regulations.

Stefan is admitted to the State Bar of California and all of the California Federal District Courts. He is also a Certified Information Privacy Professional.

Stefan received his Juris Doctor from the University of Southern California Gould School of Law in 2018, where he was a member of the Hale Moot Court Honors Program and the Trial Team. He received the highest grade in his class in three subjects, including First Amendment Law.

MAX S. ROBERTS

Max Roberts is an Associate in Bursor & Fisher's New York office. Max focuses his practice on class actions concerning data privacy and consumer protection. Max was a Summer Associate with Bursor & Fisher prior to joining the firm and is now Co-Chair of the firm's Appellate Practice Group.

Since 2023, Max has been named "Rising Star" in the New York Metro Area by Super Lawyers®.

Max received his Juris Doctor from Fordham University School of Law in 2019, graduating *cum laude*. During law school, Max was a member of Fordham's Moot Court Board, the Brennan Moore Trial Advocates, and the Fordham Urban Law Journal, for which he published a note entitled [*Weaning Drug Manufacturers Off Their Painkiller: Creating an Exception to the Learned Intermediary Doctrine in Light of the Opioid Crisis*](#). In addition, Max served as an intern to the Honorable Vincent L. Briccetti of the Southern District of New York and the Fordham Criminal Defense Clinic. Max graduated from Johns Hopkins University in 2015 with a B.A. in Political Science.

Outside of the law, Max is an avid triathlete.

Selected Published Decisions:

Huertas v. Bayer US LLC, 120 F.4th 1169 (3d Cir. 2024), reversing district court and holding plaintiffs had alleged an injury-in-fact sufficient for Article III standing. Max personally argued the appeal before the Third Circuit, which can be listened to [here](#).

Jackson v. Amazon.com, Inc., 65 F.4th 1093 (9th Cir. 2023), affirming district court's denial of motion to compel arbitration. Max personally argued the appeal before the Ninth Circuit, which can be viewed [here](#).

Javier v. Assurance IQ, LLC, 2022 WL 1744107 (9th Cir. May 31, 2022), reversing district court and holding that Section 631 of the California Invasion of Privacy Act requires prior consent to

wiretapping. Max personally argued the appeal before the Ninth Circuit, which can be viewed [here](#).

Mora v. J&M Plating, Inc., 213 N.E.3d 942 (Ill. App. Ct. 2d Dist. 2022), reversing circuit court and holding that Section 15(a) of Illinois' Biometric Information Privacy Act requires an entity to establish a retention and deletion schedule for biometric data at the first moment of possession. Max personally argued the appeal before the Second District, which can be listened to [here](#).

Newman v. Bayer Corp., --- F.R.D. ---, 2025 WL 856225 (S.D.N.Y. Mar. 19, 2025), certifying class of New York purchases of "One A Day" gummy multivitamins.

Shah v. Fandom, Inc., 754 F. Supp. 3d 924 (N.D. Cal. 2024), denying motion to dismiss alleged violations of California pen register statute.

Yockey v. Salesforce, Inc., 745 F. Supp. 3d 945 (N.D. Cal. 2024), denying motion dismiss alleged violations of California and Pennsylvania wiretapping statutes.

Gladstone v. Amazon Web Services, Inc., 739 F. Supp. 3d 846 (W.D. Wash. 2024), denying motion to dismiss alleged violations of California wiretapping statute.

Rancourt v. Meredith Corp., 2024 WL 381344 (D. Mass. Jan. 11, 2024), denying motion to dismiss alleged violations of federal Video Privacy Protection Act, and finding personal jurisdiction over operator of mobile application.

Saunders v. Hearst Television, Inc., 711 F. Supp. 3d 24 (D. Mass. 2024), denying motion to dismiss alleged violations of federal Video Privacy Protection Act.

Cristostomo v. New Balance Athletics, Inc., 647 F. Supp. 3d 1 (D. Mass. 2022), denying motion to dismiss and motion to strike class allegations in case involving sneakers marketed as "Made in the USA."

Selected Class Settlements:

Sholopa v. Turk Hava Yollari A.O. (d/b/a Turkish Airlines), Case No. 1:20-cv-3294-ALC (S.D.N.Y. 2023) – final approval granted for \$14.1 million class settlement to resolve claims of passengers whose flights with Turkish Airlines were cancelled due to COVID-19 and who did not receive refunds.

Payero v. Mattress Firm, Inc., Case No. 7:21-cv-3061-VB (S.D.N.Y. 2023) – final approval granted for \$4.9 million class settlement to resolve claims of consumers who purchased allegedly defective bed frames.

Miranda v. Golden Entertainment (NV), Inc., Case No. 2:20-cv-534-AT (D. Nev. 2021) – final approval granted for class settlement valued at over \$4.5 million to resolve claims of customers and employees of casino company stemming from data breach.

Malone v. Western Digital Corp., Case No. 5:20-cv-3584-NC (N.D. Cal. 2021) – final approval granted for class settlement valued at \$5.7 million to resolve claims of hard drive purchasers for alleged false advertised.

Frederick v. ExamSoft Worldwide, Inc., Case No. 2021-L-001116 (18th Judicial Circuit Court DuPage County, Illinois 2021) – final approval granted for \$2.25 million class settlement to resolve claims of Illinois students for alleged violations of the Illinois Biometric Information Privacy Act.

Bar Admissions

- New York State
- Southern District of New York
- Eastern District of New York
- Northern District of New York
- Northern District of Illinois
- Central District of Illinois
- Eastern District of Michigan
- District of Colorado
- First Circuit Court of Appeals
- Second Circuit Court of Appeals
- Third Circuit Court of Appeals
- Seventh Circuit Court of Appeals
- Ninth Circuit Court of Appeals

JULIA K. VENDITTI

Julia K. Venditti is an Associate with Bursor & Fisher, P.A. Julia focuses her practice on complex civil litigation and class actions. Julia was a Summer Associate with Bursor & Fisher prior to joining the firm.

Julia is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Julia received her Juris Doctor in 2020 from the University of California, Hastings College of the Law, where she graduated *cum laude* with two CALI Awards for the highest grade in her Evidence and California Community Property classes. During law school, Julia was a member of the UC Hastings Moot Court team and competed at the Evans Constitutional Law Moot Court Competition, where she finished as a national quarterfinalist and received a best brief award. Julia was also inducted into the UC Hastings Honors Society and was awarded Best Brief and an Honorable Mention for Best Oral Argument in her First-Year Moot Court section. In addition, Julia served as a Research Assistant for her Constitutional Law professor, as a Teaching Assistant for Legal Writing & Research, and as a Law Clerk at the San Francisco Public Defender's Office. In 2017, Julia graduated *magna cum laude* from Baruch College/CUNY, Weissman School of Arts and Sciences, with a B.A. in Political Science.

JULIAN DIAMOND

Julian Diamond is an Associate with Bursor & Fisher, P.A. Julian focuses his practice on privacy law and class actions. Julian was a Summer Associate with Bursor & Fisher prior to joining the firm.

Julian received his Juris Doctor from Columbia Law School, where he was a Harlan Fiske Stone Scholar. During law school, Julian was Articles Editor for the Columbia Journal of Environmental Law. Prior to law school, Julian worked in education. Julian graduated from California State University, Fullerton with a B.A. in History and a single subject social science teaching credential.

MATTHEW GIRARDI

Matt Girardi is an Associate with Bursor & Fisher, P.A. Matt focuses his practice on complex civil litigation and class actions, and has focused specifically on consumer class actions involving privacy violations, illegal gambling, financial misconduct, and false advertising. Matt was a Summer Associate with Bursor & Fisher prior to joining the firm.

Matt is admitted to the State Bar of New York, and is a member of the bars of the United States District Courts for the Southern District of New York, the Eastern District of New York, the Eastern District of Michigan, the Western District of Michigan, the First Circuit Court of Appeals, and the Ninth Circuit Court of Appeals.

Matt received his Juris Doctor from Columbia Law School in 2020, where he was a Harlan Fiske Stone Scholar. During law school, Matt was the Commentary Editor for the Columbia Journal of Tax Law, and represented fledgling businesses for Columbia's Entrepreneurship and Community Development Clinic. In addition, Matt worked as an Honors Intern in the Division of Enforcement at the U.S. Securities and Exchange Commission. Matt graduated from Brown University in 2016 with a B.A. in Economics, and worked as a Paralegal Specialist at the U.S. Department of Justice in the Antitrust Division prior to law school.

Selected Class Settlements:

Armstead v. VGW Malta Ltd. et al., Case No. 22-CI-00553 (Henderson Cnty. Ky. 2023) – final approval granted for \$11.75 million class settlement involving allegedly deceptive and/or illegal gambling practices.

Edwards v. Mid-Hudson Valley Federal Credit Union, Case No. 22-cv-00562-TJM-CFH (N.D.N.Y. 2023) – final approval granted for \$2.2 million class settlement to resolve claims that an upstate New York credit union was unlawfully charging overdraft fees on accounts with sufficient funds.

Fischer, et al. v. Instant Checkmate LLC, et al., No. 19-cv-04892 (N.D. Ill. 2024) – final approval granted for state-by-state non-reversionary cash settlements involving alleged violations of right of publicity statutes totaling in excess of \$10.1 million.

Wyland v. Woopla, Inc., Civil Action No. 2023-CI-00356 (Henderson Cir. Ct. Ky. 2023) – final approval granted for \$835,000 class settlement involving allegedly deceptive and/or illegal gambling practices.

Whiting v. Yellow Social Interactive Ltd., Civil Action No. 2023-CI-00358 (Henderson Cir. Ct. Ky. 2023) – final approval granted for \$1.32 million class settlement involving allegedly deceptive and/or illegal gambling practices.

JENNA GAVENMAN

Jenna Gavenman is an Associate with Bursor & Fisher, P.A. Jenna focuses her practice on complex civil litigation and consumer class actions. Jenna was a Summer Associate and a part-time intern with Bursor & Fisher prior to joining the firm as a full-time Associate in September 2022.

Jenna is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Jenna received her Juris Doctor in 2022 from the University of California, Hastings College of the Law (now named UC Law SF). During law school, she was awarded an Honorable Mention for Best Oral Argument in her First-Year Moot Court section. Jenna also participated in both the Medical Legal Partnership for Seniors (MLPS) and the Lawyering for Children Practicum at Legal Services for Children—two of UC Hastings’s nationally renowned clinical programs. Jenna was awarded the Clinic Award for Outstanding Performance in MLPS for her contributions to the clinic. In addition, Jenna volunteered with her law school’s Legal Advice and Referral Clinic and as a LevelBar Mentor.

In 2018, Jenna graduated *cum laude* from Villanova University with a B.A. in Sociology and Spanish (double major). Jenna was a Division I athlete, competing on the Villanova Women’s Water Polo varsity team for four consecutive years.

EMILY HORNE

Emily Horne is an Associate with Bursor & Fisher, P.A. Emily focuses her practice on complex civil litigation and consumer class actions. Emily was a Summer Associate with Bursor & Fisher prior to joining the firm.

Emily is admitted to the State Bar of California.

Emily received her Juris Doctor from the University of California, Hastings College of the Law in 2022 (now UC, Law SF). During law school, Emily served as Editor-in-Chief for the UC Hastings Communications and Entertainment Law Journal, and she competed on the Moot Court team. Emily also served as a judicial extern in the Northern District of California and as a Teaching Assistant for Legal Writing & Research. In 2015, Emily graduated from Scripps College with a B.A. in Sociology.

IRA ROSENBERG

Ira Rosenberg is an Associate with Bursor & Fisher, P.A. Ira focuses his practice on complex civil litigation and class actions.

Ira received his Juris Doctor in 2022 from Columbia Law School. During law school, Ira served as a Student Honors Legal Intern with Division of Enforcement at the U.S. Securities and Exchange Commission. Ira also interned during law school in the Criminal Division at the United States Attorney's Office for the Southern District of New York and with the Investor Protection Bureau at the Office of the New York State Attorney General. Ira graduated in 2018 from Beth Medrash Govoha with a B.A. in Talmudic Studies.

LUKE SIRONSKI-WHITE

Luke Sironski-White is an Associate with Bursor & Fisher, P.A., focusing on complex civil litigation and consumer class actions. Luke joined the firm as a full-time Associate in August 2022.

Luke is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Luke received his Juris Doctor in 2022 from the University of California, Berkeley School of Law. During law school, Luke was on the board of the Consumer Advocacy and Protection Society (CAPS), edited for the Berkeley Journal of Employment and Labor Law, and volunteered with the Prisoner Advocacy Network.

In 2017, Luke graduated from the University of Chicago with a B.A. in Anthropology. Before entering the field of law Luke was a professional photographer and filmmaker.

INES DIAZ

Ines Diaz is an Associate with Bursor & Fisher, P.A. Ines focuses her practice on complex civil litigation and class actions.

Ines is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Ines received her Juris Doctor in 2023 from the University of California, Berkeley School of Law. During law school, Ines served as an Executive Editor of the California Law Review. She also served as an intern with the East Bay Community Law Center's Immigration Clinic and as a Fellow of the Berkeley Law Academic Skills Program. Additionally, Ines served as an instructor with the University of California, Berkeley Extension, Legal Studies Global Access Program where she taught legal writing to international law students. In 2021, Ines was selected for a summer externship at the California Supreme Court where she served as a judicial extern for the Honorable Mariano-Florentino Cuéllar.

CAROLINE C. DONOVAN

Caroline C. Donovan is an Associate with Bursor & Fisher, P.A. Caroline focuses her practice on complex civil litigation, data protection, mass arbitration, and class actions. Caroline interned with Bursor & Fisher during her third year of law school before joining full time in Fall 2023.

Caroline is admitted to the State Bar of New York.

Caroline received her Juris Doctor in 2023 from Brooklyn Law School. During law school, Caroline was a member of the Moot Court Honor Society Trial Division, where she was chosen to serve as a National Team Member. Caroline competed and coached in numerous competitions across the country, and placed second at regionals in AAJ's national competition in both her second and third year of law school. Caroline was also the President of the Art Law Association, and the Treasurer of the Labor and Employment Law Association.

During law school, Caroline was a judicial intern for Judge Kenneth W. Chu of the National Labor Relations Board. She also interned at the United States Attorney's Office in the Eastern District of New York, as well as a securities class action firm.

JOSHUA B. GLATT

Joshua Glatt is an Associate with Bursor & Fisher, P.A. Joshua focuses his practice on complex civil litigation and consumer class actions. Joshua was a Summer Associate with Bursor & Fisher prior to joining the firm as an Associate.

Joshua is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Joshua earned his Juris Doctor from the University of California College of the Law, San Francisco (formerly U.C. Hastings). While there, he received a CALI Award for earning the highest grade in Constitutional Law II and served on the executive boards of the Jewish Law Students Association and the American Constitution Society. Prior to law school, Joshua graduated *summa cum laude* from the Walter Cronkite School of Journalism and Mass Communication at Arizona State University in 2016 and earned a master's degree from the University of Southern California in 2018.

JOSHUA R. WILNER

Joshua Wilner is an Associate with Bursor & Fisher, P.A. Joshua focuses his practice on complex civil litigation, data privacy, consumer protection, and class actions. Joshua was a Summer Associate at Bursor & Fisher prior to joining the firm full time in Fall 2023.

Joshua is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Joshua received his Juris Doctor in 2023 from Berkeley Law. During law school, he received the American Jurisprudence Award for Constitutional Law.

During law school, Joshua served on the board of the Berkeley Journal of Employment and Labor Law. Joshua also interned at Disability Rights California, Legal Aid at Work, and a private firm that worked closely with the ACLU of Northern California to enforce the California Racial Justice Act. In 2022 and 2023, Joshua worked as a research assistant for Professor Abbye Atkinson.

VICTORIA ZHOU

Victoria Zhou is an Associate in Bursor & Fisher's New York office. Victoria focuses her practice on class actions concerning data privacy and consumer protection.

Victoria is admitted to the State Bar of New York.

Victoria received her Juris Doctor from Fordham Law School in 2023. During law school, Victoria served as an Associate Editor of the Moot Court Board and competed in multiple mock trial competitions as a member of the Brendan Moore Trial Advocates. In addition, Victoria served as a judicial extern to Chief Judge Mark A. Barnett of the United States Court of International Trade. In 2019, Victoria graduated *magna cum laude* from Fei Tian College with a B.F.A. in Classical Dance.

KYLE D. GORDON

Kyle Gordon is an Associate with Bursor & Fisher, P.A. Kyle focuses his practice on class actions concerning data privacy and consumer protection. Kyle was a Summer Associate with Bursor & Fisher prior to joining the firm.

Kyle is admitted to the State Bar of New York.

Kyle received his Juris Doctor from Columbia Law School in 2023, where he was a Harlan Fiske Stone Scholar. During law school, Kyle was a Staff Editor for the Columbia Science and Technology Law Review. In 2020, Kyle graduated *summa cum laude* from New York University with a B.A. in Politics and became a member of Phi Beta Kappa. Prior to law school, Kyle interned in the Clerk's Office of the United States District Court for the District of Columbia.

ELEANOR R. GRASSO

Eleanor Grasso is an Associate with Bursor & Fisher, P.A. Eleanor focuses her practice on complex civil litigation, including data privacy and consumer protection class actions.

Eleanor is admitted to the State Bars of New York and Florida, and is a member of the bars of the United States District Courts for the Southern District of New York and Eastern District of New York.

Eleanor earned her Juris Doctor from Fordham University School of Law. During law school, Eleanor was a member of the Fordham Journal of Intellectual Property, Media & Entertainment Law, serving as Symposium Editor for Volume XXXIV. Eleanor was also a member of the Brendan Moore Trial Advocacy Team, served as a Research Assistant, and was a member of the Board of Student Advisors.

Throughout her time in law school, Eleanor interned for the Office of the Public Defender for the Sixth Judicial Circuit of Florida in the Misdemeanor Unit, the Office of the Federal Public Defender for the Middle District of Tennessee in the Capital Habeas Unit, the ACLU of Florida, and for the Honorable Kiyoo A. Matsumoto in the United States District Court for the Eastern District of New York. Eleanor was a Summer Associate with Bursor & Fisher and also interned part-time during her third year of law school.

Eleanor earned her Bachelors from the University of Florida, with a double-major in Criminology & Law and Political Science and a minor in French & Francophone studies.

RYAN B. MARTIN

Ryan Martin is an Associate with Bursor & Fisher, P.A. Ryan focuses his practice on complex civil litigation and consumer class actions. He was a Summer Associate and part-time law clerk with Bursor & Fisher prior to joining the firm as a full time Associate in August 2024.

Ryan is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

He earned his Juris Doctor from the University of California College of the Law, San Francisco (formerly U.C. Hastings), graduating *Cum Laude* with a Concentration in Environmental Law and as a member of the Honors Society. While there, he was a Senior Production Editor of the *U.C. Law Journal*, was President of the Hastings Environmental Law Association, and was a Torts Teaching Fellow.

Prior to law school, Ryan graduated from the W.A. Franke College of Business at Northern Arizona University with a Bachelors of Science in Hotel and Restaurant Management and a minor in Business. Ryan also studied Sustainable Business and Hotel Management at the Internationale Hochschule of Applied Sciences in Bad Honnef Germany and is a certified yoga instructor.

LOGAN HAGERTY

Logan Hagerty is an Associate with Bursor & Fisher, P.A. Logan is admitted to the State Bar of New York.

Logan received his Juris Doctor from Boston College Law School in 2024, where he received a certificate in Land & Environmental Law.

During law school, Logan was President of the Environmental Law Society. In addition, Logan worked for a class action firm, a general practice firm, and interned at a Massachusetts state agency.

Logan earned his Bachelors from St. Lawrence University, where he graduated magna cum laude with a double major in History and Environmental Studies and a minor in African Studies. He is also a member of Phi Beta Kappa.

KAREN VALENZUELA

Karen Valenzuela is an Associate with Bursor & Fisher, P.A. Karen focuses her practice on complex civil litigation and class actions. Karen was a Summer Associate and a part-time intern with Bursor & Fisher prior to joining the firm as a full-time Associate.

Karen is admitted to the State Bar of California and is a member of the bars of the United States District Courts for the Northern, Eastern, Central, and Southern Districts of California.

Karen received her Juris Doctor in 2024 from the University of California, Berkeley School of Law. During law school, Karen was part of the Consumer Protection Public Policy Order, and interned for the Los Angeles County Public Defender's Office. Karen also participated in the International Human Rights Law Clinic, La Alianza Workers' and Tenants' Rights Clinic, and the Death Penalty Clinic.

Prior to law school, Karen graduated from the University of California, Berkeley with a B.A. in Gender and Women's Studies and a minor in Global Poverty and Practice.

Shounak S. Dharap, State Bar No. 311557 (ssd@arnslaw.com)
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Attorneys for Plaintiffs
Additional Attorneys on Following Page

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE BOTANIC TONICS LITIGATION

Master File No. 3:23-cv-01460-VC

This Document Relates to All Actions

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF SETTLEMENT AND
APPROVING FEES, COSTS, AND
SERVICE AWARDS**

Judge: Hon. Vince Chhabria
Dept: Courtroom 4, 17th Flr.
Hearing Date: August 28, 2025
Hearing Time: 2:00 p.m.

1 Joel D. Smith (State Bar No. 244902)
2 Yeremey Krivoshey (State Bar No. 295032)

SMITH KRIVOSHEY

3 166 Geary St
4 San Francisco CA 94108
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6 Anthony L. Label, State Bar No. 205920 (al.team@veenfirm.com)
7 Theo Emison, State Bar No. 209183 (t.emison@veenfirm.com)
8 Steven A. Kronenberg, State Bar No. 215541 (al.team@veenfirm.com)

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13 Matthew R. Mendelsohn
14 103 Eisenhower Parkway
15 **MAZIE SLATER KATZ & FREEMAN, LLC**
16 Roseland, New Jersey 07068
17 Tel: (973) 228-0391
18 Fax: (973) 228-0303

1 The Honorable Vince Chhabria, United States District Judge:

2 The Parties have submitted their Class Action Settlement Agreement and Release (the
3 "Settlement"), which this Court preliminarily approved in its March 5, 2025, order (the
4 "Preliminary Approval Order"). In accordance with the Preliminary Approval Order, Settlement
5 Class Members have been given notice of the terms of the Settlement and the opportunity to
6 submit a claim form, comment on the settlement, and/or opt out of its provisions. In addition,
7 pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 ("CAFA"), Defendants have
8 given the Attorney General of the United States and the appropriate state officials in the states in
9 which the Settlement Class Members reside timely notice of the Settlement.

10 Having received and considered the Settlement, the supporting papers filed by the Parties,
11 and the evidence and argument received by the Court at the final approval hearing, by means of
12 this order (the "Final Approval Order and Final Judgment") the Court grants the Motion for Final
13 Approval of the Settlement and grants final approval to the Settlement, and HEREBY ORDERS
14 as follows:

15 **Definitions**

16 1. Except as otherwise specified herein, the Court for purposes of this Final Approval Order
17 adopts all defined terms set forth in the Settlement.

18 **Jurisdiction**

19 2. This Court has jurisdiction over the subject matter of this litigation and all related matters
20 and all claims raised in this action and released in the Settlement, and personal jurisdiction over
21 Defendants and all Settlement Class Members (except for those who timely and properly made
22 opt-out requests). Specifically, this Court has jurisdiction under the Class Action Fairness Act
23 ("CAFA"), 28 U.S.C. § 1332(d).

24 **Dissemination of Notice to Settlement Class Members**

25 3. Pursuant to the Preliminary Approval Order, notice was disseminated to Settlement Class
26 Members via email to over 44,000 Class Members and by publication on six different online and
27 social media platforms targeted at Class Members. The notice materials informed Settlement
28 Class Members of (i) the nature of the action; (ii) the definition of the class certified; (iii) the

1 class claims, issues, and defenses; (iv) that a class member may enter an appearance through an
2 attorney if the member so desires; (v) that the court will exclude from the class any member who
3 requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect
4 of a class judgment on members under Federal Rule of Civil Procedure 23(c)(3). Adequate
5 periods of time were provided for each of these procedures.

6 4. The Court finds and determines that this notice procedure was reasonable and afforded
7 due, adequate and sufficient notice and protections to Settlement Class Members and provides
8 the basis for the Court to make an informed decision regarding approval of the Settlement based
9 on the responses of Settlement Class Members. Notice was accomplished in the manner
10 prescribed by the Settlement. The Court finds and determines that the notice provided in this case
11 was the best notice practicable; was reasonably calculated, under the circumstances, to apprise
12 Settlement Class Members of the pendency of the Action and their right to exclude themselves
13 from or object to the proposed settlement and to appear at the Fairness Hearing; was reasonable
14 and constituted due, adequate, and sufficient notice to all persons entitled to receive notice; and
15 met all requirements of Federal Rule of Civil Procedure 23(c)(2)(B), due process, and any other
16 applicable rules of law.

17 **Notice to Attorneys General Pursuant to CAFA**

18 5. Pursuant to CAFA, within 10 days after the filing of the motion seeking preliminary
19 approval of the Settlement, Defendants served upon the Attorney General of the United States
20 and the appropriate state officials of the states in which the Settlement Class Members reside a
21 notice of the Settlement consisting of: a copy of the complaint and any amended complaints in
22 this action, including any materials filed with the complaints; a notice of the scheduled
23 preliminary approval hearing in this class action; copies of the Settlement; the proposed Notice;
24 and a chart providing estimates of the number of Settlement Class Members in each state. This
25 Final Approval Order is being entered at least 90 days after the later of the dates on which the
26 appropriate federal and state officials were served with the notice of proposed settlement.

27 6. The Court finds and determines that Defendants' notice of Settlement was timely,
28 adequate, and compliant with the statutory requirements of CAFA.

Certification Under Fed. R. Civ. P. 23

7. For the reasons stated in the Preliminary Approval Order, this Court finds and determines that the proposed Settlement Class, as defined in the Settlement, meets all of the legal requirements for class certification under Federal Rule of Civil Procedure 23 ("Rule 23") (a) and (b)(3), and it is hereby ordered that the Settlement Class is finally approved and certified as a Settlement Class for purposes of settlement of this action. The Settlement Class is defined as: "all persons in the United States who purchased the product 'Feel Free' anytime from March 28, 2019, through and including the date of preliminary approval of the Settlement."

Fairness

8. Pursuant to Rule 23(e), the Court further finds and determines that the terms of the Settlement are fair, reasonable, and adequate to, and in the best interests of, the Named Plaintiffs, the Settlement Class and each Settlement Class Member and is consistent and in compliance with all requirements of due process and federal law. The Court finds that the Settlement Class Members who have not opted out will be bound by the Settlement, that the Settlement is ordered finally approved, and that all terms and provisions of the Settlement should be and hereby are ordered to be consummated. The Court specifically finds that the Settlement is reasonably related to the strength of Plaintiffs' claims given the risk, expense, complexity, and duration of further litigation. This Court also finds that the Settlement is the result of arms'-length negotiations between experienced counsel representing the interests of the Settlement Class Members, Named Plaintiffs and Defendants, under the supervision of an experienced and independent third-party mediator (Judge Patrick Walsh (Ret.) of Signature Resolution), after thorough factual and legal investigation.

9. The Court finds and determines that the payments to be made to the Settlement Class Members as provided for in the Settlement are fair and reasonable. The Plan of Allocation bases each Settlement Class Member's recovery on a pro rata allocation according to the number of bottles purchased, with Class Members permitted to claim up to 10 bottles without proof of purchase and required to provide proof of purchase for claims exceeding 10 bottles. The Plan of

Allocation is rational, fair, reasonable and adequate. The Court hereby gives final approval to the payments and Plan of Allocation.

Claims Administration and Fraudulent Claims

10. The Court finds that RG/2 Claims Settlement Administrator implemented appropriate and necessary measures to identify and reject presumptively fraudulent claims. Of the 736,273 total claims initially submitted, the Settlement Administrator determined that 689,319 claims were presumptively invalid based on various indicia of fraud, including impossible purchase locations, bulk submissions through third-party services like Sparrow, duplicate submissions, invalid documentation, submissions from outside the United States, invalid email addresses, and other clear indicators of fraudulent activity.

11. The Court approves the Settlement Administrator's screening methodology and findings that 48,577 claims appear to be valid, timely, and complete, which is consistent with Defendants' estimates of class size and actual product sales during the class period (580,080 bottles sold). The Court finds that the claims screening process protects the due process rights of legitimate Class Members by preventing dilution of the settlement fund by fraudulent claims while providing appropriate notice and appeal procedures for rejected claimants.

Class Member Response

12. The Court further finds that the response of the Settlement Class Members to the Settlement supports settlement approval. After the extensive claims screening process, 48,577 Settlement Class Members submitted valid claims, representing a substantial participation rate. Only 8 Settlement Class Members opted out of the Settlement, and none objected.

13. The Court approves the final list of all Persons who have submitted timely requests to opt out of the Settlement Class. This list constitutes the final Opt-Out List under the Settlement.

Appointment of Class Representatives and Class Representative Service Awards

14. The Court confirms as final the appointment of Named Plaintiffs Romulo Torres, Sam Rosenfield, C.C., and Paul Teitler as Class Representatives of the Settlement Class. The Court finds that the Class Representative Service Awards of \$5,000 each, in addition to any payments

1 to which they may be entitled under the Settlement as Settlement Class Members, are fair and
2 reasonable.

3 15. All Class Representatives were substantially involved throughout the litigation,
4 participating extensively in the investigation by speaking to other Feel Free consumers, collecting
5 medical and financial records, spending significant time with Class Counsel developing the case,
6 and participating in settlement discussions. The Court finds that these Class Representatives have
7 adequately represented the Settlement Class for purposes of entering into and implementing the
8 Settlement. The Court approves the \$5,000 Service Awards to each of the four Class
9 Representatives as fair and reasonable. Those payments shall be made to the Class
10 Representatives from the Settlement Fund in accordance with the terms of the Settlement.

11 **Appointment of Class Counsel; Attorneys' Fees and Costs**

12 16. Class Counsel attest to performing substantial work on behalf of the Settlement Class
13 Members, totaling 687.7 hours valued at \$587,545 in lodestar to date. The Court finds the hours
14 worked by Class Counsel to be reasonably incurred for the benefit of the Settlement Class
15 Members. Class Counsel's hourly rates are reasonable in light of the market for legal services of
16 this type and quality in the San Francisco Bay Area.

17 17. The Court confirms as final the appointment of Shounak S. Dharap and Katherine A.
18 Rabago of Arns Davis Law, Neal J. Deckant of Bursor & Fisher, Joel D. Smith and Yeremey
19 Krivoshey of Smith Krivoshey, Matthew R. Mendelsohn of Mazie Slater Katz & Freeman, and
20 Anthony Lawrence Label of The Veen Firm, as Class Counsel for the Settlement Class. The Court
21 finds that Class Counsel have capably and effectively represented the Settlement Class Members'
22 interests.

23 18. The Court finds and determines that the payment of \$2,916,666.66 in attorneys' fees and
24 \$35,000 in litigation costs and expenses, for a total payment of \$2,951,666.66 to Class Counsel,
25 is fair and reasonable, especially in light of their outstanding work on this case. This fee is 33⅓%
26 of the total fund. It is consistent with the Ninth Circuit authority and the practice in this District.
27 In this District, fee awards of approximately 33⅓% are typical for settlements up to \$10 million.
28 Under a lodestar cross-check, the lodestar multiplier of 4.96 supports the 33⅓% fee award,

particularly considering the substantial risks undertaken, including Defendants' financial constraints, ongoing government enforcement actions, and complex issues regarding kratom regulation. The Court hereby gives final approval to that amount.

19. The Settlement also provides meaningful injunctive relief requiring Defendants to include the following disclosure on all Feel Free product labels containing kratom and on social media advertising: "Warning: This product contains leaf kratom which can become habit-forming and cause serious adverse health effects. Consider avoiding this product if you have a history of substance abuse." This non-monetary relief provides significant value to the class and the general public.

20. Consistent with the Court's Standing Order and the Northern District's Procedural Guidance for Class Action Settlements, the Court orders that payment of 85% of the approved attorneys' fees (\$2,479,166.66) and all approved costs (\$35,000) be made to Class Counsel out of the Settlement Fund immediately upon entry of this Order. The remaining 15% of the attorneys' fees (\$437,500.00) shall be withheld and paid to Class Counsel only after the filing and Court's review of the Post-Distribution Accounting described below.

Settlement Administrator Report

21. The Court finds that the Settlement Administrator, RG/2, has fulfilled its duties under the Settlement and re-confirms the appointment of RG/2 as Settlement Administrator. The Court approves a payment of \$305,270 to the Settlement Administrator for its fees incurred in administering the settlement, including the extensive work required to identify and screen fraudulent claims.

Post-Distribution Accounting

22. Within 21 days after the settlement funds have been fully distributed to Settlement Class Members, and all outstanding checks no longer negotiable ("stale-dated") for a period of at least 14 days (to allow for delays in check processing), Class Counsel shall file a Post-Distribution Accounting with the Court. The purpose of this accounting is to inform the Court about the administration of the settlement and shall include, as relevant:

- a. When payments were made to Settlement Class Members;

- b. The number of Settlement Class Members who were sent payments;
- c. The total amount of money paid out to Settlement Class Members;
- d. The average and median recovery per Settlement Class Member;
- e. The largest and smallest amount paid to Settlement Class Members;
- f. The number and value of cashed and uncashed checks;
- g. The number of Settlement Class Members who could not be contacted;
- h. The final number of objections and opt-outs;
- i. The amount to be distributed to each cy pres recipient;
- j. Any significant or recurring concerns communicated by Settlement Class Members to the settlement administrator and counsel since final approval;
- k. Any other issues in settlement administration since final approval; and
- l. How any concerns or issues were resolved.

23. Upon the Court's review and approval of the Post-Distribution Accounting, the Court will authorize the release of the remaining 15% of attorneys' fees to Class Counsel and approve any distribution to cy pres recipients.

Release

24. The Court has reviewed the releases in the Settlement and finds them to be fair, reasonable, and enforceable under Rule 23 and all other applicable law.

25. Pursuant to this Final Approval Order, with respect to the Released Parties, Settlement Class Members' Released Claims, as defined in the Settlement Agreement, are hereby dismissed with prejudice and without costs, other than those costs permitted under the Settlement Agreement. This release specifically excludes claims for personal injury.

26. By operation of the entry of this Final Approval Order and pursuant to the Settlement, all Settlement Class Members and Named Plaintiffs who have not opted out of the Settlement as provided in the Opt-Out List approved by the Court, are permanently barred from prosecuting against Defendants any Claim as set forth in the Settlement.

27. Any remaining funds from uncashed settlement checks shall be distributed as follows: first, to Settlement Class Members through a second pro rata distribution; second, any remaining

1 funds thereafter shall be distributed to the *cy pres* recipient, Western Center of Law and Poverty,
2 but only after the Court has reviewed and approved the Post-Distribution Accounting. No funds
3 shall revert to Defendants.

4 **Contingency on Finality**

5 28. If, for any reason, the Settlement ultimately does not become Final (as defined in the
6 Settlement), this Final Approval Order will be automatically vacated upon notice to the Court;
7 the Parties will return to their respective positions in this action as those positions existed
8 immediately before the parties executed the Settlement; and nothing stated in the Settlement or
9 any other papers filed with this Court in connection with the Settlement will be offered as,
10 received as, construed as or deemed an admission of any kind by any of the Parties or as evidence
11 against, or over the objection of, any of the Parties for any purpose in this action or in any other
12 action.

13 IT IS SO ORDERED.

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15 DATED: _____

16 Hon. Vince Chhabria
17 United States District Judge
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