

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In Re: LIQUID ALUMINUM SULFATE
ANTITRUST LITIGATION

Civil Action No. 16-md-2687 (JLL) (JAD)

**DECLARATION OF
JOHN G. EMERSON OF EMERSON
FIRM, PLLC IN SUPPORT OF
APPLICATION FOR
ATTORNEY'S FEES AND EXPENSES**

John G. Emerson, Esq. declares as follows:

1. I am the Principal with the law firm of Emerson Firm, PLLC, and counsel for Clarksville Light & Water Company in the above matter. In such capacity, I am fully familiar with the facts contained herein based upon my personal knowledge and the books and records kept in the ordinary course of Emerson Firm, PLLC's business. I submit this declaration in support of Class Counsel's application for an award of attorneys' fees in above-captioned action (the "Action"), as well as for reimbursement of expenses incurred by my firm in connection with the Action.

2. My firm served as counsel for Clarksville Light & Water Company ("Clarksville") in this Action as well as for other plaintiffs listed above. My firm was involved in the action as one of the law firms assigned certain specific duties by Lead Counsel and by other members of the Steering Committee, as well as working with Linda Nussbaum, Susan Schwaiger, Brad Demuth, Peter Moran, Jeff Gittleman, Lisa Rodriguez, Robert Schachter, Jason Zweig, Janet Evans, Joe Bruckner, Lindsay Taylor, Mark Griffin, and Charles Slidders in responding to discovery and performing other duties of the Named Plaintiffs.

3. I specifically worked with the persons identified above, David Scott of my prior firm, and with John Lester of Clarksville on documents and plaintiff vetting matters.

4. The schedule attached hereto as Exhibit 1 is a summary indicating the amount of time spent by each attorney and professional support staff employee of my firm who was involved in the Action, and the lodestar calculation based on my firm's current billing rates. For personnel who are no longer employed by my firm, the lodestar calculation is based upon the billing rates for such personnel in his or her final year of employment by my firm. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

5. The hourly rates for the attorneys and professional support staff in my firm included in Exhibit 1 are the same as the regular rates that would be charged for their services in non-contingent matters and/or which have been accepted in other antitrust litigation.

6. The total number of hours expended on this Action by my firm during the Time Period is 17.30. The total lodestar for my firm for that period is \$13,753.50.


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

8. My firm has incurred no approved unreimbursed expenses for the dates of this report in connection with the prosecution of this Action.

9. With respect to the standing of my firm, attached hereto as Exhibit 3 is a brief biography of my firm and attorneys in my firm who were principally involved in this Action.

I hereby declare under penalty of perjury that the foregoing facts are true and correct.

Dated: March 19, 2019


JOHN G. EMERSON

Emerson Firm, PLLC

Attorneys at Law

Little Rock

Houston

Class Action Litigation
Antitrust Litigation
Securities Litigation
ERISA Litigation
Consumer Litigation
Trials and Appeals
Personal Injury and Wrongful Death
Criminal Defense
Martindale-Hubble AV Rated

Our Firm

Emerson Firm, PLLC (“EF”) has a national class action legal practice with offices in Houston, Texas, and Little Rock, Arkansas.

The Firm and its team of experienced attorneys and paralegals, handles complex commercial litigation with a concentration on cases that involve violations of federal antitrust statutes, violations of federal and state consumer protection laws, securities laws, and violations of the Employee Retirement Income Security Act of 1974 (“ERISA”). EF has prosecuted numerous antitrust class action cases, consumer class action cases, securities fraud, and shareholder derivative cases representing consumers, damaged companies, and investors around the country and abroad. EF and its predecessor firms have been active in many class action and individual cases of note. In the class action litigation area, EF and its predecessor firm have represented plaintiffs in well over 100 class action or other complex litigation cases.

In antitrust, EF is currently a member of the Plaintiffs’ Counsel Steering Committee in the *Aluminum Warehousing Antitrust Litigation* representing first level purchasers in this Multi-District Litigation (“MDL”), 13 MDL 2481 (KBF), which was pending in the Southern District of New York and is currently on appeal in the U.S. Court of Appeals for the 2nd Circuit. EF has represented plaintiffs in the *Compact Disc Antitrust Litigation* filed against the music industry in the United States, and plaintiffs in the *High Pressure Laminates Antitrust Litigation* in the direct purchaser case. EF has been or is currently involved in the following antitrust cases: *Lithium Ion Batteries Antitrust Litigation*, *CRT (Cathode Ray Tube) Antitrust Litigation*, *Flash Memory Antitrust Litigation*, *GPU (Graphics Processing Units) Antitrust Litigation*, *Ocean Shipping*

Antitrust Litigation, TFT-LCD (Flat Panel) Antitrust Litigation, Trans-Pacific Airline Surcharge Litigation, Domestic Airlines Antitrust, Liquid Aluminum Sulfate Antitrust Litigation, and Bridgestone Anti-Vibration Rubber Parts Antitrust Litigation, among other cases.

In privacy and data breach, EF is actively involved prosecuting cases for aggrieved consumers in the following pending MDL cases: *In re: Anthem Healthcare Data Breach Litigation*, MDL No. 2617 (N.D. Cal.); *In re: Premera Healthcare Data Breach Litigation*, (D. OR.) MDL No. 2633; *In re: Medical Informatics Engineering Data Breach Litigation*, MDL No. 2667 (N.D. Ind.); *In re: Office of Personnel Management Data Breach Litigation* (D.D.C.) MDL No. 2664; *In re: Experian Data Breach Litigation* (C.D.CA.) MDL No. 2676 in which nearly half of the named plaintiffs in the consolidated amended complaint are clients of EF, and *In re: Vizio, Inc., Consumer Privacy Litigation* (C.D.CA.). ES is also actively involved in prosecuting two data breach cases in Arizona, *In re: Banner Health Data Breach Litigation* and *In re: Valley Anesthesiology Data Breach Litigation*.

In other consumer protection cases, EF currently represents numerous corn farmers in the United States in consolidated actions in the MDL *In re: Syngenta AG MIR162 Corn Litigation* (MDL 2591) pending before Judge John W. Lungstrum in the District of Kansas. In September, 2016, this case was certified as a national class and eight states had classes certified including the state of Arkansas where EF represents the designated Arkansas bellwether trial plaintiff and many other Arkansas corn farmers. John Emerson of Emerson Scott was a leader in the MDL baby bottle action captioned *In Re: Bisphenol-A (BPA) Polycarbonate Plastic Products Liability Litigation* in the United States District Court for the Western District of Missouri. John Emerson was Co-Lead Counsel in the *Webb et al. v. Carters Inc. et al.* class action litigation in the United States District Court for the Central District of California concerning Carter's line of tag-less baby clothing; in the *Montanez et al. v. Gerber Childrenswear, Inc., et al.* class action litigation in the United States District Court for the Central District of California concerning Gerber's line of tag-less baby clothing.

EF's predecessor firm served as Co-Lead Counsel in several MDL cases involving product liability and consumer protection issues. In 2004, Emerson Firm's predecessor firm was appointed by the Honorable Stephen P. Friot as Plaintiffs' Co-Lead Counsel in *In re: Farmers Insurance Co., Inc. FCRA Litigation*, which was settled in the Western District of Oklahoma. This case was litigated on behalf of a certified class of Farmer's current and past customers who were charged more than the lowest premium for insurance based upon information in a consumer report, and received certain "adverse action" notices that willfully failed to conform to the Fair Credit Reporting Act. The case resolved in late 2011 and provided class members with about \$100 million in cash and other relief. EF's predecessor firm represented numerous long-grain rice farmers in Arkansas and other states, in the MDL action *In re: Genetically Modified Rice Litigation* (the "*Rice MDL Action*"). The *Rice MDL Action* sought damages for long-grain rice producers in Arkansas, Missouri, Mississippi, Louisiana, and Texas for defendants' contamination of the United States' rice supply with genetically modified rice as revealed by Bayer and the USDA in August 2006.

This MDL action was settled for over \$750 million in cash relief for American rice farmers. ES's predecessor served as Co-Lead Plaintiffs' Counsel in an MDL case transferred to the Honorable Richard D. Bennett of the District of Maryland captioned *In Re: Tyson Foods, Inc. Chicken Raised Without Antibiotics Consumer Litigation*. The case involved false advertising claims associated with the sale of Tyson Foods' chicken as being raised without antibiotics, when in fact the chicken was raised with antibiotics. The action was settled for \$5 million in cash and other relief for class members who purchased the chicken products at issue.

The Firm has been active in prosecuting cases seeking to improve corporate governance in public companies through its involvement in shareholder derivative litigation. Most notably, John Emerson, served as Co-Lead Counsel in cases resulting in significant and far-reaching corporate governance and compliance improvements within companies such as AOL/Time Warner, Computer Associates, Nicor, Cryolife, Inc., and Crompton (Chemtura). The Firm has also represented shareholders in claims involving corporate buyouts and other change-of-control transactions.

Finally, John Emerson of EF served on the *Enron ERISA Litigation* Plaintiffs' Counsel Steering Committee. This case settled in the United States District Court, Southern District of Texas, Houston Division in 2005.

John G. Emerson



Mr. Emerson was born in Little Rock, Arkansas, and was raised there and in Houston, Texas. He is a member of the state bars of Texas, Washington and Arkansas. Mr. Emerson obtained his Bachelor of Arts from the University of Texas at Austin and then earned his Juris Doctorate from South Texas College of Law Houston. He is a Life Member of Texas Exes. Mr. Emerson has been rated "AV Preeminent" for the last 18 years by Martindale-Hubbell. This is the highest possible peer review rating in legal ability and ethical standards. Mr. Emerson was honored by being named one of the Top 100 Trial Lawyers in America by the National Trial Lawyers in 2013 -2016.

In his antitrust practice, Mr. Emerson is currently a member of the Plaintiffs' Counsel Steering Committee in the *Aluminum Warehousing Antitrust Litigation* representing first level purchasers in this MDL, 13 MDL2481 (KBF), which was pending in the Southern District of New York and is currently on appeal in the U.S. Court of Appeals for the 2nd Circuit. Mr. Emerson has represented plaintiffs in the *Compact Disc Antitrust Litigation* filed against the music industry in the United States, and plaintiffs in the *High Pressure Laminates Antitrust Litigation* in the direct purchaser case. Notably, Mr. Emerson also has been or is currently involved in the following

antitrust cases: *Lithium Ion Batteries Antitrust Litigation*, *CRT (Cathode Ray Tube) Antitrust Litigation*, *Flash Memory Antitrust Litigation*, *GPU (Graphics Processing Units) Antitrust Litigation*, *Ocean Shipping Antitrust Litigation*, *TFT-LCD (Flat Panel) Antitrust Litigation*, *Trans-Pacific Airline Surcharge Litigation*, *Domestic Airlines Antitrust Litigation*, *Liquid Aluminum Sulfate Antitrust Litigation*, and the *Bridgestone Anti-Vibration Rubber Parts Antitrust Litigation* case, among others.

In his privacy and data breach practice, Mr. Emerson is actively involved prosecuting cases for aggrieved consumers in the following pending MDL cases: *In re: Anthem Healthcare Data Breach Litigation*, MDL No. 2617 (N.D. Cal.); *In re: Premera Healthcare Data Breach Litigation*, (D. OR.) MDL No. 2633; *In re: Medical Informatics Engineering Data Breach Litigation*, MDL No. 2667 (N.D. Ind.); *In re: Office of Personnel Management Data Breach Litigation* (D.D.C.) MDL No. 2664; *In re: Experian Data Breach Litigation* (C.D.CA.) MDL No. 2676, and *In re: Vizio, Inc., Consumer Privacy Litigation* (C.D.CA.). He is also actively involved in prosecuting two Arizona data breach cases, *In re: Banner Health Data Breach Litigation* and *In re: Valley Anesthesiology Data Breach Litigation*.

In his consumer class action practice, Mr. Emerson represents numerous corn farmers in the United States in consolidated actions in the MDL *In re: Syngenta AG MIR162 Corn Litigation* (MDL 2591) pending before Judge John W. Lungstrum in the District of Kansas. On September 11, 2016 the Court denied defendant's motion to dismiss in major part. On September, 26, 2016 this case was certified as a national class and eight states had classes certified including the state of Arkansas where Mr. Emerson represents the designated Arkansas bellwether trial plaintiff as well as many other Arkansas corn producers. This case is currently set for trial on June 5, 2017. Currently, he also is prosecuting cases involving food products allegedly contaminated with the synthetic chemical glyphosate such as a case against General Mills involving Nature Valley snack bars and a case against Sioux Honey Association Cooperative involving honey products. Finally, Mr. Emerson is currently representing policyholders in cases against Transamerica and Lincoln Life concerning increased cost of insurance rates and/or increased monthly deductions. Mr. Emerson served as Chairman of the Expert Witness Committee in the consolidated MDL action styled *In Re: Bisphenol-A (BPA) Polycarbonate Plastic Products Liability Litigation* filed in the United States District Court for the Western District of Missouri. Mr. Emerson represented one of the named lead plaintiffs in the *AOL Version 5.0 Software Litigation*. He was Co-Lead Counsel in an action filed against the Farmers Insurance Group of Companies involving alleged violations of the Fair Credit Reporting Act which resolved for plaintiffs. He was Co-Lead Counsel for a number of parents in the Gerber's baby clothing litigation and the Carter's baby clothing litigation. Both cases resolved for plaintiffs in 2013. Mr. Emerson was a consultant to Canadian plaintiffs' counsel in the Canadian *Medtronic Pacemaker Pacing Lead Product Liability Litigation* that was certified and settled in British Columbia as a Canadian national class action. He has been a consultant to Canadian counsel in the Canadian *Compact Disc Antitrust Litigation*, the Canadian *Publishers Clearing House Litigation*, and the Canadian *AOL 5.0 Software Litigation*.

In his retirement plan practice, Mr. Emerson was appointed to the Plaintiffs' Counsel Steering Committee by Judge Melinda Harmon, United States District Judge, Southern District of Texas – Houston Division, in the consolidated Enron ERISA Litigation, styled *Pamela M. Tittle v. Enron Corp., et al.*

In his corporate practice, Mr. Emerson has represented numerous stockholders in shareholder derivative lawsuits brought against corporate boards alleging breaches of fiduciary duties. These suits sought to impose corporate governance reforms aimed at protecting shareholders and eliminating corporate waste and abuse. In the past, Mr. Emerson served as one of the lead counsel in the Computer Associates shareholder derivative action in the Federal District Court for the Eastern District of New York. This action was brought against the Computer Associates' board of directors and led to the resignation of the Company's CFO, the resignation of two other senior financial officers, and the adoption of certain corporate governance measures that Computer Associates has since represented as the "gold standard" of governance reform. Mr. Emerson was Co-Lead Counsel in the case styled *In Re: Nicor, Inc. Shareholder Derivative Litigation* in the Circuit Court of Cook County, Illinois County Department, Chancery Division. This action was brought against Nicor's board of directors and its settlement resulted in major corporate governance improvements at Nicor. Mr. Emerson was Co-Lead Counsel in the case styled *In Re: Cryolife Derivative Litigation* pending in the Superior Court of Fulton County, Georgia. The settlement of this action resulted in wide-sweeping corporate governance improvements at Cryolife. Mr. Emerson was also Co-Lead Counsel in the case styled *In re: AOL Time Warner Shareholder Derivative Litigation* which was settled in the Federal District Court for the Southern District of New York. This settlement resulted in wide ranging corporate governance and compliance changes and was recognized as a substantial factor in Time Warner's ability to obtain \$200 million from its Directors' and Officers' (D&O) insurance carriers. Mr. Emerson was Lead Counsel in the action styled *In re: Crompton (now known as Chemtura) Shareholder Derivative Litigation* which settled with Crompton's D & O carrier, AIG, at JAMS in New York and was thereafter approved by the Bankruptcy Court for the Southern District of New York. This settlement resulted in major corporate governance improvements.

Mr. Emerson was admitted to the Texas Bar in 1980. He is admitted to practice before the U.S. Supreme Court; U.S. Court of Appeals for the 2nd, 5th, and 8th Circuits; U.S. District Courts for the Northern, Southern, Eastern, and Western Districts of Texas; Eastern and Western Districts of Arkansas; Western District of Washington; District of Colorado; Eastern District of Michigan; and all Texas, Washington, and Arkansas state courts.

Mr. Emerson has extensive jury trial experience over the past 36 years. He is a member of the legal fraternity Delta Theta Phi. He is also a member of The National Trial Lawyers; American Association for Justice ("AAJ"); AAJ Class Action Litigation Group; Fellow of The Pound Civil Justice Institute; Texas Trial Lawyers Association; American Bar Association (Tort and Insurance

Practice and Legal Economics Sections); State Bar of Texas (Grievance Committee 4-D, Houston, 1991-94); Membership Services Committee, 1991-92); Sustaining Life Fellow Texas Bar Foundation; Bar Association for the United States District Court for the Eastern District of Texas; Houston Bar Association; Fellow of the Houston Bar Foundation; Washington State Bar; King County Bar Association; Arkansas Trial Lawyers Association; Pulaski County Bar Association; and the Arkansas Bar Association. Mr. Emerson was honored by the Governor of Arkansas when he was named an Arkansas Traveler, an Ambassador of Good Will on behalf of the people of the state of Arkansas to people everywhere.

Mr. Emerson is married with two children, two grandsons, and five rescued dachshunds. He enjoys the outdoors and has hunted and fished in the United States, Canada, Mexico, Honduras, Uruguay, Argentina, Botswana, and South Africa. He is a member of Ducks Unlimited and is a life member of Safari Club International.

Mr. Emerson's email address is jemerson@emersonfirm.com.