

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

MDL Docket No. 2665  
Case No. 15-1825 (ESH)

*This Document Relates To:*  
ALL CLASS ACTIONS

**PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS, AND INCENTIVE  
AWARDS FOR THE SETTLEMENT CLASS REPRESENTATIVES**

**I. INTRODUCTION**

Following hard-fought litigation that involved extensive investigation and full merits discovery, multiple rounds of motion practice, multiple hearings on class certification, an appeal, and four rounds of formal mediation, the Settling Parties have agreed to a settlement for a cash payment of \$2,500,000.00. This Settlement was achieved through the dedicated efforts of Class Counsel<sup>1</sup> working diligently, without compensation, for five years to represent the Settlement Class Members.

While the Motion for Final Approval will document why the Settlement is a fair, adequate and reasonable result for the Settlement Classes and should be approved, this memorandum addresses Class Counsel's request for: (i) an award of attorneys' fees in the amount of \$625,000, which represents 25% of the gross Settlement amount (and which represents a negative multiplier of four on Class Counsel's time); (ii) reimbursement of out-of-

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<sup>1</sup> "Class Counsel" is defined as Fegan Scott LLC, Kamber Law LLC/LLP, and Hagens Berman Sobol Shapiro LLP. "Plaintiffs' Deposition Counsel" is defined to include Zimmerman Reed LLP and Carlson Lynch LLP. "Additional Plaintiffs' Counsel" is defined to include: Armstrong Law Firm LLC, Donovan Rose Nestor, P.C., Keane Law, Levi Korsinsky LLP, Nelson & Nelson, Spector Roseman & Kodroff, The Fraser Law Firm, P.C., Reinhardt Wendorf & Blanchfield, Law Office of Lee R Glass, Schubert Jonckheer & Kolbe LLP, and Shindler Anderson Goplerud & Weese PC. Class Counsel, Plaintiffs' Deposition Counsel, and Additional Plaintiffs' Counsel will collectively be referred to as "All Plaintiffs' Counsel."

pocket litigation expenses of \$468,630.22; and (iii) approval of \$5,000.00 in incentive awards to each Settlement Class Representative in recognition of their valuable and time-consuming services to the Class.

As demonstrated below, the record in this case and the case law in the District of Columbia Circuit fully support the requested fees, expenses, and incentive awards. An award of one-quarter of the Settlement Fund is a reasonable and typical portion of a settlement to be awarded as fees and is well within the range of approval in this Circuit. Accordingly, Plaintiffs respectfully request that the motion be granted.

## **II. CLASS COUNSEL’S INVESTMENT OF TIME AND MONEY IN THE CASE**

Class Counsel has devoted more than 4,490 hours to this case, reporting a lodestar of \$2,439,624.19 at their hourly rates. A breakdown of each firm’s hours and lodestar follows:

<b>Firm</b>	<b>Hours</b>	<b>Lodestar</b>
Fegan Scott LLC	81.0	\$60,127.30
Hagens Berman Sobol Shapiro LLP	2,619.10	\$1,165,484.80
KamberLaw LLC/LLP	1,790	\$1,214,012.00

See Elizabeth A. Fegan, Fegan Scott LLC (“Fegan Decl.”), attached as Ex. A; Declaration of Mark Vazquez, Hagens Berman Sobol Shapiro, LLP (“Vazquez Decl. I”), attached as Ex. B; Declaration of Scott Kamber, KamberLaw LLC (“Kamber Decl.”), attached as Ex. C.<sup>2</sup>

Class Counsel has also reported incurring \$250,661.37 in out-of-pocket expenses. See Ex. A-C; Declaration of Mark Vazquez Regarding an Accounting of the Litigation Fund and Shared Expenses (“Vazquez Decl. II”), attached as Ex. D.

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<sup>2</sup> Detailed time records are available for the Court to review *in camera* and *ex parte*. Class Counsel will contact chambers for further instructions as to how the Court wishes to receive those materials.

In addition to Class Counsel, Plaintiffs' Deposition Counsel and Additional Plaintiffs' Counsel report spending 1,971.05 hours on this case, reporting an aggregate lodestar of approximately \$1,019,156.75, and incurring \$159,092.53 in out-of-pocket expenses. *See* Plaintiff firms' individual fee and expense affidavits, attached as Group Ex. E.

Together, Class Counsel, Plaintiffs' Deposition Counsel, and Additional Plaintiffs' Counsel report expending 6,461.12 hours for a total lodestar of \$3,458,780.85. Plaintiffs' request for an award of \$625,000 is just 18 percent of the lodestar reported by All Plaintiffs' Counsel.

Class Counsel will continue to incur additional attorney hours in connection with final approval of the Settlement, responding to inquiries from Class members, interacting with the Claims Administrator, and generally overseeing implementation of the Settlement.

### **III. AWARD OF ATTORNEYS' FEES AND EXPENSES**

Class Counsel requests an award of attorneys' fees of 25% of the \$2,500,000 Settlement, or \$625,000. As reflected below, this request is well within the bounds allowed by law, particularly in light of the length and complexity of this case. Moreover, cross-checking this fee request against the lodestar calculation demonstrates that the requested attorneys' fee yields a substantial negative multiplier for Class Counsel, further validating its reasonableness, as well as its fairness from the perspective of absent class members.

#### **A. A reasonable percentage of the fund recovered is the appropriate method for awarding Class Counsel's attorneys' fees in this common fund settlement.**

The percentage-of-the-fund method of awarding fees has become an accepted, if not the prevailing, method for awarding fees in common fund cases in this Circuit and throughout the United States. Courts have consistently recognized that a "litigant or 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);

*Swedish Hosp. Corp. v. Shalala*, 1 F.3d 1261, 1265 (D.C. Cir. 1993). “When awarding attorneys’ fees, federal courts have a duty to ensure that claims for attorneys’ fees are reasonable.” *Swedish Hosp.*, 1 F.3d at 1265 (citing *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)). See also Fed. R. Civ. P. 23(h) (that “[i]n a certified class action, the court may award reasonable attorney’s fees and nontaxable costs that are authorized by law or by the parties’ agreement”). “[A] trial court “enjoys substantial discretion in making reasonable fee determinations” because of the court’s “superior understanding of the litigation....” *Swedish Hosp.*, 1 F.3d at 1271 (citations and internal quotations omitted).

The D.C. Circuit has determined that a “percentage-of-the-fund method is the appropriate mechanism for determining the attorney fee award in common fund cases.” *Id.* This methodology “helps to align more closely the interests of the attorneys with the interests of the parties.” *Democratic Cent. Comm. of the Dist. of Columbia v. Washington Metro. Area Transit Comm’n*, 3 F.3d 1568, 1573 (D.C. Cir. 1993). It is also “less demanding of scarce judicial resources than the lodestar method.” *Swedish Hosp.*, 1 F.3d at 1269.

**B. A fee award based on 25% of the common fund is fair and reasonable.**

To determine the reasonableness of the percentage of the common fund requested by counsel, courts in this Circuit consider the following factors:

- (1) the size of the fund created and the number of persons benefitted; (2) the presence or absence of substantial objections by members of the class to the settlement terms or fees requested by counsel; (3) the skill and efficiency of the attorneys involved; (4) the complexity and duration of the litigation; (5) the risk of nonpayment; (6) the amount of time devoted to the case by plaintiffs’ counsel; and (7) the awards in similar cases.

*In re Livingsocial Mktg. & Sales Practice Litig.*, 298 F.R.D. 1, 16 (D.D.C. 2013) (Huvelle, J.) (citation omitted).<sup>3</sup> Courts often use the lodestar method as a cross-check as to the propriety of the award under the percentage-of-the-fund method. *Id.* at 15. Applying these factors demonstrates that Plaintiffs' fee request is reasonable.

**1. Twenty-Five Percent is a reasonable percentage based on the size of the fund created and the number of persons benefitted.**

An award of 25% of the common fund is a reasonable amount that falls within the range of amounts approved by this Court in similar cases. "Fee awards in common fund cases may range from fifteen to forty-five percent." *Livingsocial*, 248 F.R.D. at 1, 15. However, the D.C. Circuit has recognized that "a majority of common fund class action fee awards fall between twenty and thirty percent." *Swedish Hosp.*, 1 F.3d at 1272. The percentage fee awards in this Circuit are consistent with fee awards nationwide. *Torrissi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1376 (9th Cir. 1993) (holding that twenty-five percent of the common fund is the "benchmark" award which can be adjusted, or replaced by the lodestar calculation, in "special circumstances"), *cert. denied sub nom. Reilly v. Tucson Elec. Power Co.*, 129 L. Ed. 2d 834, 114 S. Ct. 2707 (1994); *Bezdek v. Vibram USA Inc.*, 79 F. Supp. 3d 324, 349-50 (D. Mass. 2015) ("Within the First Circuit, courts generally award fees in the range of 20-30%, with 25% as the benchmark.") (internal quotation marks omitted), *aff'd*, 809 F.3d 78 (1st Cir. 2015); *Millsap v. McDonnell Douglas Corp.*, 2003 U.S. Dist. LEXIS 26223, \*25 (N.D. Okla. 2003) ("The Court of Appeals for the Tenth Circuit has recognized 25% of the fund as the "benchmark" award in common fund cases.") (citing *Gottlieb v. Barry*, 43 F.3d 474, 488 (10<sup>th</sup> Cir. 1994)) (additional citations omitted).

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<sup>3</sup> The second element can only be addressed at the final approval hearing. However, counsel can advise that, to date no objections have been received.

While the total number of persons benefitted will not be known until the conclusion of the claims period,<sup>4</sup> each participating Class member will be eligible to receive \$4 per unit or a full refund. Being made whole for the full purchase price represents an extraordinary recovery for the Class, and the Settlement provides a substantial monetary benefit to the Class.<sup>5</sup>

An award of twenty-five percent of the common fund is within the range of reasonableness and particularly appropriate here where it results in Class Counsel receiving a negative multiplier on their lodestar. Accordingly, this factor weighs in favor of the requested fee award.

**2. Class Counsel are skilled and efficient litigators who invested significant time to prosecute this action through full merits discovery and class certification.**

Class Counsel are highly experienced in litigating complex class actions and consumer protection cases. As a result, Class Counsel was successful in defeating several attempts by Defendants to dismiss the consumer protection claims in this matter. Moreover, Class Counsel successfully moved for class certification for the California, Florida and Missouri state-wide classes. This factor weighs in favor of the requested fee award.

**3. The litigation was complex and enduring.**

The complexity and duration of the litigation also supports Class Counsel's request for 25 percent of the Settlement Fund as attorneys' fees. In prosecuting this matter, Class Counsel served

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<sup>4</sup> To date, over 70,000 class members have submitted claims, and the claims period remains open. The Settlement Administrator has not yet calculated the number of units of black pepper products for which reimbursement is sought on the claims.

<sup>5</sup> See, e.g., *In re Baan Co. Sec. Litig.*, 288 F. Supp. 2d 14, 17 (D.D.C. 2003) (Huvelle, J.) (settlement fund of 16 percent of plaintiffs' estimated damages represented a substantial recovery for Class members); *Benitez v. W. Milling*, No. 1:18-cv-01484-SKO, 2020 U.S. Dist. LEXIS 10848, \*24-25 (E.D. Cal. Jan. 21, 2020) (granting preliminary approval where \$650,000 fund represented approximately 30 percent of plaintiffs' estimated \$2.1 million in damages); *Villegas v. J.P. Morgan Chase & Co.*, 2012 U.S. Dist. LEXIS 166704, \*17 (N.D. Cal. Nov. 21, 2012) (15 percent of damages); *Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.*, 2005 U.S. Dist. LEXIS 9705, \*30 (E.D. Pa. May 19, 2005) (11.4 percent of damages). See also *In re Linerboard Antitrust Litig.*, 2004 U.S. Dist. LEXIS 10532 at \*15-17 (E.D. Pa. June 2, 2004) (collecting cases that approve settlement from 5.35% to 28% of damages).

and responded to discovery requests, reviewed approximately 70,000 pages of documents, served numerous third-party subpoenas, and noticed, prepared for, and conducted or defended over two dozen depositions. In addition to fact discovery, Class Counsel retained and consulted with an expert witness, and drafted and responded to multiple rounds of briefing on Plaintiffs' motion for class certification and the interlocutory appeal. The Settlement in this matter was reached after four mediation sessions in three years, with the assistance of both Judge Robertson and Ms. Lesser.

The lifespan of this case – in active litigation for five years – supports the reasonableness of the fee request. *See Fresh Kist Produce, L.L.C. v. Choi Corp.*, 362 F. Supp. 2d 118, 130 (D.D.C. 2005) (“[s]ome common fund cases in this Circuit have been in litigation for approximately five years and have resulted in awards of 28% and 23.3%, respectively.”) (citations omitted). Moreover, the subject matter here – involving a manufacturer of a product in its own name and under store-brand labels – raised complex issues of, *inter alia*, agreement, knowledge, agency and indemnification. Moreover, slack fill claims oftentimes do not fare well, and are subject to dismissal in the early stages of the case. *See, e.g., Berni v. Barilla G. e R. Fratelli, S.p.A.*, 332 F.R.D. 14, 24 (E.D.N.Y. 2019) (“courts within this District have found that labels on packages that clearly indicate the product’s weight prevent plaintiffs from succeeding on nonfunctional slack fill claims”) (*citing Miao Xin Hu v. Iovate Health Scis. U.S.A. Inc.*, No. 17-CV-9427 (ER), 2018 U.S. Dist. LEXIS 176206 (S.D.N.Y. Oct. 12, 2018)). Additionally, the parties and the Court devoted substantial time and resources to researching and advocating positions under multiple states laws. Accordingly, this factor supports the requested fee.

#### **4. Class Counsel faced a risk of nonpayment.**

Class Counsel have been litigating this case on a contingency fee basis and have not yet received any fees or payment for their work. In bringing this class action, there was a risk of non-recovery to Plaintiffs, and thus, Class Counsel had no guarantee that they would receive

compensation for their work. Class Counsel assumed this risk in bringing the action, and the existence of this risk supports the amount of fees requested. Further, in the face of that risk, All Plaintiffs' Counsel funded the substantial expenses of the litigation, expending \$468,630.22.

**5. Class Counsel devoted 4,490.07 hours to prosecuting this action.**

Class Counsel devoted considerable time and effort to prosecuting this case. As set forth in Class Counsel's fee declarations, Class Counsel reported devoting 4,490.07 hours to prosecuting this case. *See* Exs. A-C. In addition, Plaintiffs' Deposition Counsel reported devoting 877.75 hours and Additional Plaintiffs' Counsel reported 1,093.3 hours to prosecute this matter. *See* Group Ex. E. Thus, this factor weighs in favor of Plaintiffs' fee award.

**6. An award of twenty-five percent of the common fund is in line with attorneys' fee awards in similar cases.**

As stated above, "[f]ee awards in common fund cases may range from fifteen to forty-five percent," *In re LivingSocial Mktg. & Sales Practice Litig.*, 248 F.R.D. at 15 (citation omitted), and "a majority of common fund class action fee awards fall between twenty and thirty percent," *Swedish Hosp.*, 1 F.3d at 1272. An award of 25 percent is the median amount deemed reasonable, and is consistent with awards in this District. *See Democratic Cent. Comm. of the District of Columbia v. Washington Metro. Area Transit Comm'n*, 3 F.3d at 1572 (23.37%); *In re Baan Co. Sec. Litig.*, 288 F. Supp. 2d 14, 22 (D.D.C. 2003) (awarding 28% of recovery in a securities case); *Lorazepam & Clorazepate Antitrust Litig.*, No. CIV. A. 99-0790, 2003 U.S. Dist. LEXIS 12344 at \*32-33 (D.D.C. 2003) (granting attorneys' fees of 30%); *Radosti v. Envision EMI, LLC*, 760 F. Supp. 2d 73, 79 (D.D.C. 2011) (awarding 33% as reasonable); *Vitamins Antitrust Litig.*, 2001 U.S. Dist. LEXIS 25067 at \*68 (D.D.C. 2001) (awarding 33%). For all of the foregoing reasons, Class Counsels' fee request of 25 percent, or \$625,000 should be approved.



**B. The lodestar cross-check confirms the reasonableness of the requested fee.**

A cross-check of the lodestar amount confirms the propriety of the \$625,000 sought as attorneys' fees. The cross-check is not designed to be a "full-blown lodestar inquiry," but rather an estimation of the value of counsel's investment in the case. *See* Third Circuit Task Force Report, Selection of Class Counsel, 208 F.R.D. 340, 422-23 (2002) (noting that "[t]he lodestar remains difficult and burdensome to apply, and it positively encourages counsel to run up the bill, expending hours that are of no benefit to the class"). Rather, the lodestar cross-check is used "as a means of assessing whether the percentage-of-recovery award is too high or too low." *In re Diet Drugs*, 582 F.3d at 544 (citing *Rite Aid*, 396 F.3d at 306-07).

The cross-check analysis is a two-step process. First, the lodestar is determined by multiplying the number of hours reasonably expended by the reasonable rates requested by the attorneys. *See Caudle v. Bristow Optical Co., Inc.*, 224 F.3d 1014, 1028 (9th Cir. 2000). Second, the court determines the multiplier required to match the lodestar to the percentage-of-the-fund request made by counsel, and determines whether the multiplier falls within the accepted range for such a case. Here, the lodestar cross-check confirms that the 25 percent request is eminently reasonable.

**1. Class Counsel's lodestar is reasonable.**

As of March 31, 2020, Class Counsel and their teams reported spending a total of 4490.07 hours working on this case. *See* Exhibits A-C.<sup>6</sup> As explained in the Class Counsel Declarations, the stated hours were incurred by, among other things, investigating the claims against Defendants, reviewing and analyzing the documents, preparing the amended complaints, conducting necessary legal research, briefing Defendants' multiple motions to dismiss, and

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<sup>6</sup> In addition, Plaintiffs' Deposition Counsel reported devoting 877.75 hours and Additional Plaintiffs' Counsel reported 1,093.3 hours to prosecute this matter. *See* Group Ex. E.

conducting extensive discovery, briefing and presenting plaintiffs' motion for class certification over multiple hearing dates and rounds of briefing, working with their damages expert, engaging in four mediation sessions and extensive additional settlement negotiations, and preparing the necessary agreements and pleadings related to the Settlement.

Given these activities, the complexity of the legal issues involved, and the intensity of Defendants' defense, the hours incurred are reasonable. Class Counsel anticipate expending additional hours on this litigation to bring it to a close, for which we will not seek additional compensation; thus, these hours are appropriately taken into account in performing the lodestar cross-check.

The hourly rates charged by Class Counsel are also reasonable based on each person's position, experience level, and location. These rates can be based on the prevailing rates in the communities in which Class Counsel practices. *In re Livingsocial Mktg. & Sales Practice Litig.*, 298 F.R.D. at 21. Alternatively, the default standard for calculating appropriate hourly rates is the Laffey Matrix. *Id.* (citing *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984) (additional citations omitted)). As the D.C. Circuit has observed, the updated Laffey Matrix prepared by the United States Attorneys' Office is evidence of prevailing market rates for litigation counsel in the Washington, D.C. area. *See Covington v. District of Columbia*, 57 F.3d 1101, 1105, 313 U.S. App. D.C. 16 & n.14, 1108, 1109 (D.C. Cir. 1995) ("plaintiff must produce data concerning the prevailing market rates in the relevant community").

Here, the hourly rates charged by Class Counsel are consistent with the Laffey Matrix.<sup>7</sup> Since the inception of this case, the Laffey Matrix has reported that the hourly rate for attorneys

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<sup>7</sup> See Laffey Matrix, available at <http://www.laffeymatrix.com/see.html> (last accessed April 19, 2020).

with 20+ years of experience has ranged from \$789 to \$899. Elizabeth Fegan's average hourly effective rate at Hagens Berman was \$735.89, and her hourly rate through December 31, 2019 at Fegan Scott was \$750.<sup>8</sup> *See* Ex. A, B. Similarly, Scott Kamber's hourly rate is \$850. *See* Ex. C. Accordingly, Class Counsel's hourly rates are within prevailing market rates for litigation counsel in the Washington, D.C. area.

Taking into account the several factors discussed above, including the result achieved, the complexity and risk of the litigation, and the skill and experience of counsel, Class Counsel's rates are reasonable and appropriate in this case.

Thus, Class Counsel's reasonable hours and reasonable rates produced a lodestar of \$2,439,624.10 as of March 31, 2020.

**2. The negative multiplier requested here mitigates in favor of the requested fee.**

The negative multiplier of 4 on Class Counsel's lodestar, produced by cross-checking the 25% requested award of \$625,000 against Class Counsel's current reported lodestar of \$2,439,624.10 is well below the accepted range nationwide.<sup>9</sup> "Multipliers in the 3-4 range are common in lodestar awards for lengthy and complex class action litigation." *Wise v. Salon*, 2020 U.S. Dist. LEXIS 54011, \*24 (E.D. Cal. March 27, 2020) (*citing Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 298 (N.D. Cal. 1995) (*citing Behrens v. Wometco Enters., Inc.*, 118 F.R.D. 534, 549 (S.D. Fla. 1988))). *See also* 4 Newberg on Class Actions § 14.7 (courts typically approve percentage awards based on lodestar cross-checks of 1.9 to 5.1 or even higher, and "the multiplier of 1.9 is comparable to multipliers used by the courts"); *In re Prudential Ins. Co. Am.*

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<sup>8</sup> Although Ms. Fegan's hourly rate increased to \$800 as of January 1, 2020, she has applied her 2019 rates to her hours for this case.

<sup>9</sup> Moreover, the request fee award is just 18 percent of the reported lodestar of All Plaintiffs' Counsel.

*Sales Practice Litig. Agent Actions*, 148 F.3d 283, 341 (3d Cir. 1998) (“[M]ultiples ranging from one to four are frequently awarded in common fund cases when the lodestar method is applied.”) (quoting Newberg).

A negative multiplier bespeaks strongly of the risk undertaken by counsel in prosecuting this complex litigation to the trial preparation stage. *In re Ins. Brokerage Antitrust Litig.*, 579 F.3d 241, 284 (3d Cir. 2009) (“The lodestar multiplier ... was less than one and thus reveals that Class Counsel's fee request constitutes only a fraction of the work that they billed ....”).

**C. All Plaintiffs’ Counsel should be reimbursed for their expenses.**

All Plaintiffs’ Counsel also request reimbursement for the reasonable and necessary expenses advanced to prosecute this litigation since its inception. These expenses, totaling \$468,630.22, are detailed in the Plaintiff firms’ fee and expense declarations as well Mr. Vazquez’s declaration regarding the litigation fund. *See* Ex. A-E. “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.” *In re Rent-Way Secs. Litig.*, 305 F. Supp. 2d 491, 519 (W.D. Pa. 2003); *In re Corel Corp. Inc. Secs. Litig.*, 293 F. Supp. 2d at 498 (citation omitted). *See also In re Baan Co. Sec. Litig.*, 288 F. Supp. 2d at 21-22 (finding counsel’s request for reimbursement of expenses reasonable); *Lorazepam & Clorazepate Antitrust Litig.*, 2003 U.S. Dist. LEXIS 12344 at \*33-34 (awarding costs after careful review of the fee petition and affidavits).

The Court should note that the expenses sought here are for actual out-of-pocket expenses and outstanding expenses. In sum, All Plaintiffs’ Counsel report expending

\$409,753.90. Class Counsel currently has \$98,361.37 in unpaid expenses.<sup>10</sup> The litigation fund also currently has a positive balance of \$39,485.05. Accordingly, the owed expenses are calculated as follows:

Expense Disbursements as reported by All Plaintiffs' Counsel	\$409,753.90
Unpaid Bills	\$98,361.37
Subtotal of Expense Disbursement	\$508,115.27
Less Balance in Litigation Fund	\$39,485.05
<b>Total Expense Disbursements</b>	<b>\$468,630.22</b>

In sum, Plaintiffs request reimbursement for \$468,630.22 in out-of-pocket expenses.

**C. Plaintiffs' request for incentive awards is reasonable.**

"Service awards to named plaintiffs are not uncommon in class action litigation, particularly where a common fund has been created for the benefit of the entire class." *Trombley v. Nat'l City Bank*, 826 F. Supp. 2d 179, 207 (D.D.C. 2011) (citing *In re Lorazepam*, 2003 U.S. Dist. LEXIS 12344). "[C]ourts routinely approve service awards to compensate named plaintiffs for the services they provided and the risks they incurred during the course of the class action litigation." *Trombly*, 826 F. Supp. 2d at 207 (citation omitted). "To determine whether service awards should be granted, and the proper amount of such awards, courts consider factors such as the actions the plaintiff has taken to protect the interests of the class, the degree to which the class has benefitted from those actions, and the amount of time and effort the plaintiff expended in pursuing the litigation." *Id.* (internal quotations and citation omitted).

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<sup>10</sup> The outstanding (unpaid) expenses include \$97,717.27 for The Brattle Group (Armando Levy), Plaintiffs' expert, and 644.10 for Everlaw, Inc., Plaintiffs' third-party document hosting and review platform. *See* Vazquez Decl. II, ¶ 10, Ex. D.

The four Settlement Class Representatives have assisted Class Counsel in this litigation by expending time and resources, including missing work, to review key pleadings, prepare for their depositions and be deposed, respond to discovery requests, and review and approve the terms of the Settlement. The \$5,000 proposed incentive compensation for the Class Representatives is in line with awards by courts in other class action cases. *See, e.g., Ceccone v. Equifax Info. Servs. LLC*, 2016 U.S. Dist. LEXIS 127942 at \*36 (D.D.C. Aug. 29, 2016) (awarding \$5,000 to the named plaintiff in Fair Credit Reporting Act class action); *Trombley v. Nat'l City Bank*, 826 F. Supp. 2d 179, 208 (D.D.C. 2011) (awarding \$5,000 each to three class representatives as “fall[ing] within the range of reasonableness”); *Little v. Wash. Metro. Area Transit Auth.*, 313 F. Supp. 3d 27, 39 (D.D.C. 2018) (approving service awards in the amounts of \$7,500 and \$5,000 ); *Cohen v. Warner Chilcott Pub. Ltd. Co.*, 522 F. Supp. 2d 105, \*124 (D.D.C. 2007) (awarding \$7,500 to each of two named plaintiffs who “fully complied with all demands placed on them during litigation and assisted in Class Counsel’s investigation of this case”); *Wells v. Allstate Ins. Co.*, 557 F. Supp. 2d 1, 9 (D.D.C. 2008) (granting \$10,000 incentive award to representative plaintiffs who actively participated in discovery and attended hearings). Thus, the \$5,000 incentive compensation award for each of the four Representative Plaintiffs should be approved.

#### IV. CONCLUSION

WHEREFORE, for all of the foregoing reasons, Plaintiffs respectfully request that the Court approve attorneys’ fees in the amount of \$625,000; award costs and expenses in the amount of \$468,630.22; award incentive compensation for each of the four Settlement Class Representatives in the amount of \$5,000 each; and grant such other and further relief as this Court deems appropriate.

DATED: April 20, 2020

Respectfully submitted,

By: /s/ Elizabeth A. Fegan  
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*Class Counsel*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed electronically via the Court's ECF system, on April 20, 2020. Notice of electronic filing will be sent to all parties by operation of the Court's electronic filing system.

By: /s/ Elizabeth A. Fegan  
Elizabeth A. Fegan



# EXHIBIT A

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

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THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

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**MDL Docket No. 2665**  
**Misc. No. 15-mc-01825-ESH**

**DECLARATION OF ELIZABETH A. FEGAN IN SUPPORT OF  
PETITION FOR FEES AND EXPENSES**

I, Elizabeth A. Fegan, declare as follows:

1. I am a Managing Member with the firm of Fegan Scott LLC. As Co-Lead Counsel appointed by the Court, I represent Plaintiffs and the Classes in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action by Fegan Scott LLC.

2. My firm and the Plaintiffs we represent support the Settlement in this matter.

3. My firm first became involved with the litigation in June 2019, after I left Hagens Berman Sobol Shapiro LLP. Our work in this litigation was performed as Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. Since starting Fegan Scott, I (with my firm) have drafted and revised the opposition to McCormick's Rule 23(f) appeal, analyzed the propriety of remand of non-certified class actions, drafted and revised a supplemental mediation statement, engaged in a mediation session overseen by Nancy Lesser and additional settlement discussions with McCormick, attended and handled several court hearings, pursued third party discovery for use in settlement with multiple retailers, drafted and revised the settlement agreement and attendant exhibits, worked with the settlement administrator, drafted and revised the motion for preliminary approval, drafted a motion to compel

with respect to Safeway and Target, and drafted Class Counsel's fee petition (for which we have not submitted a request for reimbursement).

5. The work I performed at Hagens Berman Sobol Shapiro LLP is reflected in the books and records of Hagens Berman and the Declaration of Mark Vazquez.

6. Through March 31, 2020, the total number of hours spent on this litigation by Fegan Scott LLC for which we seek reimbursement is **80.97**. The total lodestar amount for attorney/professional time based on the firm's current rates is **\$60,127.50**. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Elizabeth Fegan, Managing Member	79.77	\$750.00	\$59,827.50
Tara Sylvester, Paralegal	1.2	\$250.00	\$300
<b>TOTAL:</b>	<b>80.97</b>		<b>\$60,127.50</b>

7. My firm incurred a total of **\$6,295.33** in expenses in connection with the prosecution of this litigation. They are broken down as follows:

<b>EXPENSE CATEGORY</b>	<b>TOTAL</b>
Meals, Hotels & Transportation	\$2,257.01
Photocopies	--
Postage	\$6.00
Telephone, Facsimile	\$23.19
Messenger, Overnight Delivery	\$45.73
Filing, Witness & Other Fees	\$231.00
Court Reporters	\$32.40
Lexis, Westlaw, Online Library Research	--
Class Action Notices/Business Wire	--
Mediation Fees	\$3,700.00
Experts/Consultants/Investigators	--
<b>TOTAL</b>	<b>\$6,295.33</b>

8. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19th day of April, 2020

*/s/ Elizabeth A. Fegan*

# EXHIBIT B

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

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MDL Docket No. 2665  
Misc. No. 15-mc-01825-ESH

THIS DOCUMENT PERTAINS TO:  
ALL ACTIONS

DECLARATION OF MARK T. VAZQUEZ IN SUPPORT OF  
PETITION FOR FEES AND EXPENSES

I, Mark T. Vazquez, declare as follows:

1. I am an associate at Hagens Berman Sobol Shapiro LLP. I have been working on this case since January 2016, and have knowledge of the following information regarding the time and expense incurred by Hagens Berman in this matter. I submit this declaration in support of my firm's application for an award of attorneys' fees and expenses.

2. On January 28, 2016, this Court appointed Elizabeth A. Fegan, at the time a partner at Hagens Berman, Co-Lead Class Counsel.<sup>1</sup> Ms. Fegan remained a partner at Hagens Berman for the majority of this litigation, until June 2019.<sup>2</sup>

3. As the firm supporting co-lead counsel through the majority of the litigation, Hagens Berman has incurred considerable costs and expanded significant resources to litigate this case.

4. Hagens Berman and the Plaintiffs we represent support the Settlement in this matter.

5. Hagens Berman—along with co-lead counsel—took the lead performing the following work in this MDL:

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<sup>1</sup> Scheduling Order (Dkt. No. 26).

<sup>2</sup> Notice of Change of Address (Dkt. No. 210).

(a) Drafting and filing the Consolidated Amended Class Action Complaint on March 2, 2016;<sup>3</sup>

(b) Conducting full merits discovery between March 2, 2016 and March 6, 2017, including but not limited to: participating in meet-and-confers to negotiate an ESI protocol, a protective order, search terms, custodians, scheduling orders, and other discovery matters or disputes; requesting and overseeing the review of the production of approximately 15,000 documents by the defendants; culling, reviewing, and producing receipts, pepper tins, and other documents from the Lead Plaintiffs; drafting and serving subpoenas on third-party retailers, and related meet-and-confers and motions to compel; taking the depositions of various fact witnesses; and defending the depositions of the Lead Plaintiffs;

(c) Preparing for, traveling to, and participating in various hearings before the court in Washington, D.C., including but not limited to: January 26, 2016 (hearing on applications for interim lead counsel); May 24, 2016 (scheduling conference); July 20, 2016 (oral argument for motion to dismiss in related *Watkins* action); October 25, 2016 (oral argument on motion to dismiss); and July 10, 2018 (oral argument on motion for class certification).

(d) Researching, drafting, and filing a motion for reconsideration of the Court's dismissal of the antitrust claims;<sup>4</sup>

(e) Drafting and filing the Second Amended Consolidated Class Action Complaint, incorporating the fact discovery, on March 21, 2017;<sup>5</sup>

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<sup>3</sup> Consolidated Class Action Complaint (Dkt. No. 34).

<sup>4</sup> Plaintiffs' Motion for Reconsideration of Dismissal with Prejudice of Count I Sherman Act Claim (Dkt. No. 105).

<sup>5</sup> Second Amended Consolidated Class Action Complaint (Dkt. No. 128).

(f) Researching, drafting, preparing, and filing, on July 21, 2017, plaintiffs' motion for class certification and memorandum in support,<sup>6</sup> a detailed proffer of the facts and evidence in support of class certification,<sup>7</sup> and the expert report of Dr. Armando Levy.

(g) Researching, drafting, and filing supplemental briefing related to the possible certification of single-state classes in California, Florida, Illinois, and Missouri.<sup>8</sup>

(h) Researching, drafting, and filing plaintiffs' opposition to defendants' Rule 23(f) petition filed before the D.C. Circuit Court of Appeals;<sup>9</sup>

(i) Participating in settlement negotiations with the defendants, first overseen by the Hon. James Robertson (ret.) at mediation sessions on October 27, 2016, November 29, 2017, and January 10, 2019 in Washington, D.C, and subsequently by Nancy Lesser, on October 2, 2019.

6. Hagens Berman also incurred time and expense prior to the creation of an MDL in this matter. Specifically, the firm investigated, researched, and initiated the action, *Julia Vladimirovsky, et al., v. McCormick and Company, Inc., et al.*, No. 15-cv-081502, filed on September 15, 2015 in the Northern District of Illinois. The firm also prepared an MDL memorandum and argued before the JPML. Before the creation of an MDL and appointment of lead counsel, Hagens Berman spent 91.7 hours on this matter, for a total of \$53,759.80 in lodestar.

7. In sum, from the filing of *Vladimirovsky v. McCormick* in 2015 through the initial settlement of the MDL matter (as of March 31, 2020), the total number of hours spent on this litigation by Hagens Berman is 2,619.1. The total lodestar amount for attorney and professional time based on the firm's current rates is \$1,164,484.80.

8. Figure 1 depicts a breakdown of the lodestar. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. For some individuals, their usual and customary rate may have changed during the litigation. In this instance, the chart

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<sup>6</sup> Plaintiffs' Motion for Class Certification and Appointment of Class Counsel (Dkt. No. 156).

<sup>7</sup> Declaration of Elizabeth A. Fegan In Support of Plaintiffs' Motion for Class Certification (Dkt. No. 158).

<sup>8</sup> Order for Supplemental Briefing (Dkt. No. 200).

<sup>9</sup> Order of USCA (Dkt. No. 220).



depicts the average rate associated with this individual during the litigation, through March 31, 2020. A more detailed accounting of each individual's time spent on this matter has been submitted separately to the Court by lead counsel.

Fig. 1: Hagens Berman Attorney and Staff Lodestar

Partners	Hours	Avg. Effective Hourly Rate	Lodestar
Elizabeth Fegan	481.7	\$735.89	\$354,882.00
Daniel Kurowski	600.1	\$478.17	\$284,905.30
<b>Of Counsel</b>			
Jeannie Evans	32.4	\$600.00	\$9,480.00
<b>Associates</b>			
Andrew Gordon	444.6	\$350.00	\$155,610.00
Mark Vazquez	690.6	\$383.56	\$261,105.00
<b>Law Clerks</b>			
Evan Scott	17.3	\$300.00	\$5,190.00
<b>Paralegals</b>			
Robert Haegele	2.4	\$188.33	\$446.50
Chavay Jones	126.2	\$250.00	\$34,850.00
Tom McClurg	214.4	\$265.00	\$56,816.00
Megan O'Connell	7	\$250.00	\$1,750.00
Joseph Salonga	1.2	\$200.00	\$240.00
<b>Marketing &amp; Presentations</b>			
Heidi Waggoner	1.2	\$175.00	\$210.00
<b>TOTAL:</b>	<b>2619.1</b>		<b>\$1,165,484.80</b>

9. Through March 31, 2020, Hagens Berman incurred a total of \$146,323.38 in expenses in connection with the prosecution of this litigation. Figure 2 depicts a breakdown of those expenses.

Fig. 2: Hagens Berman Expenses

Expense Category	Amount
Meals, Hotels, & Transportation	\$22,211.44
Photocopies	\$1,238.93
Technology, Telephone, & Facsimile	\$511.59
Messenger, Overnight Delivery	\$8,977.50
Filing, Witness & Other Fees	\$1,781.28
Court Reporters	\$2,219.46
Mediation Fees	\$5,075.00
Experts, Consultants, & Investigators	\$19,308.18
Litigation Fund Contributions	\$85,000.00
<b>TOTAL:</b>	<b>\$146,323.38</b>

10. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents, and are an accurate record of the expenses. A more detailed accounting of expenses incurred by Hagens Berman has been submitted separately to the Court by lead counsel.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20th day of April 2020

  
 Mark T. Vazquez

# EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

MDL Docket No. 2665

Case No. 15-1825 (ESH)

*This Document Relates To:*  
ALL CLASS ACTIONS

**DECLARATION OF SCOTT A. KAMBER IN SUPPORT OF PLAINTIFFS'  
MEMORANDUM OF SUPPORT FOR ATTORNEYS' FEES AND EXPENSES, AND  
INCENTIVE AWARDS**

I, Scott A. Kamber, declare as follows:

1. I am an attorney licensed to practice before all courts of the states of New York, Missouri and Colorado, and am admitted to practice before this Court. I am Managing Partner of the law firms KamberLaw, LLC and KamberLaw, LLP (collectively "KamberLaw"). I was appointed by this Court to serve as Interim Co-Lead Counsel and Class Counsel in the above-captioned litigation, and make this declaration in support of Plaintiffs' Application for Attorneys' Fees and Expenses, and Incentive Awards.

2. As Class Counsel, I am one of the attorneys that is responsible for representing Plaintiffs in this action. However, in addition to the support of highly experienced counsel at KamberLaw, the matter was also ably prosecuted by my Co-Class Counsel Elizabeth Fegan and counsel at Fegan Scott LLC, and her prior firm, Hagens Berman Sobol Shapiro LLP ("Hagens Berman") (collectively, hereafter, with KamberLaw, "Class Counsel"). The firm resumés and qualifications of each of these firms and individuals were presented to the Court on January 27, 2016, as part of the Application for Appointment of Interim Lead Counsel, Dkt. Nos. 19 and 22-

3, and Ms. Fegan's resumé was updated on January 24, 2020, Dkt. No. 224-2, p.12.

3. I have actively participated in all aspects of this litigation, including the negotiation of the settlement, and am fully familiar with the proceedings in the matter in which the parties seek resolution. If called upon, I am competent to testify that the following facts are true and correct based upon my personal knowledge. One of the responsibilities of Class Counsel was to ensure that the litigation was conducted efficiently and to minimize duplication of efforts. *See* Transcript of Scheduling Conference, Dkt. No. 29 at p. 13:1; *The Manual for Complex Litigation* (4<sup>th</sup> ed. 2004) at ¶40.22(1.d) (Sample Order). I submit this Declaration to summarize the efforts put forth by my firm and provide the basis for the fees and expenses incurred by counsel in this litigation.

**THE SUBSTANTIVE WORK REQUIRED TO SUCCESSFULLY LITIGATE  
THIS MATTER**

4. From the inception of this litigation, Class Counsel has aggressively prosecuted this case and vigorously represented the best interests of the Plaintiffs and Class Members for the nearly five years it has been pending. Class Counsel has controlled the prosecution of the litigation, including investigating the facts, independently testing the product at issue, participating in hearings and conferences, coordinating activities amongst Plaintiffs' counsel, reviewing and analyzing documents, assembling and drafting pleadings, conducting legal research and discovery, and communicating with counsel for defendants and third-parties.

**Early Investigation and Work Regarding Consolidation and Appointment of Counsel**

5. I represented at the initial status conference in January 2016 that KamberLaw would not submit time incurred prior to its appointment as Interim Co-Lead Counsel (i.e. pre-complaint investigation, multidistrict litigation panel efforts, and work related to leadership organization) because such time would likely be duplicative of that of other firms involved in the litigation. I have ensured that KamberLaw has not submitted any of its hours incurred for such

work, but for context, I am providing background for the extensive substantive work that was done prior to my appointment. As part of my review of my firm's time for this Fee Application I have cut approximately \$200,000 in lodestar, which I believed was duplicative or otherwise unnecessary, including the above-described time incurred prior to my appointment Interim Co-Lead Counsel.

6. The origins of the case date to early 2015 when Plaintiffs allege that McCormick and Company, Incorporated ("McCormick" or "Defendant") began slack-filling some of its Black Pepper products. First a competitor, and then consumers in several states, filed a series of actions asserting that McCormick improperly implemented a price increase by decreasing the quantity of pepper in its iconic pepper containers. In addition to the ordinary factual inquiry that precedes the initiation of such a case, my firm and I engaged in substantial additional investigation.

7. On August 10, 2015, McCormick filed its initial Motion to Transfer before the Judicial Panel on Multidistrict Litigation ("JPML"). In the wake of that filing, KamberLaw attorneys (as well as several other attorneys) filed a Notice of Appearance before the JPML. In addition, KamberLaw drafted and filed a substantive response, advocating that the Panel should transfer the consolidated and coordinated actions to the District of Columbia.

8. The JPML set a hearing on the McCormick MDL for December 3, 2015 in New Orleans, Louisiana. I filed a Notice of Presentation of Oral Argument, and traveled to New Orleans to present argument. Ultimately, KamberLaw's clients prevailed in their arguments to have the consolidated and coordinated actions transferred to this District: on December 8, 2015, the JPML entered a Transfer Order that centralized these actions against McCormick in this Court. *See* Dkt. No. 1. As noted above and detailed below, I have excluded from this Application all of the hours expended by KamberLaw in the MDL process.

9. This Court entered the Initial Practice & Procedure Order on December 22, 2015 (Dkt. No. 3), which set the Initial Scheduling and Case Management Conference and strongly encouraged the parties and counsel to seek a consensus as to the appointment of Interim Class Counsel. I initiated a process whereby various Plaintiffs' counsel attempted to self-organize to manage litigation of the class actions and played an active role in trying to reach consensus with other counsel to create a structure that would efficiently and effectively represent class members. Consensus was unable to be reached, which necessitated a vigorous round of motion practice. *See* Dkt. Nos. 18, 19, 20, 21, 22, and 23. As noted above and detailed below, I have excluded from this Application all of the hours expended by KamberLaw in this process.

10. On January 27, 2016, the Court held an Initial Scheduling and Case Management Conference and heard argument on the applications for Lead Counsel. Subsequently, on January 28, 2016, the Court entered a Scheduling Order and appointed Elizabeth A. Fegan and me as Interim Co-Lead Counsel.

#### **Drafting the Consolidated Complaints and Discovery Plan**

11. After appointment as Interim Co-Lead Counsel, Ms. Fegan and I immediately set to work on preparing the Consolidated Complaint. KamberLaw delegated portions of the research, further investigation, and drafting of the consolidated complaint, and supervised and participated in all aspects of that effort, including the vetting and evaluation of potential named class representatives. I personally worked with Ms. Fegan to ensure that this process was efficient and avoided unnecessary duplication of efforts. As part of the process, KamberLaw engaged in an extensive analysis of consumer protection statutes, and express and implied warranty claims under the laws of all fifty states, as well as research concerning the applicability of Sherman Act and Lanham Act claims, and common-law unjust enrichment claims. Further, Class Counsel, with the assistance of other supporting Plaintiffs' counsel, engaged in detailed discussions with putative

class members, including those class members ultimately selected as class representatives.

12. On March 2, 2016, Plaintiffs filed their Amended Consolidated Class Action Complaint asserting claims that McCormick improperly implemented a price increase by decreasing the quantity of pepper in both certain McCormick®-branded pepper containers and certain store-branded pepper containers that were supplied by McCormick. Plaintiffs also assert that McCormick misled them about the reduction in quantity by keeping the non-transparent containers the same size in violation of the Sherman Act (15 U.S.C. § 1); violations of the Federal Food, Drug and Cosmetic Act (FDCA) Section 403 (21 U.S.C. § 343); Section 403(d) (21 U.S.C. § 403(d); the Code of Federal Regulations Title 21 part 100, *et seq.*; the Lanham Act, 15 U.S.C. § 1125, and those similar deceptive and unfair practices and/or consumer protection state laws in twenty-five states; and Unjust Enrichment. *See* Dkt. No. 34.

13. With the Consolidated Complaint filed, Class Counsel focused on developing a plan for prosecuting the case to a successful conclusion. Class Counsel worked diligently to develop an aggressive Rule 16 plan to efficiently and expeditiously move the case forward. To that end, Class Counsel engaged in detailed and lengthy negotiations with Defendants' counsel on a joint Rule 16 discovery plan. The parties had numerous calls to meet and confer on a joint plan, and exchanged multiple draft plans. The Joint Report was filed by the Parties on May 17, 2016. Dkt. No. 45. Notably, through the substantial efforts of counsel, the Parties were able to reach consensus on all facets of the discovery plan.

14. I, along with my partner, Deborah Kravitz, appeared in person for the Rule 16 Conference on May 24, 2016. Immediately following the conference, the Court entered a Scheduling Order setting a schedule for the matter (Dkt. No. 50), and initiating the discovery phase of the litigation.



15. Prior to the Scheduling Conference, Class Counsel set to work on collecting information from the named representatives and drafting Initial Disclosures. This effort was directed by Class Counsel, but shared by all of the firms who had retained clients selected to serve as representative plaintiffs. KamberLaw coordinated assignments and oversaw the drafting of Initial Disclosures. Initial disclosures were exchanged on March 2, 2016.

16. Class Counsel then began informal discovery efforts to collect information, entered into an intense phase of negotiation over an appropriate Protective Order, and began drafting formal discovery. After much negotiation, a Protective Order was submitted on May 17, 2016 (Dkt. No. 44), and so Ordered by the Court on May 18, 2016. Dkt. No. 48. Following later developments in the case, the Parties entered into additional negotiations and filed Joint Motions for Addendums to the Protective Orders on July 21, 2016 and August 12, 2016 (Dkt. Nos. 60 & 63), which respectively were so Ordered by the Court on July 22, 2016 (Dkt. No. 61), and August 13, 2016. Dkt. No. 64.

17. This matter entailed multiple, protracted rounds of briefing on motions to dismiss. After Class Counsel briefed Plaintiffs' Opposition (Dkt. No. 43) to Defendants' Motions to Dismiss Plaintiffs' Amended Consolidated Class Action Complaint (Dkt. Nos. 38 and 40), and a Motion for Reconsideration (Dkt. Nos. 105 and 116), Class Counsel filed a Second Amended Consolidated Class Action Complaint (Dkt. No. 128), resulting in yet another round of briefing an Opposition (Dkt. No. 139) to Defendants' Motions to Dismiss. Dkt. Nos. 132 and 134. In addition, there was motion practice regarding the scope of redactions to documents filed under seal. *See e.g.* Dkt. Nos. 130, 136, and 137.

18. In addition to the court conferences referenced above, my firm and I attended numerous telephone and in-person conferences set by the Court in this Matter.

19. As a result of extensive briefing that developed over the course of the litigation, it became necessary to amend the schedule in the case. Class Counsel had to diligently endeavor to keep the class action moving forward while accommodating the extensive motion practice in which the Parties were engaged. Class Counsel negotiated amendments to the schedule with all the parties that had entered the case, resulting in Amended Case Management Orders being entered by the Court on September 13, 2016 (Dkt. No. 71); November 30, 2016 (Dkt. No. 103); and September 23, 2019 (Dkt. No. 219).

### **Discovery**

20. Class Counsel were involved in the preparation for over two-dozen depositions that were taken during the course of the litigation, and their firms personally took and/or defended 21 depositions. For the six depositions that Class Counsel did not personally attend, our firms actively assisted the firms who were delegated to take the depositions in preparing for those depositions. Deborah Kravitz led the KamberLaw efforts in the deposition process including the coordination of the efforts across the participating firms.

21. Class Counsel also responded to multiple rounds of written discovery propounded by Defendants, and drafted multiple rounds of written discovery to Defendants. In addition, several motions to compel discovery responses were litigated. Dkt. Nos. 66 and 73.

22. Before resolving the case, Class Counsel had completed the review of documents produced by Defendants and third parties. In total, over 70,000 pages of documents were reviewed and coded. I believe this effort was critical not only for the success of the litigation, but also for maximizing leverage at the various mediations.

### **Settlement Negotiations**

23. I personally believe that settlement and, in many instances, early settlement, is the key component to the success of a class action from the perspective of class members. KamberLaw

has built its reputation on its ability to obtain significant recoveries for the class early in the litigation process. While Class Counsel made frequent and consistent efforts toward resolution in this matter, such efforts did not bear fruit until the fourth attempt at mediation. This was not for lack of effort toward resolution. Simply put, wanting an early resolution that was favorable to the Class does not always make it so.

24. In general, the success of a mediation and settlement process requires Plaintiffs to be ready, willing and able to present a well-reasoned and comprehensive position of their case. It was critical that we entered the mediations in a frame of mind where obtaining the best possible relief for the Class settlement was a choice, and not a necessity.

25. Beginning with a mediation on October 27, 2016, Defense counsel and Class Counsel participated in a series of mediations and settlement discussions, by phone and in-person in the context of a private and confidential mediations before Honorable James Robertson (Ret.), JAMS, in Washington DC. The Parties candidly expressed the strengths and weaknesses of their positions in a full and professional process spearheaded by the mediator. Although an agreement was not reached at the first mediation, with the continued assistance of Judge Robertson, the parties continued to communicate towards a resolution and chose to mediate again on November 29, 2017 and January 19, 2019. Unfortunately, Judge Robertson passed prior to the conclusion of the mediation process.

26. The Parties also conducted a mediation on October 2, 2019, with the assistance of Nancy Lesser of PAX ADR, in Washington, D.C. All of the mediations involved: the review of the substantive facts developed; a comprehensive understanding of District of Columbia Circuit settlement standards; and input and interaction with the Class Representatives regarding the terms of the settlement. There was also a constant dialogue to ensure that a settlement would only be accepted if it was in the best interest of Class Members, was worthy of the approval of this Court

and the District of Columbia Circuit, and likely would be met with enthusiasm by the named Representative Plaintiffs and Class Members. Ms. Lesser was particularly effective and hands-on in her efforts that ultimately brought the mediation process to a successful conclusion.

27. After the final mediation with Ms. Lesser, the Parties were able to negotiate a Settlement that provides meaningful cash compensation to Settlement Class Members, and avoids the risks and delay of further litigation. I believe that the substantive work accomplished by Class Counsel, and their collective trial experience, created a credible threat of success in ongoing litigation, which was critical in obtaining a settlement of the quality of the one presented.

28. After the mediation, in late October 2019, the Parties negotiated with one another to flesh out the settlement framework and details of its proposed implementation. The parties continued to negotiate, exchange information regarding settlement details, and examine approaches to potential relief. This process included detailed negotiations of every aspect of the notice program, as there was a great tension between the needs of Class Counsel to present a notice program that satisfied all due process requirements and ensured the best practicable notice to the Class, and the desire of McCormick for the notice program to be sensitive to its brand integrity.

29. Ultimately, as a result of those protracted efforts, the Parties entered into a Settlement Agreement that called for McCormick to pay \$2.5 million into a settlement fund for compensation to Settlement Class Members as monetary benefits. The Stipulation of Settlement and all supporting papers were submitted to the Court as part of the Motion for Preliminary Approval of Class Settlement on January 24, 2020. Dkt. No. 224.

30. At no point during the settlement process (overseen first by Judge Robertson, and then by Ms. Lesser), prior to reaching agreement on the substantive terms of settlement, did the parties discuss the amount of any incentive awards to representative Plaintiffs or payment to Plaintiffs' counsel.

31. The parties selected Heffler Claims Group (“HCG”), a qualified and reputable third-party administrator, to: issue Notice to Class Members; receive exclusion requests; process claims; respond to inquiries; issue settlement checks to claimants; and conduct other activities relating to class notice and administration. This Court approved the selection of HCG as Settlement Administrator as part of the Preliminary Approval process. Class Counsel has been actively involved in supervising and managing HCG, and its administration of the notice program and the claims process. This has entailed: reviewing claims reports on a weekly basis; analyzing reports on impressions and other metrics regarding the success of the notice program; discussions regarding any improvements that could be to the notice program and claim stimulation program; and monitoring the operations of the Interactive Voice Response (toll-free call center) process and class member communications to ensure that any issues with the notice or claims process were remedied promptly.

32. Although the claims process is continuing, as of April 17, 2020, over 75,000 claims have been received by HCG. The number of claims will continue to rise, particularly because Class Counsel expects to receive data from two retailers, that should enable HCG to send checks directly to some consumers.

### **INCENTIVE AWARDS**

33. The Class Representatives have assisted Class Counsel in this litigation by expending time and resources (including missing work) to be vetted for inclusion in the consolidated complaints, to participate in drafting initial disclosures, to review key pleadings, to prepare for their depositions and be deposed, to respond to discovery requests, and to review and approve the terms of the Settlement Agreement. Based on my experience, given the time-commitment and the quality of their efforts on behalf of the class, the requested Incentive Awards of \$5,000 per representative is reasonable.

**THE TIME AND EXPENSE EXPENDED BY LEADERSHIP**

34. To date, my firm and I have prosecuted this action on a wholly contingent basis since commencing the litigation. During the past 5 years, my firm alone has expended \$98,042.66 in actual out of pocket costs, including its contributions to the Litigation Fund, and 1,790 professional hours totaling \$1,214,012 in lodestar. In doing so, my firm and I have long borne the risk of an unfavorable result and, in fact, continued to expend time and incur out of pocket expense because it was required to do what was right for the class even long after it was clear that any fee recovered in this case would be significantly less than the time expended. To date, my firm and I have not been paid in any way for our extensive efforts, or been reimbursed for costs incurred. The time and effort expended for this matter necessitated that my firm, and upon information and belief, each of the other firms, forego other opportunities in order to fulfill their responsibilities in this matter. In connection with Final Approval, Class Counsel now seeks an award of attorneys' fees.

35. In the Fee Application, Class Counsel has collectively applied for a fee award of \$625,000. This amount represents 25% of the \$2.5 million value of the Settlement Fund, exclusive of interest accumulated, and is the amount set forth in the Notice. Such an award is supported by the benchmarks for fee awards in the District of Columbia Circuit.

36. I believe that this fee award is reasonable in relation to the substantial results achieved for the Settlement Class Members and the efforts of counsel. It also represents an amount that is less than 20% of the value of the actual time expended by Class Counsel in this case.

37. Throughout the mediation and negotiation efforts, and in advising our clients of the proposed settlement, my firm and I have at all times considered the fairness, reasonableness and adequacy of the settlement for the Class, taking into account: the strength of Plaintiffs' case; the risk, expense complexity and likely duration of any further litigation; maintaining class action

status through trial; the amount offered in settlement; and the experience and views of Plaintiffs' counsel. Against the backdrop of counsel's collective experience in prosecuting complex class actions, we have considered the claims set forth in the Complaint and our continued confidence in the merit of those claims, the scope of relief offered in the settlement compared to the potential relief at the conclusion of litigation, and the risks and costs of continued litigation. Taking these factors into account, it is my opinion that the proposed settlement is fair, reasonable and adequate, well within the range of possible approval, and therefore deserving of the Court's Final Approval.

38. KamberLaw has diligently investigated and prosecuted this matter, dedicating substantial, effort, resources, and expertise to the investigated and prosecuted this matter, dedicating substantial time, effort, resources, and expertise to the investigation of the claims at issue in the action, and have successfully negotiated the settlement of this matter to the benefit of the Class Members. The qualifications of Class Counsel and their extensive experience in prosecuting complex class actions and other complex litigation, including firm resumés, were submitted to the Court prior to its appointment of Interim Co-Lead Counsel, and are incorporated here by reference. *See* Dkt. Nos. 19, 22-3 and 224-2, p.12.

39. Throughout this litigation, we have had regular communications among Class Counsel, as well as other participating Plaintiffs' firms, regarding their time and expense. Further, I along with my colleague, Deborah Kravitz, assigned work in the case (usually through team calls and emails), and continuously monitored the work being performed by others in order to ensure consistent quality, that each firm was able to contribute constructively, and that there was no unnecessary duplication of efforts.

40. Based on my knowledge and experience, the hourly rates reflected for my firm are within the range of market rates charged by attorneys of equivalent experience, skill, and expertise. In fact, we have conformed the hourly rates charged by my firm to ensure that the rates charged

are equal to or less than those set forth in the current Laffey Matrix for the District of Columbia. Further, in the ordinary course of business KamberLaw does not charge for expenses such as in-office photocopies, online legal research fees such as Westlaw, teleconference fees, faxes or domestic phone calls. It has always been my perspective that such expenses are office expenses that should be considered in the hourly rate of professionals such as lawyers.

41. As detailed in the accompanying Memorandum in Support of Attorneys' Fees and Expenses, And Incentive Awards, fee awards of 25% are regularly approved in the District of Columbia Circuit.

42. Attached as Exhibit 1 is a summary chart for KamberLaw setting forth each professional who worked on this matter, their applicable years of experience, their hourly rate (which is below the rates currently included in the Laffey Matrix), the hours expended for which compensation is sought and the corresponding lodestar. During the process of compiling this Application, over 320 hours of time incurred by KamberLaw were cut, either because it was incurred prior to the appointment of Interim Lead Counsel, or because the hours were found to be duplicative. These eliminated hours reflect over \$200,000 in hourly fees incurred that were excluded from the lodestar analysis.

43. Attached as Exhibit 2 is a chart of the actual out-of-pocket expenses incurred by KamberLaw for which reimbursement is being sought. The total of expenses incurred, for which reimbursement is sought, is \$98,042.66. Specifically excluded were all filing fees and other expenses incurred prior to the appointment of Class Counsel. Duplicative initial filings simply do not provide a colorable benefit to the class. Included in this total is my firm's contribution to the litigation fund which paid certain case expenses. The accounting for the expenses incurred by the Litigation Fund are detailed in the declaration of Mark Vazquez, of Hagens Berman, which administered this fund. In addition to contributions to the litigation fund, KamberLaw paid certain



expenses directly to vendors, which is counted toward its share of the expenses, and is why the listed contributions to the litigation fund varied by firm.

44. Because the fee to be awarded in this matter is entirely contingent, the only certainty from the outset was that there would be no fee without a successful result, and that such a result would be realized only after a lengthy and difficult effort.

45. Plaintiffs' success in this action was by no means assured. Defendants were represented by able counsel, who raised numerous affirmative defenses, and mounted a substantial challenge to class certification. Were this settlement not achieved, and even if Plaintiffs prevailed at trial, Plaintiffs faced potentially years of costly and risky appellate litigation against Defendant, the ultimate success of which is far from certain. It is these risks that support the concept of lodestar multiplier and percentage recoveries.

46. For all of the foregoing reasons, I respectfully request that this Court approve Plaintiffs' Application for Attorneys' Fees and Expenses, and Incentive Awards to Representative Plaintiffs.

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

April 20, 2020  
Avon, Colorado



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Scott A. Kamber

**EXHIBIT 1**

**KamberLaw Time Summary Chart**

**TIME SUMMARY CHART**

	<b><u>Admission Year</u></b>	<b><u>Laffey Seniority</u></b>	<b><u>Billing Rate</u></b>	<b><u>Hours</u></b>	<b><u>Lodestar</u></b>
Scott A. Kamber	1991	>20+ years	\$850	344.7	\$292,995
Deborah Kravitz	1991	>20+ years	\$850	452.8	\$ 384,880
Naomi Spector	2002	11-19 years	\$725	41.4	\$ 30,015
Adam York	2007	11-19 years	\$625	619.3	\$ 387,062
Julie Piper-Kitchin	2008	11-19 years	\$625	27.2	\$ 17,000
Chris Moon	2006	11-19 years	\$600	102.8	\$ 61,680
Christine Davis	Paralegal	NA	\$200	201.8	\$ 40,380
TOTAL				1790.0	\$1,214,012

**EXHIBIT 2**

**KamberLaw Expenses**

**KAMBERLAW  
EXPENSES**

Meals, Hotels & Transportation	\$ 18,768.73
Photocopies	0.00
Technology, Telephone & Facsimile	0.00
Messenger, Overnight Delivery	172.08
Filing, Witness & Other Fees	0.00
Court Reporters	14,943.20
Mediation Fees	7,047.00
Experts, Consultants & Investigations	13,411.05
Litigation Fund Contribution	43,700.60
<b>TOTAL</b>	<b>\$ 98,042.66</b>

# EXHIBIT D

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

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MDL Docket No. 2665  
Misc. No. 15-mc-01825-ESH

THIS DOCUMENT PERTAINS TO:  
ALL ACTIONS

DECLARATION OF MARK T. VAZQUEZ IN SUPPORT OF  
PETITION FOR FEES AND EXPENSES

I, Mark T. Vazquez, declare as follows:

1. I am an associate at Hagens Berman Sobol Shapiro LLP. I have been working on this case since January 2016, and have knowledge of the following information.
2. In October 2016, plaintiffs' counsel in this MDL created a litigation fund to cover the expenses associated with prosecuting the case. Stefanie Knowlton, an accountant with Hagens Berman, created and set up the fund.
3. The law firms of Hagens Berman Sobol Shapiro, Kamber Law, Carlson Lynch Sweet Kipela & Carpenter, and Zimmerman Reed have each contributed to the litigation fund over the course of the litigation.
4. The litigation fund has primarily been used to cover expert witness fees, e-discovery expenses, deposition and reporting costs, and third-party data purchases. It has not been used to cover all of plaintiffs' expenses in this case.
5. Many plaintiffs' firms have incurred out-of-pocket expenses in addition to or in lieu of litigation fund contributions. Each firm will detail its own out-of-pocket expenses in a separate declaration.
6. Figure 1, presented on the following pages, depicts the contributions and withdrawals made to and from the litigation fund from October 2016 to the present.

**Fig. 1: Litigation Fund Contributions and Expenses**

Date	Payer/Payee	Deposit	Withdrawal	Balance
10/27/16	Hagens Berman Sobol Shapiro LLP	\$ 10,000.00		\$ 10,000.00
10/27/16	Carlson Lynch Sweet Kilpela & Carpenter LLP	\$ 10,000.00		\$ 20,000.00
10/27/16	Zimmerman Reed LLP	\$ 10,000.00		\$ 30,000.00
11/10/16	United Processing		(\$ 275.00)	\$ 29,725.00
11/10/16	Everlaw, Inc.		(\$ 450.00)	\$ 29,275.00
12/02/16	IRI		(\$ 27,221.00)	\$ 2,054.00
12/02/16	Everlaw, Inc.		(\$ 450.00)	\$ 1,604.00
12/15/16	Kamber Law LLC	\$ 15,000.00		\$ 16,604.00
12/16/16	Everlaw, Inc.		(\$ 450.00)	\$ 16,154.00
01/23/17	Everlaw, Inc.		(\$ 450.00)	\$ 15,704.00
03/20/17	The Brattle Group		(\$ 6,159.38)	\$ 9,544.62
04/12/17	US Legal Support		(\$ 1,155.85)	\$ 8,388.77
04/12/17	US Legal Support		(\$ 454.10)	\$ 7,934.67
04/12/17	US Legal Support		(\$ 308.25)	\$ 7,626.42
04/12/17	US Legal Support		(\$ 1,020.20)	\$ 6,606.22
04/12/17	US Legal Support		(\$ 330.20)	\$ 6,276.02
04/12/17	Everlaw, Inc.		(\$ 450.00)	\$ 5,826.02
04/26/17	Everlaw, Inc.		(\$ 450.00)	\$ 5,376.02
05/18/17	Everlaw, Inc.		(\$ 450.00)	\$ 4,926.02
09/14/17	Zimmerman Reed LLP	\$ 55,000.00		\$ 59,926.02
10/06/17	The Brattle Group		(\$ 43,641.83)	\$ 16,284.19
10/06/17	The Brattle Group		(\$ 4,722.50)	\$ 11,561.69
10/20/17	The Brattle Group		(\$ 2,256.25)	\$ 9,305.44
10/20/17	Everlaw, Inc.		(\$ 450.00)	\$ 8,855.44



Date	Payer/Payee	Deposit	Withdrawal	Balance
11/03/17	Kamber Law LLC	\$ 28,700.60		\$ 37,556.04
11/03/17	Carlson Lynch Sweet Kilpela & Carpenter LLP	\$ 55,000.00		\$ 92,556.04
11/09/17	The Brattle Group		(\$ 31,608.75)	\$ 60,947.29
11/09/17	The Brattle Group		(\$ 29,554.44)	\$ 31,392.85
11/09/17	The Brattle Group		(\$ 31,343.75)	\$ 49.10
03/27/18	JAMS ( <i>Refund</i> )	\$ 884.21		\$ 933.31
08/23/18	Lisa Griffith		(\$ 145.80)	\$ 787.51
12/28/18	Hagens Berman Sobol Shapiro LLP	\$ 75,000.00		\$ 75,787.51
01/15/19	JAMS		(\$ 0.88)	\$ 75,786.63
05/16/19	Everlaw, Inc.		(\$ 45.00)	\$ 75,741.63
08/08/19	The Brattle Group		(\$ 1,805.00)	\$ 73,936.63
08/08/19	Everlaw, Inc.		(\$ 537.10)	\$ 73,399.53
08/08/19	Everlaw, Inc.		(\$ 450.00)	\$ 72,949.53
08/08/19	Everlaw, Inc.		(\$ 450.00)	\$ 72,499.53
08/08/19	Everlaw, Inc.		(\$ 450.00)	\$ 72,049.53
08/08/19	Everlaw, Inc.		(\$ 450.00)	\$ 71,599.53
08/08/19	The Brattle Group		(\$ 32,114.48)	\$ 39,485.05
09/05/19	Everlaw, Inc. ( <i>Refund</i> )	\$ 450.00		\$ 39,935.05
09/05/19	Everlaw, Inc. ( <i>Refund</i> )	\$ 537.10		\$ 40,472.15
09/05/19	Everlaw, Inc. ( <i>Refund</i> )	\$ 450.00		\$ 40,922.15
09/05/19	Everlaw, Inc. ( <i>Refund</i> )	\$ 450.00		\$ 41,372.15
09/05/19	Everlaw, Inc. ( <i>Refund</i> )	\$ 450.00		\$ 41,822.15
<b>TOTAL:</b>		<b>\$ 259,584.81</b>	<b>(\$220,099.76)</b>	<b>\$ 39,485.05</b>

7. The information in Figure 1 comes from a spreadsheet provided to me by Stefanie Knowlton. Ms. Knowlton tracked the fund's contributions and withdrawals throughout this case.

8. A more detailed breakdown of the information contained in Figure 1 is provided in a spreadsheet, attached to this filing as Exhibit A.

9. The current balance in the litigation fund, as of April 14, 2020, is \$39,485.05.

10. The current balance does not include, however, outstanding bills totaling \$98,361.37. These outstanding invoices are reflected below in Figure 2.

**Fig. 2: Outstanding Invoices**

Vendor Name	Invoice	Amount
The Brattle Group	043131	\$ 97,717.27
Everlaw, Inc.	19693	\$ 49.55
Everlaw, Inc.	19968	\$ 49.55
Everlaw, Inc.	23823	\$ 495.45
Everlaw, Inc.	22623	49.55
<b>TOTAL:</b>		<b>\$ 98,361.37</b>

11. Plaintiffs' counsel intend to pay these invoices, first from the remaining litigation fund balance, and then from the settlement fund.

12. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20th day of April 2020

  
 Mark T. Vazquez

# EXHIBIT E

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

---

THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

---

**MDL Docket No. 2665**  
**Misc. No. 15-mc-01825-ESH**

**DECLARATION OF EDWIN J. KILPELA, JR. IN SUPPORT OF**  
**PETITION FOR FEES AND EXPENSES**

I, Edwin J. Kilpela, Jr., declare as follows:

1. I am a partner with the firm of Carlson Lynch, LLP. I represent Plaintiff Hubert Gerstnecker in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. My firm and the Plaintiff we represent support the Settlement in this matter.

3. My firm first became involved with the litigation in September, 2015. While our firm expended considerable resources investigating the matter initially filed on Mr. Gerstnecker's behalf in Pennsylvania, prior to its transfer and consolidation into the MDL, we have only submitted time for work in this litigation was performed at the direction of Class Counsel after that transfer. All of that work was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. The work performed by my firm as assigned by class counsel includes: document review; preparing for and taking several key depositions of Defendant corporate representatives; motions practice; and other tasks as assigned by class counsel.

5. Through April 9, 2020, the total number of hours spent on this litigation by my firm is **350.6**. The total lodestar amount for attorney/professional time based on the firm's current rates

is **\$117,965.00**. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
<b>[ATTORNEY NAME, TITLE]</b>			
Benjamin J. Sweet, Partner	64.6	\$675	\$43,605
Kevin Abramowicz, Associate	88.4	\$450	\$39,780
<b>[Paralegal NAME, TITLE]</b>			
Brittany Hargenrader, Paralegal	160.0	\$175	\$28,000
Daniel Hart, Paralegal	37.6	\$175	\$6,580
<b>TOTAL:</b>	<b>350.6</b>		<b>\$117,965</b>

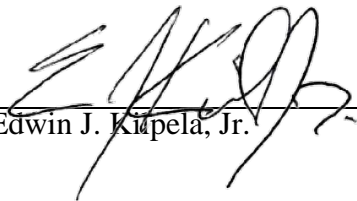
6. My firm incurred a total of **\$68,081.89** in expenses in connection with the prosecution of this litigation. They are broken down as follows:

<b>EXPENSE CATEGORY</b>	<b>TOTAL</b>
Meals, Hotels & Transportation	\$3,081.89
Photocopies	
Postage	
Telephone, Facsimile	
Messenger, Overnight Delivery	
Filing, Witness & Other Fees	
Court Reporters	
Lexis, Westlaw, Online Library Research	
Class Action Notices/Business Wire	
Mediation Fees	
Experts/Consultants/Investigators	
Litigation Fund Contributions	\$65,000.00
<b>TOTAL</b>	<b>\$68,081.89</b>

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 9th day of April, 2020

  
\_\_\_\_\_  
Edwin J. Kipela, Jr.

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

---

THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

---

**MDL Docket No. 2665**  
**Misc. No. 15-mc-01825-ESH**

**DECLARATION OF DAVID M. CIALKOWSKI IN  
SUPPORT OF PETITION FOR FEES AND EXPENSES**

I, David M. Cialkowski, declare as follows:

1. I am a partner at the firm of Zimmerman Reed LLP. I represent Plaintiffs Deborah Esparza and Carmen Pellitteri, who were both appointed MDL Class Representatives in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. My firm and the Plaintiffs we represent support the Settlement in this matter.

3. My firm began investigating this matter in June 2015 and we subsequently filed two individual Complaints on behalf of consumers: *Bunting, Esparza et al. v. McCormick & Co.*; No. 15-cv-2154 (D.D.C.) (transferred from S.D. Cal.); and *Pellitteri et al. v. McCormick & Co. and Publix*; No. 15-cv-2209 (D.D.C) (transferred from S.D. Fla.). After the MDL was created, the Court issued an Order on January 28, 2016, consolidating the related consumer cases for pretrial purposes and appointing Interim Co-Lead Counsel (ECF No. 26). Even though we contributed significantly to the litigation by spending 201.95 hours investigating, preparing, and filing these Complaints, which greatly expanded the scope of the allegations brought by corporate competitor Plaintiff Watkins, we are excluding this time (with a lodestar of \$128,260.75) from our submission.

Including the time we spent on these specific tasks, we are excluding a grand total of 641.05 hours (with a lodestar of \$368,832.00) for work performed in this litigation prior to January 28, 2016.

4. The Court did not appoint Zimmerman Reed LLP as Interim Co-Lead Counsel or Class Counsel in the MDL, but both of our clients—Deborah Esparza and Carmen Pellitteri—were selected to serve as Class Representatives for the single-state consumer protection litigation classes in California and Florida (ECF No. 212). Zimmerman Reed was also asked to provide significant financial contributions in the form of leadership-level assessments, which the firm supplied. The work included in this Declaration was performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

5. At the request of Lead Counsel, lawyers at Zimmerman Reed, including myself, performed substantial work in connection with the prosecution of this litigation, including the following:

- Prepared for and deposed three corporate witnesses who provided testimony regarding McCormick pepper fill practices and sales;
- Gathered, reviewed, and produced documents from Plaintiff Esparza;
- Prepared discovery responses;
- Prepared for, attended, and co-defended Ms. Esparza's deposition;
- Participated in document review, coding, and provided written analysis; and
- Contributed to class certification research and briefing.

6. Prior to the MDL work assigned by Lead Counsel, Zimmerman Reed contributed significantly and substantively to expanding the scope of the products at issue through their attorneys' pre-MDL investigations (this pre-MDL time, however, is *not* included below). Our firm is honored to have been called upon by Lead Counsel to perform the work and financing recorded below, and respectfully requests that the Court consider Zimmerman Reed's contributions.



7. During the time period **January 28, 2016 through February 29, 2020**, the total number of hours spent on this litigation by my firm is **527.15 hours**. The total lodestar amount for attorney/professional time based on the firm's current rates is **\$284,819.75**. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

<i><b>NAME</b></i>	<i><b>TITLE</b></i>	<i><b>HOURS</b></i>	<i><b>RATE</b></i>	<i><b>LODESTAR</b></i>
Charles S. Zimmerman	Founding Partner	25.50	\$900	\$22,950.00
Carolyn G. Anderson	Managing Partner	2.00	\$805	\$1,610.00
J. Gordon Rudd, Jr.	Managing Partner	0.50	\$805	\$402.50
David M. Cialkowski	Partner	131.75	\$735	\$96,836.25
June P. Hoidal	Partner	5.75	\$735	\$4,226.25
Caleb L. Marker	Partner	0.80	\$650	\$520.00
James P. Watts	Attorney	234.60	\$350 <sup>1</sup> /\$645	\$108,778.00
Hannah B. Fernandez <sup>2</sup>	Associate	51.20	\$505	\$25,856.00
Karen M. Colt	Paralegal	70.50	\$315	\$22,207.50
Heidi S. Cuppy	Paralegal	2.00	\$315	\$630.00
Adam K. Hill	Paralegal	0.80	\$315	\$252.00
Josephine Lu <sup>3</sup>	Paralegal	1.75	\$315	\$551.25
<b>TOTAL:</b>		<b>527.15</b>		<b>\$284,819.75</b>

8. My firm incurred a total of **\$74,390.90** in expenses in connection with the prosecution of this litigation. They are broken down as follows:

<i><b>EXPENSE CATEGORY</b></i>	<i><b>TOTAL</b></i>
Meals, Hotels & Transportation	\$7,702.69
Photocopies/Printing Charges	\$474.10
Postage	\$31.93
Telephone	\$7.59
Messenger, Overnight Delivery	\$130.65
Filing, Witness & Other Fees	\$325
Westlaw, PACER, and Bloomberg Law	\$698.89
<b>Litigation Fund Assessments</b>	<b>\$65,000</b>
Miscellaneous	\$20.05
<b>TOTAL</b>	<b>\$74,390.90</b>

<sup>1</sup> James Watts's hourly rate for the specific task of document review is \$350.

<sup>2</sup> Hannah B. Fernandez (nee Belknap).

<sup>3</sup> Josephine Lu (formerly Shengfei Lu).

9. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20th day of April, 2020.

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*s/ David M. Cialkowski*  
David M. Cialkowski

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

MDL Docket No. 2665  
Misc. No. 15-mc-01825-ESH

**DECLARATION OF MATTHEW H. ARMSTRONG IN SUPPORT OF  
PETITION FOR FEES AND EXPENSES**

I, Matthew H. Armstrong, declare as follows:

1. I am the founder and managing member of Armstrong Law Firm LLC. I represent Plaintiffs Catherine Grindel and Angela Barnes in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. I graduated from Washington University School of Law in 1994. I am admitted to practice in Missouri, Illinois, and the District of Columbia. I am admitted to and practice before the United States Supreme Court, the 7th and 8th Circuit Courts of Appeal, the Northern, Central, and Southern Districts of Illinois, and the Eastern District of Missouri.

3. My firm and the Plaintiffs we represent support the Settlement in this matter.

4. My firm first became involved with the litigation in February 2015. Our work in this litigation was performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

5. My firm managed the relationship with our clients, class representative Catherine Grindel, and plaintiff Angela Barnes. Our time was spent preparing the original complaint filed in Illinois, responding to written discovery requests with Ms. Grindel, preparing Ms. Grindel for her deposition, defending Ms. Grindel's deposition, and answering Ms. Grindel's requests for status updates, and reviewing the Settlement Agreement with Ms. Grindel.

6. Through March 31, 2020, the total number of hours spent on this litigation by my firm is 27.4. The total lodestar amount for attorney/professional time based on the firm's current rates is \$21,920.00. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

NAME	HOURS	RATE	LODESTAR
Matthew H. Armstrong	27.4	\$800.00	\$21,920.00
TOTAL:	27.4	\$800.00	\$21,920.00

7. My firm incurred a total of \$2,003.63 in expenses in connection with the prosecution of this litigation. They are broken down as follows:

EXPENSE CATEGORY	TOTAL
Meals, Hotels & Transportation	\$1,603.63
Photocopies	
Postage	
Telephone, Facsimile	
Messenger, Overnight Delivery	
Filing, Witness & Other Fees	\$400
Court Reporters	
Lexis, Westlaw, Online Library Research	
Class Action Notices/Business Wire	
Mediation Fees	
Experts/Consultants/Investigators	
TOTAL	\$2,003.63

8. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10th day of April, 2020.

  
 MATTHEW H. ARMSTRONG

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

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THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

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**MDL Docket No. 2665**  
**Misc. No. 15-mc-01825-ESH**

**DECLARATION OF SEAN K. CRONIN IN SUPPORT OF**  
**PETITION FOR FEES AND EXPENSES**

I, Sean K. Cronin, declare as follows:

1. I am an attorney with the firm of Donovan Rose Nester, P.C. I represent Plaintiff Scott Allan Bittle in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. My firm and the Plaintiff we represent support the Settlement in this matter.

3. My firm first became involved with the litigation in September, 2015. Our work in this litigation was performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. The services I performed on behalf of my client and the class primarily included preparing initial disclosures, coordinating regarding preparation of a Joint Report of the Parties and Proposed Scheduling and Discovery Order, the preparation of written discovery, responding to written discover and preparing for and attending my client's deposition.

5. Through April 1, 2020, the total number of hours spent on this litigation by my firm is **97.5**. The total lodestar amount for attorney/professional time based on the firm's current rates is **\$400.00**. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
<b>Sean K. Cronin, Attorney</b>	97.5	\$400.00	\$39,000.00
<b>TOTAL:</b>	97.5		\$39,000.00

6. My firm incurred a total of \$[INSERT TOTAL EXPENSES] in expenses in connection with the prosecution of this litigation. They are broken down as follows:

<b>EXPENSE CATEGORY</b>	<b>TOTAL</b>
Meals, Hotels & Transportation	\$47.52
Photocopies	
Postage	
Telephone, Facsimile	\$27.84
Messenger, Overnight Delivery	
Filing, Witness & Other Fees	
Court Reporters	
Lexis, Westlaw, Online Library Research	
Class Action Notices/Business Wire	
Mediation Fees	
Experts/Consultants/Investigators	
[INSERT ADDITIONAL CATEGORIES HERE And pls delete unnecessary lines above]	
<b>TOTAL</b>	<b>\$75.36</b>

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of April, 2020

*/s Sean K. Cronin*

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**Sean K. Cronin**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

**MDL Docket No. 2665**  
**Misc. No. 15-mc-01825-ESH**

**DECLARATION OF MICHAEL T. FRASER IN SUPPORT OF**  
**PETITION FOR FEES AND EXPENSES**

I, Michael T. Fraser, declare as follows:

1. I am the owner and sole shareholder with the firm of The Fraser Law Firm, P.C. I represent Plaintiff **Holly Marsh** in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. My firm and the Plaintiff we represent supports the Settlement in this matter.

3. My firm first became involved with the litigation in April, 2015. Our work in this litigation was performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. Throughout the litigation, and at the direction of Class Counsel, this Firm responded to discovery requests, prepared and attended Ms. Marsh's deposition, and performed legal research related to California and Florida law, where I am licensed.

5. Through April 7, 2020, the total number of hours spent on this litigation by my firm is 27.9 hours. The total lodestar amount for attorney/professional time based on the firm's current rates is **\$10,463.50**. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:



NAME	HOURS	RATE	LODESTAR
[ATTORNEY NAME, TITLE]			
Michael T. Fraser	27.9	\$375.00	\$10,462.50
TOTAL:			\$10,462.50

6. My firm incurred a total of **\$2,097.29** in claimed expenses in connection with the prosecution of this litigation. They are broken down as follows:

EXPENSE CATEGORY	TOTAL
Meals, Hotels & Transportation	\$2,097.29
TOTAL	\$2097.29

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19<sup>th</sup> day of April, 2020

/s/ Michael T. Fraser  
**Michael T. Fraser, Esq.**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

**MDL Docket No. 2665**  
**Misc. No. 15-mc-01825-ESH**

**DECLARATION OF LEE R. GLASS IN SUPPORT OF**  
**PETITION FOR FEES AND EXPENSES**

I, Lee R. Glass, declare as follows:

1. I am an [ATTORNEY] with the firm of The Law Office of Lee R. Glass. I represent Plaintiffs Sandra Robinson, Paula Cole Jones and Seung-Ho Jung in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. My firm and the Plaintiffs we represent support the Settlement in this matter.

3. My firm first became involved with the litigation in February, 2016. Our work in this litigation was performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. My firm worked performed work in communicating with clients and co-counsel and coordinating in-person and phone conferences, preparing clients for depositions, attending depositions on behalf of clients, assisting clients in the completion of the interrogatories, and organizing those materials.

5. Through April 3, 2020, the total number of hours spent on this litigation by my firm is 16.3. The total lodestar amount for attorney/professional time based on the firm's current rates is \$375.00 an hour. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
<b>[ATTORNEY NAME, TITLE]</b>			
Lee R. Glass	16.3	\$375.00	\$6112.50
<b>[Paralegal NAME, TITLE]</b>			
<b>TOTAL:</b>	16.3	\$375.00	\$6112.50

6. My firm incurred a total of \$[INSERT TOTAL EXPENSES] in expenses in connection with the prosecution of this litigation. They are broken down as follows:

<b>EXPENSE CATEGORY</b>	<b>TOTAL</b>
Meals, Hotels & Transportation	
Photocopies	
Postage	\$7.75
Telephone, Facsimile	
Messenger, Overnight Delivery	
Filing, Witness & Other Fees	
Court Reporters	
Lexis, Westlaw, Online Library Research	
Class Action Notices/Business Wire	
Mediation Fees	
Experts/Consultants/Investigators	
[INSERT ADDITIONAL CATEGORIES HERE And pls delete unnecessary lines above]	
<b>TOTAL</b>	\$7.75

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this \_\_\_\_6th\_\_ day of April, 2020

/s/ Lee R. Glass

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**[ATTORNEY SIGNATURE]**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

**MDL Docket No. 2665  
Misc. No. 15-mc-01825-ESH**

**DECLARATION OF RYAN KEANE IN SUPPORT OF  
PETITION FOR FEES AND EXPENSES**

I, RYAN KEANE, declare as follows:

1. I am a PARTNER with the firm of KEANE LAW LLC. I represent Plaintiff KATRINA LINKER in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. My firm and the Plaintiffs we represent support the Settlement in this matter.

3. My firm first became involved with the litigation in August of 2015. Our work in this litigation was performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. My firm provided information and evidence to Class Counsel regarding my client and the legal matters subject to this litigation, among various other tasks.

5. Through April of 2020, the total number of hours spent on this litigation by my firm is 42.5. The total lodestar amount for attorney/professional time based on the firm's current rates is \$23,375.00. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follow

NAME	HOURS	RATE	LODESTAR
Ryan Keane, Partner	42.5	\$550	\$23,375.00

<b>TOTAL:</b>	<b>42.5</b>	<b>\$550</b>	<b>\$23,375.00</b>

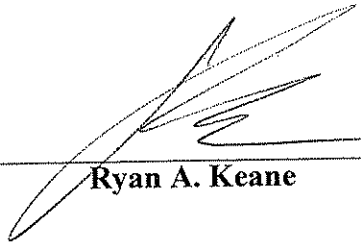
6. My firm incurred a total of **\$486.50** in expenses in connection with the prosecution of this litigation. They are broken down as follows:

<b>EXPENSE CATEGORY</b>	<b>TOTAL</b>
<b>Postage</b>	<b>\$21.50</b>
<b>Filing, Witness &amp; Other Fees</b>	<b>\$465.00</b>
<b>TOTAL</b>	<b>\$486.50</b>

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 9th day of April, 2020

  
 \_\_\_\_\_  
**Ryan A. Keane**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

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THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

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**MDL Docket No. 2665  
Misc. No. 15-mc-01825-ESH**

**DECLARATION OF EDUARD KORSINSKY IN SUPPORT OF  
PETITION FOR FEES AND EXPENSES**

I, Eduard Korsinsky, declare as follows:

1. I am a Managing with the firm of Levi Korsinsky, LLP. I represent Plaintiff Lillian Ferreri in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. My firm and the Plaintiff we represent support the Settlement in this matter.

3. My firm first became involved with the litigation in June, 2015. Our work in this litigation was performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. Levi & Korsinsky, LLP did extensive factual and legal research into the claims relating to this case, including communications with numerous consumers. Our firm filed a case on behalf of Plaintiff Lillian Ferreri in the United States District Court for the Southern District of New York and continued to work on behalf of consumers when the case went before the United States Judicial Panel on Multidistrict Litigation. We worked with Class Counsel to litigate transfer motion, attended oral arguments and hearings, and handled discovery requests and interrogatories.

5. Through March 31, 2020, the total number of hours spent on this litigation by my firm is 236.5. The total lodestar amount for attorney/professional time based on the firm's current

rates is \$154,378.75. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

NAME	HOURS	RATE	LODESTAR
Andrea Clisura, <i>Senior Associate</i>	124.25	\$575.00	\$71,443.75
Courtney Maccarone, <i>Associate</i>	14.50	\$650.00	\$9,425.00
Eduard Korsinsky, <i>Managing Partner</i>	9.25	\$1,025.00	\$9,481.25
Joseph Levi, <i>Managing Partner</i>	4.00	\$1,025.00	\$4,100.00
Nancy Kulesa, <i>Partner</i>	62.00	\$765.00	\$46,728.75
Stephanie Bartone, <i>Associate</i>	1.25	\$625.00	\$781.25
Shannon L. Hopkins, <i>Partner</i>	8.75	\$975.00	\$8,531.25
Shane Rowley, <i>Partner</i>	0.50	\$875.00	\$437.50
Adam Rosen, <i>Paralegal</i>	1.5	\$265.00	\$397.50
Joanna Chlebus, <i>Paralegal</i>	6.00	\$265.00	\$1,590.00
Samantha Halliday, <i>Paralegal</i>	4.50	\$325.00	\$1,462.50
TOTAL:	236.50		\$154,378.75

6. My firm incurred a total of \$1,306.74 in expenses in connection with the prosecution of this litigation. They are broken down as follows:

EXPENSE CATEGORY	TOTAL
Meals, Hotels & Transportation	\$1,080.4
Postage & Delivery	\$126.34
Process Service	\$100.00
TOTAL	\$1,306.74

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3<sup>rd</sup> day of April, 2020

/s/ Eduard Korsinsky  
**Eduard Korsinsky**



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

**MDL Docket No. 2665  
Misc. No. 15-mc-01825-ESH**

**DECLARATION OF DAVID C. NELSON IN SUPPORT OF  
PETITION FOR FEES AND EXPENSES**

I, David C. Nelson, declare as follows:

1. I am a partner of Nelson & Nelson, Attorneys at Law, P.C. I represent Plaintiff Brenda Theis in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. My firm and the Plaintiff we represent support the Settlement in this matter.

3. My firm first became involved with the litigation in November, 2015. Our work in this litigation was performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. My firm managed the relationship with our client, Plaintiff Brenda Theis. Our time was spent preparing the original complaint filed in Illinois, responding to written discovery requests with Ms. Theis, preparing Ms. Theis for her deposition and defending Ms. Theis' deposition.

5. Through April 3, 2020, the total number of hours spent on this litigation by my firm is 34.4. The total lodestar amount for attorney/professional time based on the firm's current rates is \$19,131.25. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
David C. Nelson - Partner	28.25	\$650.00	\$18,362.50
Renee C. Theis – Paralegal	5.4	\$125.00	\$675.00
Amy C. Lynch – Paralegal	.75	\$125.00	\$93.75
<b>TOTAL:</b>	34.4		\$19,131.25

6. My firm incurred a total of \$2,276.01 in expenses in connection with the prosecution of this litigation. They are broken down as follows:

<b>EXPENSE CATEGORY</b>	<b>TOTAL</b>
Hotels & Transportation	\$1,463.39
Photocopies	\$45.25
Postage	\$7.47
Filing, Witness & Other Fees	\$400.00
Lexis, Westlaw, Online Pacer Research	\$277.50
Mileage/Travel	\$82.40
<b>TOTAL</b>	<b>\$2,276.01</b>

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3<sup>rd</sup> day of April, 2020.

/s/ David C. Nelson

DAVID C. NELSON

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

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THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

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**MDL Docket No. 2665**  
**Misc. No. 15-mc-01825-ESH**

**DECLARATION OF MARK REINHARDT IN SUPPORT OF**  
**PETITION FOR FEES AND EXPENSES**

I, Mark Reinhardt, declare as follows:

1. I am a Partner with the firm of Reinhardt Wendorf & Blanchfield. I represent Plaintiff Carmen Pellitteri in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. My firm and the Plaintiffs we represent support the Settlement in this matter.

3. My firm first became involved with the litigation in June 2015. Our work in this litigation was performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. My firm began investigating this case mid-2015. Our client, Carmen Pellitteri, a Florida resident is the named plaintiff for the Florida action. Throughout the case, either I, or my partner, Garrett Blanchfield, with the assistance of our associate Brant Penney, and, where appropriate our Paralegal, Shirley Kosek, worked closely with lead counsel. This work originally consisted of case organization, gathering documents and evidence from the client, as well as client interviews. As the case progressed, we worked closely with lead counsel in reviewing with the client the information needed for discovery and formulating responses to discovery. Our client was deposed in Charleston, South Carolina, where I reside. Mr. Pellitteri travelled here from Florida

for the deposition and stayed at my house, avoiding lodging costs which was far less expensive than my traveling to Florida. We prepared him for that deposition and defended the deposition. After the deposition, we worked with the client in explaining various court orders (dismissal of some claims, class certification, etc.) and in reviewing and getting approval for the settlement, and occasionally Mr. Pellitteri would contact me regarding the status of the case. I personally reviewed my firms time records and removed over \$12,000 of time entries which I felt were redundant or not at the direction of lead counsel.

5. Through March 31, 2020, the total number of hours spent on this litigation by my firm is 212.2. The total lodestar amount for attorney/professional time based on the firm's current rates is \$134,212.00. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Garrett Blanchfield, P	38.4	695-745	\$26,738.00
Brant Penney, A	78.2	390-460	\$30,543.00
Mark Reinhardt, P	85.1	825-910	\$72,738.50
Mark Wendorf, P	3.3	775	\$2,557.50
Shirley Kosek, PL	7.2	225-235	\$1,635.00
<b>TOTAL:</b>	<b>212.2</b>		<b>\$134,212.00</b>

6. My firm incurred a total of \$1,888.04 in expenses in connection with the prosecution of this litigation. They are broken down as follows:

<b>EXPENSE CATEGORY</b>	<b>TOTAL</b>
Meals, Hotels & Transportation	1133.85
Photocopies	134.80
Telephone, Facsimile	.10
Messenger, Overnight Delivery	151.24
Lexis, Westlaw, Online Library Research	468.05
<b>TOTAL</b>	<b>\$1,888.04</b>

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of April 2020.

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**MARK REINHARDT**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

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THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

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**MDL Docket No. 2665**  
**Misc. No. 15-mc-01825-ESH**

**DECLARATION OF DUSTIN L. SCHUBERT IN SUPPORT OF  
PETITION FOR FEES AND EXPENSES**

I, Dustin L. Schubert, declare as follows:

1. I am a partner with the firm of Schubert Jonckheer & Kolbe LLP. I represent Plaintiff Cynthia Fernandez in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. My firm and the Plaintiff we represent support the Settlement in this matter.

3. My firm first became involved with the litigation in January 2016 upon the filing of the *Fernandez v. McCormick & Co., Inc.* case (D.D.C. No. 1:16-cv-00117). Our work in this litigation described herein was performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. The majority of my firm's work in this consolidated action occurred during the discovery phase of the case, focusing on written discovery propounded on Ms. Fernandez and in connection with her July 2016 deposition. Specifically, my firm worked with Ms. Fernandez in drafting her verified responses to McCormick's interrogatories dated April 18, 2016, prepared Ms. Fernandez for her deposition over multiple sessions (both by telephone and in-person), attended her July 13, 2016 deposition in East Hartford, Connecticut, and worked with Ms. Fernandez to verify the deposition transcript for accuracy. This deposition work involved traveling from my

firm's office located in San Francisco, California to Connecticut. Additionally, my firm reviewed and provided edits to the consolidated amended complaint and vetted Ms. Fernandez for inclusion therein at Class Counsel's direction. My firm also reviewed and researched portions of McCormick's motion to dismiss the complaint, and provided responsive comments to Class Counsel.

5. Through April 3, 2020, the total number of hours spent on this litigation by my firm is 53.4. The total lodestar amount for attorney time based on the firm's current rates is \$35,220.00. This figure was prepared from contemporaneous, daily time records regularly maintained by my firm in the ordinary course of business. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
Robert C. Schubert, Senior Partner	1.7	\$950	\$1,615.00
Dustin L. Schubert, Partner	51.7	\$650	\$33,605.00
<b>TOTAL:</b>	<b>53.4</b>		<b>\$35,220.00</b>

6. My firm incurred a total of \$3,488.81 in expenses in connection with the prosecution of this litigation. They are broken down as follows:

<b>EXPENSE CATEGORY</b>	<b>TOTAL</b>
Meals, Hotels & Transportation	\$1,146.31
Photocopies	\$71.20
Postage	\$9.10
Lexis, Westlaw, Online Library Research	\$2,262.20
<b>TOTAL</b>	<b>\$3,488.81</b>

7. The expenses pertaining to this case are reflected in the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3<sup>rd</sup> day of April, 2020.

/s/ Dustin L. Schubert  
Dustin L. Schubert

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

**MDL Docket No. 2665  
Misc. No. 15-mc-01825-ESH**

**DECLARATION OF J. BARTON GOPLERUD IN SUPPORT OF  
PETITION FOR FEES AND EXPENSES**

I, J. Barton Goplerud, declare as follows:

1. I am an attorney/shareholder with the firm of Shindler Anderson Goplerud & Weese PC. Our firm represents Plaintiff Bernard Ortiz in the above-entitled action. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in the above-entitled action.

2. My firm and the Plaintiff we represent support the Settlement in this matter.

3. My firm first became involved with the litigation in September 2015. Our work in this litigation was performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. My firm worked on investigating the potential claims at issue, conducted legal research, assisted with drafting and reviewing the complaint and other pleadings, coordinated with our client regarding discovery responses, prepared the client for and attended his deposition, and regularly communicated with co-counsel during the litigation.

5. Through March 2020, the total number of hours spent on this litigation by my firm is 63.7 hours. The total lodestar amount for attorney/professional time based on the firm's current rates is \$30,870.00. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:



<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
<b>Attorney</b>			
J. Barton Goplerud	36.7	\$600.00	\$22,020.00
Brian O. Marty	18.0	\$350.00	\$6,300.00
Brandon M. Bohlman	3.0	\$250.00	\$750.00
Katie M. Gallo	6.0	\$300.00	\$1,800.00
<b>TOTAL:</b>	<b>63.7</b>		<b>\$30,870.00</b>

6. My firm incurred a total of \$1,961.92 in expenses in connection with the prosecution of this litigation. They are broken down as follows:

<b>EXPENSE CATEGORY</b>	<b>TOTAL</b>
Meals, Hotels & Transportation	\$1,893.46
Photocopies	
Postage	
Telephone, Facsimile	
Messenger, Overnight Delivery	\$68.46
Filing, Witness & Other Fees	
Court Reporters	
Lexis, Westlaw, Online Library Research	
Class Action Notices/Business Wire	
Mediation Fees	
Experts/Consultants/Investigators	
<b>TOTAL</b>	<b>\$1,961.92</b>

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20th day of April, 2020

/s/ J. Barton Goplerud  
**J. Barton Goplerud**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

IN RE: MCCORMICK & COMPANY, INC.,  
PEPPER PRODUCTS MARKETING AND  
SALES PRACTICES LITIGATION

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THIS DOCUMENT PERTAINS TO:  
ALL CLASS ACTIONS

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**MDL Docket No. 2665  
Misc. No. 15-mc-01825-ESH**

**DECLARATION OF JOHN MACORETTA IN SUPPORT OF  
PETITION FOR FEES AND EXPENSES**

I, John Macoretta, declare as follows:

1. I am a Partner with the firm of Spector Roseman & Kodroff. I represent Plaintiff Anne Marron in this litigation. I am submitting this declaration in support of Class Counsel's application for an award of attorneys' fees and expenses in connection with services rendered in this litigation.

2. My firm and my client support the Settlement in this matter.

3. My firm first became involved with the litigation in December, 2015. Our work in this litigation involved drafting a complaint, filing suit, responding to defendants' discovery and other tasks performed solely at the direction of Class Counsel, and was performed efficiently, expeditiously, and in the best interests of Plaintiffs and the Class.

4. After investigating the claims, we drafted and filed a complaint in the District of Columbia District Court. Once lead counsel was appointed my firm assisted in document review, as directed by lead counsel. We also prepared our client for and defended her at deposition, including completion of a questionnaire and answering interrogatories, in consultation with lead counsel.

5. Through April 3, 2020, the total number of hours spent on this litigation by my firm is 281.85. The total lodestar amount for attorney/professional time based on the firm's current

rates is \$141,689. The hourly rates shown below are the usual and customary rates charged for each individual in all of our cases. A breakdown of the lodestar is as follows:

<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>LODESTAR</b>
John Macoretta, Partner	32.7	800	26,160
Jeff Nelson, attorney	251.15	460	115,529
<b>TOTAL:</b>	<b>281.85</b>		<b>141,689</b>

6. My firm incurred a total of \$1,027.69 in expenses in connection with the prosecution of this litigation. They are broken down as follows:

<b>EXPENSE CATEGORY</b>	<b>TOTAL</b>
Meals, Hotels & Transportation	86.64
Photocopies	38
Telephone, Facsimile	1.45
Filing, Witness & Other Fees	500
Lexis, Westlaw, Online Library Research	401.60
<b>TOTAL</b>	<b>1,027.69</b>

7. The expenses pertaining to this case are reflected in the books and records of this firm. These books and records are prepared from expense vouchers, check records, and other documents and are an accurate record of the expenses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3rd day of April, 2020

/s/ John Macoretta  
**John Macoretta**