

**UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE**

STACY COSTA, RYAN BUTLER,  
MARK GANDARA, NATHANIEL  
GUERRERO, DAVID HAYDEN,  
PATRICK KEMPF, WALLACE  
MCDUFFEY, TIMOTHY  
MIDDLEBROOKS, MISSY  
ROBINSON, MISTY ROMBACH,  
KRISTEN TATA, MELANIE  
FIORUCCI, LAMONT KINCAID, and  
LESLIE LAMANNA individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

WHIRLPOOL CORPORATION,

Defendant.

Case No. 1:24-cv-00188-MN

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**DECLARATION OF TIMOTHY N. MATHEWS IN SUPPORT OF  
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

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Dated: February 27, 2026

Interim Lead Class Counsel  
\*Additional Counsel Listed on Signature Page

I, TIMOTHY N. MATHEWS, declare as follows:

1. I am a partner in the law firm of Chimicles Schwartz Kriner & Donaldson-Smith LLP (“CSK&D” or “Lead Class Counsel”) and court-appointed Interim Lead Class Counsel on behalf of the Plaintiffs and putative class in this consolidated class action. D.I. 13, 21.

2. I respectfully submit this declaration in support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement and Settlement Schedule.

3. Unless otherwise noted, capitalized words and phrases used in this declaration and the accompanying memorandum of points and authorities have the same meaning as the same terms that are defined in Section I of the Class Action Settlement Agreement and Release (“Settlement Agreement”).

4. True and correct copies of the following documents are attached hereto:

Exhibit A	Settlement Agreement, dated February 26, 2026, with the following exhibits thereto: Exhibit 1 Claim Form Exhibit 2 Class Refrigerator Model List Exhibit 3 FAQ (Long Form Notice) Exhibit 4 Prequalified Settlement Class Member Summary Notice Exhibit 5 PR Press Release Notice Exhibit 6 Summary Notice (Non-prequalified Settlement Class Members) Exhibit 7 Technical Service Pointer
Exhibit B	Firm Resume of Chimicles Schwartz Kriner & Donaldson-Smith LLP
Exhibit C	Firm Resume of deLeeuw Law LLC
Exhibit D	Firm Resume of Levin Sedran & Berman LLP
Exhibit E	Firm Resume of Robert Pierce & Associates PC
Exhibit F	Firm Resume of Migliaccio & Rathod LLP
Exhibit G	Resume of Angeion Group
Exhibit H	Order Granting Final Approval of Class Action Settlement in <i>Paperno v. Whirlpool Corp.</i> , No. 3:23-cv-05114-RFL (N.D. Cal. May 13, 2025), ECF No. 96

**A. Proposed Lead Class Counsel and additional Class Counsel**

5. In its more than three decades of existence, CSK&D has developed a national reputation for excellence as one of the leading firms of the plaintiffs' class action bar. From our offices in Wilmington, Delaware, and Haverford, Pennsylvania, CSK&D prosecutes complex class actions and shareholder derivative litigation in state and federal courts throughout the nation. We have represented individuals, public pension funds, institutional investors, and businesses in hundreds of consumer protection, automotive defect, shareholder, antitrust, and other complex actions, and we have recovered billions of dollars for class members in these cases. CSK&D takes seriously its fiduciary duty to the classes it is appointed to represent, and accordingly, has a longstanding culture that strives to obtain the maximum recovery possible for its clients and class members.

6. I am a member in good standing of the bars of Pennsylvania and New Jersey and admitted to practice in this Court *pro hac vice*. I am also admitted to practice in the United States Courts of Appeals for the First, Third, Fourth, Ninth, and Eleventh Circuits, and the United States District Courts for the Eastern District of Pennsylvania, District of New Jersey, and the Eastern District of Michigan.

7. As reflected in my biography in Exhibit B, in my more than two decades representing plaintiffs in complex class actions, I have served in a leadership role in numerous class actions where, like this one, my co-counsel and I have achieved outstanding results on behalf of class members. Although such recoveries are rare, in several cases I have achieved full recoveries for class members. *See e.g., Rodman v. Safeway, Inc.* (N.D.Cal.) (\$42 million full recovery judgment); *In re 24 Hour Fitness Prepaid Memberships. Litig.* (N.D.Cal.) (full-relief settlement). I have been described as “among the most capable and experienced lawyers in the

country” in consumer class action litigation. *Chambers v. Whirlpool*, 214 F. Supp 3d 877, 902 (C.D. Cal. 2016) (vacated in part on other grounds at 980 F.3d 645). My efforts on behalf of class members have also been described as “relentless” and “effective.” *SEPTA v. Orrstown Fin. Servs.*, 2023 U.S. Dist. LEXIS 17135, at \*28 (M.D. Pa. Feb. 1, 2023)

8. CSK&D and I have previously litigated several cases against Whirlpool resulting in favorable settlements for class members, including:

- a. *Chambers v. Whirlpool Corp.*, No. 11-1733 (C.D. Cal.), in which I was co-lead counsel and negotiated a settlement providing 100% of repair costs and other benefits for up to 24 million dishwashers that have an alleged propensity to catch fire;
- b. *In re Sears, Roebuck & Co. Front-Loading Washer Prods. Liab. Litig.*, No. 06-7023 (N.D. Ill.), in which CSK&D was co-lead counsel and, after extensive litigation, including two trips to the Seventh Circuit and a trip to the United States Supreme Court, we negotiated a settlement that provided a “full-value, dollar-for-dollar recovery” that was “as good, if not a better, [a] recovery for Class Members than could have been achieved at trial” (2016 U.S. Dist. LEXIS 25290 at \*35 (N.D. Ill. Feb. 29, 2016)); and
- c. *In re: Whirlpool Corp. Front-Loading Washers*, (N.D. Oh. No. 08-6500), after extensive litigation, including two trips to the Sixth Circuit and a trip to the United States Supreme Court challenging the certification of the plaintiff class, CSK&D and our co-counsel took the case through the first bellwether trial (for an Ohio class) and settled the case on favorable terms shortly before the second bellwether trial (for the Illinois class).

9. Scott Tucker is also a partner in CSK&D. Mr. Tucker is a member of good standing of the bar of Delaware and is admitted to practice in this Court. Mr. Tucker has decades of experience successfully prosecuting complex class actions. A few examples include:

- a. *Melchior, et al. v. Vagnozzi, et al.*, No. 20-cv-05562 (E.D. Pa) – action challenging the creation of various investment funds formed for the express purpose of investing in a notorious Ponzi scheme backed by organized crime figures, which resulted in a \$38 million settlement representing the full balance of applicable insurance policies.
- b. *In re FAST Acquisition Corp. S’holders Litig.*, C.A. No. 2022-0702-PAF (Del. Ch.) – action challenging the winding down of FAST (a special purpose acquisition company (“SPAC”)) and managements’ decision to retain for itself a termination fee received from a previously terminated business combination, which settled for \$12.5 million in cash.
- c. *In re Madison Square Garden Entertainment Corp. Stockholders Litigation*, Consol. C.A. No. 2021-0468-LWW (Del. Ch.) – action challenging a related party transaction between MSG Networks Inc. and Madison Square Garden Entertainment Corp., which settled for \$48.5 million in cash.
- d. *In re Sanchez Derivative Litigation*, C.A. No. 9132-VCG (Del. Ch.) – action challenging a related party transaction between Sanchez Energy Inc. and Sanchez Resources, LLC a privately held company, which settled for roughly \$30 million in cash and assets.
- e. *City of Roseville Employees’ Retirement System, et al. v. Ellison, et al.*, C.A. No. 6900-VCP (Del. Ch.) – action challenging the acquisition by Oracle Corporation of

Pillar Data Systems, Inc., a company majority-owned and controlled by Larry Ellison, the Chief Executive Officer and controlling shareholder of Oracle, which led to a settlement valued at \$440 million, one of the larger derivative settlements in the history of the Court of Chancery.

- f. *In re Kinder Morgan, Inc. Shareholders Litigation*, C.A. No. 06-C-801 (Kan.) – action challenging the management led buyout of Kinder Morgan Inc., which settled for \$200 million.

10. Zachary Beatty served as the primary associate for CSK&D on this case and contributed substantially to its prosecution. Mr. Beatty is a member of good standing of the bar of Pennsylvania and admitted to practice in this Court *pro hac vice*. Mr. Beatty is also admitted to practice in the Fourth and Ninth Circuit Courts of Appeals, as well as the Eastern District of Pennsylvania. In 2017, Mr. Beatty graduated from Michigan State University College of Law *summa cum laude* where he attended on a full tuition scholarship. While in law school, Mr. Beatty served as a Managing Editor of the Law Review as well as earning multiple Jurisprudence Awards, which are awarded to the highest achieving student in each course. Mr. Beatty joined CSK&D in 2017 as an associate, and as of January 1, 2026, Mr. Beatty is now a partner. Mr. Beatty has been selected as a Pennsylvania Rising Star numerous times. As reflected in his biography in Exhibit B, Mr. Beatty has extensive experience in consumer product and defect cases, including in class cases against Walmart, Google, DoorDash, Ford, Carrier, Trane, and others.

11. The biographies of additional attorneys from my firm who appeared in this case are also set forth in Exhibit B.

12. The firm resumes of additional Class Counsel—deLeeuw Law LLC, Levin Sedran & Berman LLP, Robert Pierce & Associates PC, and Migliaccio & Rathod LLP—are also attached hereto as Exhibits C–F.

**B. Case Inception, Consolidation, and Early History**

13. CSK&D was retained and began investigating the wire harness defect on behalf of consumers by May 2023. After communicating with over a hundred putative class members and conducting significant investigation, on November 10, 2023, CSK&D served Whirlpool the first of two pre-suit notices of claims and demands for pre-suit resolution on behalf of their clients, asserting claims against Whirlpool based on alleged defects in the wiring running to and through the doors of various models of refrigerators manufactured by Whirlpool.

14. On February 12, 2024, Plaintiffs Costa, Guerrero, and Missy Robinson, through their counsel at CSK&D, filed a putative class action alleging defects in the wiring through the doors of certain Whirlpool-manufactured refrigerators and asserting claims on behalf of a putative Nationwide Class and California, Florida, and North Carolina subclasses under state and federal statutes. D.I. 1. CSK&D was subsequently retained by eight additional Plaintiffs who were incorporated into the amended complaints. *See* D.I. 23, 39.

15. On March 7, 2024, the Court entered an Order pursuant to Rule 23(g) appointing CSK&D to serve as Interim Lead Class Counsel and to act on behalf of putative members in this case and any additional actions that might be consolidated with this case. D.I. 13.

16. On March 7, 2024, Plaintiff LaManna, through her counsel deLeeuw Law LLC, Levin Sedran & Berman LLP, Robert Pierce & Associates PC, and Migliaccio & Rathod LLP, filed a substantially similar complaint against Whirlpool, alleging claims based on the same alleged

wiring defect in Whirlpool-manufactured refrigerators and asserting claims on behalf of a putative Nationwide Class and California subclass. *See* D.I. 21.

17. Thereafter, CSK&D and LaManna’s counsel began coordinating their efforts and stipulated to the consolidation of the *LaManna* action into the *Costa* action pursuant to the Rule 23(g) Order in *Costa*.

18. On April 9, 2024, Class Counsel filed a 145-page consolidated amended complaint with 14 class representatives from 11 states. D.I. 23.

### **C. Motion Practice and Discovery**

19. On May 21, 2024, Whirlpool filed its motion to dismiss the consolidated amended complaint, arguing, *inter alia*, that Plaintiffs failed to allege Whirlpool’s pre-sale knowledge of the defect. D.I. 27–29. Rather than respond to that motion, Plaintiffs opted to file an amended complaint. D.I. 33. Lead Class Counsel conducted substantial additional research to compile a 32-count, 316-page Second Amended Complaint (“SAC”), which was filed on June 28, 2024. D.I. 39.

20. On August 8, 2024, Whirlpool moved to dismiss the SAC in its entirety. D.I. 42–44. Plaintiffs filed their opposition on September 12, 2024. D.I. 46–47. The Court held a hearing on the Motion to Dismiss the SAC on February 12, 2025. On March 21, 2025, the Court entered an order granting in part and denying in part Whirlpool’s motion. The Court upheld most of the Plaintiffs’ implied warranty claims. D.I. 55 at 17–21. The Court, however, dismissed Plaintiffs’ express warranty claims, misrepresentation, and fraud-by-omission claims without prejudice. D.I. 55 at 6–17. Lead Class Counsel filed a motion for reargument on the fraud-by-omission claims, which the Court denied. D.I. 58–59; D.I. 66.

21. The parties then negotiated, drafted, and filed a stipulated ESI protocol, stipulated Protective Order, and proposed Scheduling Order. D.I. 68, 72–77. Discovery commenced in June

2025. D.I. 77. The parties exchanged Rule 26(a)(1) disclosures on June 5. D.I. 70–71. Plaintiffs then served, on June 16, a comprehensive set of requests for production of documents on Whirlpool. D.I. 78.

22. On July 3, 2025, Whirlpool produced a large volume of data, including data derived from its product shipment database, customer relationship management database, and its product repair claim database relating to the Class Refrigerators.

23. On July 14, 2025, Whirlpool produced design drawings and reliability test records for the wire harnesses at issue in the Class Refrigerators.

24. Each Plaintiff also gathered and produced to Whirlpool relevant documents supporting their claims. Collectively, Plaintiffs produced over 500 pages of documents.

25. Lead Class Counsel communicated with nearly 1,000 Class Members to date.

#### **D. Settlement Negotiations and Mediation**

26. Shortly after discovery began, the parties agreed to participate in a mediation with Hunter Hughes, Esq., a nationally recognized class action mediator who has over thirty years of experience and conducted over 1,000 successful mediations. <https://www.hunteradr.com/>.

27. On July 17, 2025, the parties participated in a full-day, in-person mediation with Mr. Hughes in San Diego. During that mediation, the parties made progress on certain parameters of a classwide settlement, but they remained far apart.

28. Over the next two months, the parties continued to exchange information relevant to the settlement negotiations and engaged in extensive additional settlement negotiations with the participation of the mediator.

29. During settlement negotiations, Lead Class Counsel conducted a survey of hundreds of consumers to gather data relevant to the negotiations. Lead Class Counsel also consulted experts concerning the alleged defect and proposed settlement terms.

30. On September 16, 2025, the Parties finally reached agreement in principle on terms relating to the relief to class members and the parameters of class notice, which were memorialized in a term sheet.

31. The parties did not begin to negotiate, or even discuss, amounts for attorneys' fees, litigation expenses and costs, and Plaintiff service awards until after they had fully negotiated the terms of relief to class members and the parameters of class notice.

32. The parties then participated in a second in-person mediation session in San Diego with Mr. Hughes on November 3, 2025, to negotiate attorneys' fees, expenses and costs, and Plaintiff service awards, but they did not reach agreement. The following week, on November 12, 2025, the parties both accepted a double-blind mediator's proposal as to those terms.

33. Throughout the entire process, the settlement negotiations in this case were conducted at arm's length, in good faith, free of any collusion and under the supervision of Mr. Hughes. Indeed, this Settlement was very hard fought by experienced counsel well-versed in the facts and law on both sides.

34. The parties then undertook the process of drafting the Settlement, several forms of notice, and the claim form, engaged the proposed Settlement Administrator, and fully executed the Settlement on February 27, 2026.

35. Lead Class Counsel also engaged in confirmatory discovery, which, among others, concerned the Class definition and model list, design upgrades to the wire harness in the replacement doors, and Whirlpool's efforts to search its records to identify Prequalified Settlement

Class Members. The confirmatory discovery confirmed the fairness, reasonableness, and adequacy of the Settlement.

36. There are approximately 850,000 Class Refrigerators. The Class Refrigerators were manufactured from the first week of May 2018 through the last week of September 2021. There are approximately 16,000 Prequalified Settlement Class Members.

**E. Fairness of the Settlement**

37. Based on Lead Class Counsel's decades of experience litigating class actions (including against Whirlpool), and informed by the extensive investigation of facts and law conducted by Class Counsel, my colleagues and I firmly believe that this Settlement is an excellent result for the Settlement Class Members. We fully endorse the proposed Settlement as fair, reasonable, and adequate, and in the best interests of the proposed Settlement Class.

**F. Efforts of the Named Plaintiffs**

38. Achieving this result would not have been possible without the efforts of the named Plaintiffs, who undertook this litigation on behalf of the Class, agreed to serve in a representative capacity, communicated regularly with counsel, assisted in preparing the allegations in the different iterations of the complaint, gathered and produced relevant documents in discovery, kept abreast of settlement negotiations, and reviewed and approved the Settlement terms. Plaintiffs fully understand the nature of their claims, as well as their duties and responsibilities as Class Representatives, and they have no interests antagonistic to the Settlement Class Members. No Plaintiff was promised, nor conditioned their representation, on the expectation of a service award.

Dated: February 27, 2026

/s/ Timothy N. Mathews  
Timothy N. Mathews