

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Southern Division)**

DAVID STARR, BERNADETTE
MAVRIKOS, EDMUND QUIAMBAO,
JAMES TETTENHORST, JEREMY
HANSEN, KRISTA KARO,
ARLENE REED-COSSAIRT, PETER STAVROS,
HEATHER FARKAS,

No. 8:19-cv-02173-LKG

on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

VSL PHARMACEUTICALS, INC.; LEADIANT
BIOSCIENCES, INC., F/K/A SIGMA-TAU
PHARMACEUTICALS, INC.; and ALFASIGMA
USA, INC.,

Defendants.

**DECLARATION OF CLASS COUNSEL IN SUPPORT OF PLAINTIFFS' MOTION
FOR AWARD OF ATTORNEYS' FEES AND COSTS AND SERVICE AWARDS**

We, Edward F. Haber and Jeremy Schulman, Class Counsel for the Settlement Class, declare under penalty of perjury as follows:

1. Class Counsel submit this Declaration in Support of Plaintiffs' Motion for Award of Attorneys' Fees, Costs and Expenses, and Service Awards.
2. Edward H. Haber is a partner in the Boston law firm of Shapiro Haber & Urmey, LLP ("SHU"). SHU is one of the court-appointed Class Counsel in this action. ECF No. 339, at p. 29. SHU is a Boston-based boutique litigation firm that has long been a national leader in the field of complex, high-stakes class action litigation. A copy of SHU's firm resume is attached hereto as Exhibit A.

3. Mr. Haber has been committed to protecting the rights of consumers and individuals and has successfully represented individuals and businesses in class actions and other complex litigation for more than 50 years and has gained substantial experience handling complex civil litigation and class action litigation over that period.
4. Mr. Haber personally worked on and oversaw the work of other attorneys and paralegals from SHU in this action. He has been assisted in this litigation by, among others, his partners Michelle Blauner, Ian McLoughlin, and Patrick Vallely who have deep experience and are among the leading practitioners in plaintiff-side class action litigation.
5. With respect to the work done, hours expended and expenses incurred by SHU, Mr. Haber makes this declaration based on his personal knowledge and the records of his law firm. If called upon to do so under oath, he could and would testify competently to those matters set forth herein.
6. Jeremy Schulman is a partner at the Washington D.C. office of Hughes Hubbard & Reed LLP (“HHR”). For the majority of this litigation, Mr. Schulman was a member of the Maryland-based law firm Schulman Bhattacharya, LLC (“SBH”), which was one of the court-appointed Class Counsel in this action. ECF No. 339, at p. 29. Mr. Schulman, along with several of his colleagues from SBH (many of whom had worked on this litigation), including SBH member Jeffrey Gavenman, joined HHR in January 2026. The Court recognized HHR as Class Counsel in its order dated July 9, 2026. ECF No. 379 at 1. SBH was a high-stakes commercial litigation boutique, which prevailed against the Defendants in the *ExeGi* Action (as defined below), securing the false advertising verdict against Ledian and Alfasigma (also defined below) that served as the foundation for the instant case. HHR is an international law firm founded in 1888, which was recently named the

2026 winner of the Elite Trial Lawyers award in the Securities Litigation/Shareholder Rights category by the National Law Journal and has been described by Law360 as a “litigation powerhouse.” A copy of HHR’s firm resume is attached hereto as Exhibit B.

7. Mr. Schulman has more than 27 years of experience representing clients in complex litigation, including class action litigation, and thus has substantial experience handling sophisticated civil disputes.
8. Mr. Schulman personally worked on and oversaw the work of other attorneys and paralegals from SBH and HHR in this action. He has been assisted in this litigation by, among others, current HHR partner and past SBH member, Jeffrey Gavenman, current HHR counsel/past SBH counsel Jake Schaller and Renan Varghese, and current HHR associate/past SBH associate Anna Kornilova, all of whom have deep experience in complex commercial litigation and are among the leading practitioners in the field.
9. With respect to the work done, hours expended and expenses incurred by SBH and HHR, Mr. Schulman makes this declaration based on his personal knowledge and the records of SBH and HHR. If called upon to do so under oath, he could and would testify competently to the matters set forth herein.
10. Plaintiffs filed this case in July 2019, alleging claims against VSL Pharmaceuticals, Inc. (“VSL”), Leadiant Biosciences, Inc. (“Leadiant”) and Alfasigma USA, Inc. (“Alfasigma”) (collectively “Defendants”) for violation of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. §§ 1961–68; breach of express warranty in violation of the Uniform Commercial Code (“UCC”); violations of several state consumer protection statutes; and unjust enrichment. Plaintiffs alleged that, from June 2016 – June 2019, Defendants marketed and sold the probiotic VSL#3 as containing a clinically tested

and proven formulation when it did not.

11. For over seven years, Class Counsel, on behalf of Plaintiffs and the certified class, vigorously litigated this fiercely contested class action against Defendants. Class Counsel's vigorous efforts resulted in a non-reversionary \$20 million cash settlement, which represents an excellent result for the Settlement Class. This significant monetary recovery was achieved through the skill, tenacity, and effective advocacy of Class Counsel, which litigated this Action for the Class on a fully contingent basis against highly skilled defense counsel.
12. In undertaking this litigation, Class Counsel faced numerous challenges to proving liability, causation, and damages that posed serious risk of no recovery, or a substantially lesser recovery than the Settlement. In considering whether to recommend a settlement to Plaintiffs, Class Counsel primarily considered the strengths and weaknesses of the case. Class Counsel believes that Plaintiffs' claims are strong but recognize that those claims are subject to potential defenses and counterarguments.
13. Class Counsel has not received any objections to date to the proposed Settlement from any Class Member or to the request for attorneys' fees, expenses or service awards.
14. The work Class Counsel has performed in this case to achieve this excellent result has been substantial. The following sections provide an overview of the principal stages of the litigation and describe the work that Class Counsel performed during each such stage.

Summary of Class Counsel's Work in this Case

15. Prior to filing the initial complaint in this action, Class Counsel undertook an intensive legal and factual investigation. This case followed from prior litigation brought by Mr. Schulman and Mr. Gavenman in this Court on behalf of the Defendants' competitor, ExeGi

Pharma, LLC, (“ExeGi”), in the case styled as *De Simone et al. v. VSL Pharmaceuticals, et al.*, Case No. 8:15-cv-01356 (D. Md. 2015) (the “*ExeGi* Action”). The *ExeGi* Action resulted in a substantial jury verdict in 2018 against the present Defendants, including for false advertising claims against Alfasigma and Leadiant based on their advertising of VSL#3. Class Counsel leveraged research and knowledge obtained through this litigation against Defendants. Class Counsel’s translation of that information into a consumer class action involved substantial work, including determining how such facts would support a RICO claim and claims under various states’ consumer and warranty laws. Because class actions often focus on state-law claims, it was important for Class Counsel to identify and obtain detailed information from, and vet potential class representatives from, several states.

16. Class Counsel’s pre-suit investigation culminated in the preparation and filing of the initial Complaint in this action on July 23, 2019. That complaint, totaling 290 paragraphs and asserting sixteen claims, revealed the robust efforts Class Counsel devoted to conducting a thorough investigation that would withstand Rule 12(b)(6) motions and set the stage for Class Counsel’s successful litigation of the claims pleaded.
17. On December 18, 2019, Defendants moved to dismiss the complaint. *See* ECF No. 38, 38-1. Pursuant to Rule 15(a)(1)(B), Plaintiffs elected to amend their complaint on January 8, 2020 (the “Amended Complaint”). The 363-paragraph Amended Complaint added substantial factual allegations to address Defendants’ arguments for dismissal to ensure the case would proceed to discovery. *See* ECF No. 40.
18. Defendants again moved to dismiss on March 11, 2020. *See* ECF No. 49, 49-1. Defendants’ consolidated motion totaled fifty pages and presented a dozen and a half distinct arguments

for dismissal, some of which applied broadly to all claims and others of which focused on particular elements of certain claims. The research and analysis to respond to this motion was considerable. As consumer class actions often involve state law claims, which can vary from state to state, Class Counsel had to carefully evaluate the variation in proof among claims in different states and explain how the Amended Complaint satisfied applicable pleading and substantive law requirements. Class Counsel's efforts culminated in Plaintiffs' fifty-page opposition to Defendants' motion to dismiss in which they painstakingly detailed the factual basis for their claims and how those facts supported each claim they asserted. ECF No. 55.

19. In December 2020, this Court (Chuang, J.) denied Defendants' motion to dismiss, upholding Plaintiffs' allegations that Defendants violated RICO. *Starr v. VSL Pharm., Inc.*, 509 F. Supp. 3d 417, 433-43 (D. Md. 2020) ("*Starr I*"). The Court also sustained state consumer protection, express warranty claims and/or unjust enrichment claims asserted by Plaintiffs who purchased VSL#3 in Florida, Idaho, Illinois, Kentucky, Massachusetts, Michigan, New Jersey, Washington, and Wisconsin. *Id.* at 443-57. This victory paved the way for the remaining litigation, including discovery, expert discovery, class certification, and ultimately, the highly favorable settlement now before the Court.
20. Defendants answered the Amended Complaint on August 11, 2021. ECF Nos. 98-100.
21. After the Court denied Defendants' motion to dismiss, the parties commenced discovery. Discovery was hard fought in both directions. Class Counsel leveraged the work done in the *ExeGi* Action to streamline merits discovery. Class Counsel procured Defendants' agreement that all discovery produced by Defendants in the *ExeGi* Action would be deemed produced in this action. Class Counsel also propounded additional, non-duplicative

document requests, interrogatories, and requests for admission. In total, Defendants produced over 200,000 documents in this case. Class Counsel closely analyzed those documents to build their evidentiary merits case. That analysis is reflected in Plaintiffs' motion for class certification (the "Class Certification Motion") (discussed more fully below), which reflects a compelling overview of the core evidence Class Counsel obtained in discovery that they would have used to prove their claims on a class basis had this case gone to trial.

22. Class Counsel's discovery efforts included substantial efforts to obtain relevant discovery from third parties, including retailers that possessed documents, transactional data, and class member information that could be used as part of a damages model or for class notice or settlement. Class Counsel's negotiations with third-party retailers were extensive, as several pushed back against producing transactional data on various grounds, including burden, health privacy, and other objections. Class Counsel's efforts were successful, ultimately obtaining significant data from third-party retailers for use with damages experts and which ultimately facilitated class notice and settlement, through which Class Counsel has been able to provide direct notice to over 200,000 class members, ensuring that the settlement that Class Counsel negotiated will put cash into the pockets of class members.
23. Defendants' discovery efforts directed to Plaintiffs and third parties were likewise substantial, and Class Counsel performed significant work in responding to such discovery, including negotiating and litigating the scope of production by Plaintiffs and their doctors, weighing issues of relevance and privacy, and collecting and analyzing documents. Class Counsel worked closely with the named Plaintiffs to gather and produce responsive documents, including medical records and proofs of purchase from named Plaintiffs'

purchases of VSL#3 and other medical products.

24. The parties collectively took 21 fact depositions, including depositions of Plaintiffs and their doctors (taken by Defendants and defended by Class Counsel), a deposition of a minor child of one of the named plaintiffs, and depositions of each of the Defendants pursuant to Rule 30(b)(6) (taken by Class Counsel). These depositions, whether Class Counsel defended them or took them, required careful preparation and analysis, particularly given the significant universe of documents about which witnesses might be questioned and the need to use the depositions to further build the evidence to prove Plaintiffs' claims on a class-wide basis. The parties also engaged in expert discovery for class certification, as described below.
25. There were many discovery disputes. Some of the disputes were resolved by the parties through the meet and confer process. Others required the Court's involvement, including a dispute over Plaintiffs' efforts to take discovery of retailers (which ultimately was resolved by the parties following pre-motion letters), a dispute over whether Defendants could take the deposition of a minor child of one of the named plaintiffs (which was allowed) (ECF Nos. 103, 105, 133, 263, 264, 268, 274, 284, 287); and a dispute regarding Defendants' effort to obtain discovery from the manufacturer of the De Simone Formulation of VSL#3, Danisco USA, which the Court did not permit (ECF Nos. 132, 148, 154, 169, 174, 189, 193, 202, 203, 205, 209, 237, 239, 243, 248).
26. This case, had it been tried, would have been heavily driven by expert testimony in several respects. As case law under Rule 23 has evolved, courts have imposed increasingly exacting standards on class action plaintiffs in consumer cases, particularly regarding class-wide proof of damages. Although damages need not invariably be proven class-wide, it

behooves plaintiffs and their attorneys to develop reliable, valid damages models that can establish damages on a class-wide basis, as such proof can often be the difference between a court finding that common issues predominate and finding that they do not. The novel nature of the claims asserted, which involved complex medical and scientific issues and presented special challenges in connection with proof of class-wide damages, because consumers often purchased VSL#3 based upon the recommendation of their physicians. Class Counsel invested substantial resources in the form of both their own time working with experts and in significant out-of-pocket expense paid to damages experts to ensure they came to the Court with a sophisticated, reliable damages model that made clear how damages could be proven on a class-wide basis.

27. Class Counsel worked with their experts to develop, refine, and present to the Court a sophisticated damages model that reflected a deep analysis of the claims and the evidence to support them to ensure the model aligned with Plaintiffs' theory of liability. Class Counsel and their experts ultimately prepared detailed reports in support of Plaintiffs' Class Certification Motion, totaling over 200 pages between two principal damages expert reports and two supplemental reports, fully designed consumer and physician surveys, and an econometric model to translate survey data and other sources into a class-wide damages calculation. Plaintiffs' damages experts were deposed, and Class Counsel defended those two depositions.
28. As reflected in Plaintiffs' Class Certification Motion and Defendants' motion challenging the admissibility of Plaintiffs' expert evidence, Plaintiffs' damages experts were critical to obtaining class certification in this case and having that certification upheld over Defendants' Rule 23(f) petition. Although substantial, the time and out-of-pocket expense

relating to experts played a central role in Class Counsel's successful recovery of a highly favorable settlement for the benefit of the Settlement Classes.

29. Defendants also presented several experts, including two damages experts that directly challenged Plaintiffs' damages experts offered at class certification. Working closely with Class Counsel's damages experts, Class Counsel performed substantial work in analyzing Defendants' experts' analyses and their criticisms of Plaintiffs' experts' reports, including scrutiny of Defendants' expert workpapers and documentary support for their opinions. Class Counsel conducted thorough depositions of Defendants' two damages experts to undermine their opinions and reinforce Plaintiffs' arguments for class certification.
30. On June 3, 2024, Plaintiffs moved for class certification. Class certification in this case presented complex issues, including the assertion of both a federal RICO claim and the overlapping, but varying, consumer and warranty laws of nine states and a complex modeling of class-wide damages due to the several parties involved in class members' purchase process, including doctors who recommended probiotic products for their patients. Class Counsel prepared the comprehensive Class Certification Motion, which organized and presented the core evidence to prove liability on a class-wide basis and sophisticated damages evidence showing how damages could be proven class-wide.
31. Defendants vigorously opposed class certification, submitting a large volume of evidence to contest the elements under Rule 23 and a motion to exclude the expert opinions of Plaintiffs' two damages experts. Among other things, Defendants argued (a) that the predominance and superiority requirements were not satisfied because Plaintiffs' could not establish causation, deception, injury and damages on a class-wide basis, (b) that Plaintiffs' claims were not typical, (c) that the proposed classes were not ascertainable, and (d) that

Plaintiffs could not establish standing on a class-wide basis because indirect purchasers do not have standing to sue under RICO.

32. Class Counsel engaged with Defendants' legal arguments and evidence in their reply on class certification and vigorously opposed Defendants' motions to exclude Plaintiffs' damages experts, including through working with the two experts to prepare supplemental reports to respond to Defendants' arguments made in the motion to exclude.
33. On January 28, 2025, the Court issued its Memorandum Opinion on Plaintiffs' Motion for Class Certification. *Starr v. VSL Pharm., Inc.*, 2025 U.S. Dist. LEXIS 81502 (D. Md. Jan. 28, 2025) ("*Starr II*"). In *Starr II*, this Court certified the following class for Plaintiffs' federal RICO claims: the "Nationwide Class," consisting of "all persons who purchased VSL#3 in the United States from June 1, 2016, through June 19, 2019." *Id.* at *56. The Court also certified nine classes of VSL#3 purchasers in nine states who have claims under those states' statutes and common law. *Id.* at *56-57. All members of those classes are also members of the certified Nationwide Class.
34. Thereafter, the Fourth Circuit denied Defendants' Rule 23(f) petition seeking interlocutory review of the Court's class certification decision. *VSL Pharmaceuticals, Inc. v. Starr*, Appeal No. 25-115 (4th Cir. Apr. 7, 2025) (ECF No. 45).
35. After the Fourth Circuit denied Defendants' Rule 23(f) petition, Class Counsel reengaged with third-party retailers to procure transactional data, including class member identifying information, that they had previously committed to produce in the event a class was certified. Class Counsel worked extensively with the third-party retailers to procure as much class-member identifying information as possible to maximize the provision of direct notice to class members. Before exploring mediation and settlement, the parties attempted

to negotiate class notice to notify class members of the Court's class certification motion. The process involved Class Counsel procuring bids from several notice administrators, negotiating with the settlement administrators to receive competent notice administration at a reasonable cost, and attempting to negotiate the contents of a notice program with Defendants.

36. Although the parties agreed on several parts of the class notice, they had persistent disagreements, resulting in a contested motion for class notice, which was filed on November 14, 2025 (the "Notice Motion"). See ECF Nos. 364, 366. The Notice Motion was supported by declarations of the notice administrator, which Class Counsel helped prepare. Defendants opposed the Notice Motion on December 15, 2025. The parties agreed to and participated in a mediation, while Class Counsel was preparing Plaintiffs' reply brief.
37. On November 4, 2025, Class Counsel filed a letter on behalf of the certified classes requesting a pre-motion conference at which Plaintiffs would seek leave to file a motion for partial summary judgment. The motion would seek an order from this Court that would preclude Defendants from relitigating in this case key material issues that had been previously fully and finally decided against them in the *ExeGi* Action, based upon the doctrine of non-mutual offensive collateral estoppel, which is also called issue preclusion. ECF No. 359. The pre-motion letter was prepared after engaging in extensive research on the doctrine of non-mutual offensive collateral estoppel, and an examination of the issues raised in the *ExeGi* Action and this lawsuit.
38. On November 21, 2025, Defendants filed a letter seeking a pre-motion conference to request permission to file a motion for partial summary judgment on the RICO claims

asserted by Plaintiffs and the certified class to the extent that those claims are barred by the indirect purchaser rule, which they argued barred individuals who did not directly purchase VSL#3 from any of the Defendants from maintaining a claim under RICO. ECF No. 365. Although the conference never took place, Class Counsel undertook extensive research to dispute Defendants' claim.

39. In late 2025, the parties agreed to mediation and engaged JAMS mediator Robert Meyer, a nationally recognized mediator, to mediate a possible settlement of this longstanding action. Class Counsel devoted significant effort to mediation, including preparing a 50-page mediation statement. The mediation statement marshalled the extensive evidence to support Plaintiffs' claims, contained an extensive review of the legal bases for Plaintiffs' claims, addressed legal arguments that Plaintiffs anticipated would be made by Defendants, and included additional analyses of class-wide damages.
40. On January 7, 2026, the parties conducted good-faith, arm's-length negotiations at a mediation in New York City with Mr. Meyer. A settlement was not reached at that mediation session. However, after the mediator's numerous communications with the parties in the days following the mediation session, the parties reached an agreement in principle to settle this action, which they then memorialized in the Settlement Agreement.
41. The Settlement's terms, set forth in the Settlement Agreement, are described in further detail in Plaintiffs' Memorandum in Support of their Motion for Final Approval of Class Action Settlement. Defendants have agreed to a non-reversionary payment of \$20 million to settle this class action. That \$20 million will create a common fund to pay claims made by Class Members, legal fees and expenses of Class Counsel and service awards, as approved by the Court, and the costs of providing notice and administering the Settlement.

The Settlement will provide for substantial cash benefits to Class Members.

42. After reaching the material terms of a class settlement, Class Counsel worked closely with Defendants' counsel to negotiate and draft a comprehensive class settlement agreement, its exhibits and notice documents, and coordinated with the Settlement Administrator on a notice and administration program.
43. Class Counsel also continued to work closely with the retailers to procure all reasonably available class-member contact information and with the settlement administrator to ensure compliance with the terms of the Settlement and the notice plan.
44. Class Counsel prepared the motion for preliminary approval, which the Court granted after a hearing on July 9, 2026.

Lodestar Analysis

45. Class Counsel's firms have maintained contemporaneous time records in this case. As described below, those time records reflect that since 2019, Class Counsel has spent 9,266.8 hours litigating this case.
46. Mr. Haber oversaw the time spent by attorneys and staff of SHU; in his opinion, the time spent by attorneys and staff of SHU was reasonable and necessary to achieve an excellent result for the Class. Mr. Schulman oversaw the time spent by attorneys and staff of SBH and HHR; in his opinion, the time spent by attorneys and staff of SBH and HHR was reasonable and necessary to achieve an excellent result for the Class.
47. Indeed, by prosecuting this case purely on a contingency basis and not being paid by the hour, SHU, SBH, and HHR attorneys and staff were incentivized to work efficiently and avoid unnecessary work. Because SHU, SBH and HHR are experienced in litigating actions of this type, Class Counsel were able to efficiently divide tasks based on expertise.

48. The hours described herein do not include any time devoted to preparing the fee application. Nor do they include any time that will need to be devoted to preparing the final approval motion, preparing for and appearing at the final approval hearing, or dealing with post-hearing and settlement administration matters, which can be time-consuming.
49. As this Court held in *Black v. USAA Gen. Indem. Co.*, 2026 U.S. Dist. LEXIS 98528, at *7-8 (D. Md. May 5, 2026), the “Fitzpatrick Matrix is an appropriate guideline for determining reasonable hourly rates in this District.” Since the current hourly rates of Class Counsel are higher than the Fitzpatrick Matrix rates, we have conservatively used the hourly rates in the Fitzpatrick Matrix for the purpose of computing our lodestar for the lodestar cross-check. Using the Fitzpatrick Matrix Rates, Class Counsel’s lodestar totals, \$8,109,782.60, which is significantly above the requested attorneys’ fees of \$6,666,666.67, resulting in a negative multiplier.

SHU Lodestar

50. The accuracy of the data presented in this section of this Declaration and in paragraphs 51-54 below is attested to by Mr. Haber based on his personal knowledge and the records of his law firm. If called upon to do so under oath, he could and would testify competently to those matters set forth herein.
51. In the following chart, Mr. Haber presents the hours expended multiplied by the Fitzpatrick Matrix Rates for each of the SHU timekeepers who did work on this matter, as well as information about their professional status and year of law school graduation. Mr. Haber has grouped all SHU’s paralegal time together.

Timekeeper	Professional status/ Law School Grad Yr.	Hours	Fitzpatrick Matrix 2026 rates	Fitzpatrick Matrix Lodestar
Edward F. Haber (EFH)	Partner/1969	553.6	\$998	\$552,492.80
Michelle H. Blauner (MHB)	Partner/1986	655.3	\$998	\$653,989.40
Ian J. McLoughlin (IJM)	Partner/2000	1,774	\$960	\$1,703,040.00
Patrick J. Valley (PJV)	Partner/2005	1,872.9	\$910	\$1,704,339.00
Adam M. Stewart (AMS)	Associate/2004	26.0	\$929	\$24,154.00
Emily Castro-Schwartz (ECS)	Associate/2020	557.0	\$703	\$391,571.00
Nicole Dill (ND)	Associate/2021	162.9	\$684	\$111,423.60
Jonathan Dinerstein (JD)	Associate/2016	459.6	\$774	\$355,730.40
Paralegal	Paralegal	339.5	\$273	\$92,683.50
SHU total		6,400.8		\$5,589,423.70

52. In addition to analyzing the time spent by timekeeper, Mr. Haber has reviewed the time by each SHU timekeeper by litigation phase in accordance with the eleven categories set forth Appendix B to the Local Rules.

53. In the following chart, Mr. Haber presents hours for each SHU timekeeper by litigation phase.

Category	EFH	MHB	IJM	PJV	AMS	ECS	ND	JD	Par.	TOTAL
Case development, investigation and administration ¹	140.1	90.7	287.7	409	13	63.2	91	45.3	96.8	1,236.8
Pleadings ²	27.6	32	83.1	36.5	0.2	0	0	154.4	7.3	341.1
Interrogatories, document production and written discovery ³	33.5	18.8	365.9	292.7	2.6	12.3	30.5	0	120	876.3

¹ Included in this category is time spent on case administration tasks, communication with clients, administrative filings, scheduling-related motions, developing litigation strategy, working with experts and consultants to develop damage models and the reviewing of documents produced to develop evidence to support Plaintiffs' claims, as well as communications related to these tasks.

² Included in this category is time spent drafting and investigating, legally and factually, each of the claims asserted in each of the three complaints, as well as time spent reviewing and analyzing the answers and the defenses asserted, as well as communications related to these tasks.

³ Included in this category is time spent preparing written discovery requests, objecting and responding to

Depositions ⁴	9	25.7	178.1	237	4.2	24	7.6	0	18.6	504.2
Motion practice ⁵	199	303	703.7	708	5.8	319.8	33.8	259.7	85.7	2618.5
Attending court hearings ⁶	7.4	0	5	1.4	0	0	0	0	0	13.8
Trial preparation and post-trial motions	0	0	0	0	0	0	0	0	0	0
Attending trial	0	0	0	0	0	0	0	0	0	0
ADR ⁷	94.6	159.3	83.8	177.9	0.2	56.5	0	0.2	3.7	576.2
Appeals ⁸	42.4	25.8	66.7	10.4	0	81.2	0	0	7.4	233.9
TOTAL	553.6	655.3	1774	1872.9	26	557	162.9	459.6	339.5	6,400.8

54. In the following chart, Mr. Haber presents SHU's lodestar using the Fitzpatrick Matrix rates for all SHU timekeepers collectively by litigation phase:

Category	Hours	Fitzpatrick Lodestar
Case development, investigation and administration	1,236.8	\$1,058,959.60
Pleadings	341.1	\$294,156.10
Interrogatories, document production, and written discovery	876.3	\$734,500.70
Depositions	504.2	\$452,326.60
Motion practice	2618.5	\$2,298,558.70
Attending court hearings	13.8	\$13,459.20
Trial preparation and post-trial motions	0	0
Attending trial	0	0
ADR	576.2	\$536,799.40
Appeals	233.9	\$200,663.40
TOTAL	6,400.8	\$5,589,423.70

written discovery, and gathering and producing documents from plaintiffs and their medical professionals, as well as communications related to these tasks.

⁴ Included in this category is time spent preparing for depositions, reviewing documents in preparation for depositions, questioning witnesses at depositions, and defending depositions, as well as communications related to these tasks.

⁵ Included in this category is time spent preparing motions, briefs, pre-motion letters, and supporting materials, analyzing and responding to motions and pre-motion letters, legal and factual research in connection with motion practice, preparing for hearings, and communications related to these tasks.

⁶ This category is limited to time spent at court hearings whether by telephone, zoom or in person.

⁷ This category includes time spent on all settlement-related efforts, court-ordered settlement conferences, settlement analysis, drafting mediation statements, preparing for mediation, participating in mediation, negotiating the settlement, administering the settlement, and communications related to these tasks.

⁸ This category includes time spent researching and opposing Defendants' petition seeking to appeal the class certification decision under Rule 23(f), and communications related to these tasks.

SBH and HHR Lodestar

55. The accuracy of the data presented in this section of this Declaration and paragraphs 56-58 below is attested to by Mr. Schulman based on his personal knowledge and the records of his law firm. If called upon to do so under oath, he could and would testify competently to those matters set forth herein.
56. In the following chart, Mr. Schulman presents the hours expended multiplied by the Fitzpatrick Matrix Rates for each of the SBH and HHR timekeepers who did work on this matter, as well as information about their professional status and year of law school graduation.

Timekeeper	Professional status/ Law School Grad Yr.	Hours	Fitzpatrick Matrix 2026 rates	Fitzpatrick Matrix Lodestar
Jeremy Schulman (JWS)	Partner/1997	137.6	\$979	\$134,710.40
Jeffrey Gavenman (JSG)	Partner/2005	759.4	\$919	\$697,886.60
Renan Varghese (RV)	Counsel/2005	366.4	\$919	\$336,721.60
Jake Schaller (JJS)	Counsel/2013	0.8	\$822	\$657.60
Anna Kornilova (AK)	Associate/2009	348.2	\$875	\$304,675.00
Courtney Schaefer (CS)	Associate/2007	313.3	\$899	\$281,656.70
Sabina Schiller (SS)	Partner /2012	750.0	\$835	\$626,250.00
Jessica Bustamante (JB)	Associate/2016	75.6	\$774	\$58,514.40
Mace Phillips (MP)	Associate/2018	60.3	\$739	\$44,561.70
Sandra Schiller (SSS)	Associate/2016	6.5	\$774	\$5,031.00
Timothy Chorba (TC)	Associate/2017	34.4	\$756	\$26,006.40
Legal Assistant (LA)	Legal Assistant	13.5	\$273	\$3,685.50
SBH/HHR total		2,866		\$2,520,358.90

57. In addition to analyzing the time spent by timekeeper, the following chart shows the hours incurred by each SBH and HHR timekeeper by litigation phase in accordance with the eleven categories set forth in Appendix B to the Local Rules.

Category	JWS	JSG	RV	JJS	AK	CS	SS	JB	MP	SSS	TC	LA	TOTAL
Case development, investigation and administration	60.9	205.5	103.8	—	63.3	145.7	142.2	10.2	21.7	1.8	1.6	4	760.7
Pleadings	27.7	53.5	—	—	—	—	34	0.4	18.9	—	—	—	134.5
Interrogatories, document production and written discovery	0.6	78.8	17.8	0.8	10.4	51.8	132.5	27.9	16.6	—	—	2.5	339.7
Depositions	—	138.5	74.1	—	109.7	18.7	94	—	—	—	—	7	442
Motion practice	2.4	213.8	121.5	—	128.3	75.5	329	37.1	0.8	4.2	19.3	—	931.9
Attending court hearings	11.9	22.3	2.1	—	0.7	21.5	18.3	—	2.3	0.5	—	—	79.6
Trial preparation and post-trial motions	—	—	—	—	—	—	—	—	—	—	—	—	N/A
Attending trial	—	—	—	—	—	—	—	—	—	—	—	—	N/A
ADR	34.1	36	27.9	—	5.4	—	—	—	—	—	13.5	—	116.9
Appeals	—	11	19.2	—	30.4	0.1	—	—	—	—	—	—	60.7
TOTAL	137.6	759.4	366.4	0.8	348.2	313.3	750	75.6	60.3	6.5	34.4	13.5	2,866

58. The following chart represents SBH and HHR lodestar using the Fitzpatrick Matrix rates for all SBH and HHR timekeepers collectively by litigation phase:

Category	Hours	Fitzpatrick Lodestar
Case development, investigation and administration	760.7	\$676,602.50
Pleadings	134.5	\$118,951.50
Interrogatories, document production, and written discovery	339.7	\$290,870.60
Depositions	442	\$388,579.20
Motion practice	931.9	\$812,490.50
Attending court hearings	79.6	\$71,381.90
Trial preparation and post-trial motions	N/A	N/A
Attending trial	N/A	N/A
ADR	116.9	\$107,039.00
Appeals	60.7	\$54,443.70
TOTAL	2,866	\$2,520,358.90

Costs and Expenses

59. SHU and SBH⁹ incurred substantial costs and expenses in this litigation—taking a substantial risk on behalf of putative class members to do so. Class Counsel has collectively incurred \$1,241,580 in costs and expenses, as more fully described below.
60. Below is an itemized list of the unreimbursed expenses that SHU incurred in furtherance of prosecuting this litigation.

Expense Category	Amount Incurred
Copying/ Printing	\$4,285.80
Delivery/Postage	\$3,247.33
Depositions/Transcripts	\$17,967.40
Expert and Consultant Fees	\$537,274.26
Legal Research Expense	\$31,178.41
Mediation	\$11,089.20
Telephone	\$177.21
Third Party Discovery (Retailer Data)	\$6,365.20
Travel/Meals	\$9,946.11
TOTAL	\$621,530.92

61. These expenses are reflected in SHU's books and records that are regularly maintained in the ordinary course of the firm's business and are based on the receipts and other records maintained by the firm.
62. Below is an itemized list of the unreimbursed expenses that SBH incurred in furtherance of prosecuting this litigation.

Expense Category	Amount Incurred
Court Fees and PACER (Filing fees, pro hac vice applications)	\$800.00
Postage/Courier Fees	\$1,071.81
eDiscovery	\$92,119.32
Deposition and Hearing Transcripts	\$19,303.71

⁹ No expenses have been incurred by HHR since SBH counsel joined HHR on January 12, 2026.

Expert and Consultant Fees	\$489,396.50
Mediation	\$11,089.20
Travel/Meals	\$5,876.34
Misc. (Translations)	\$392.20
TOTAL	\$620,049.08

63. These expenses are reflected in SBH's books and records that were regularly maintained in the ordinary course of the firm's business and are based on the receipts and other records that were maintained by the firm.
64. In our opinion, the expenses incurred in prosecuting this action were reasonable and necessary for the diligent litigation and fair resolution of this matter.
65. In addition, under the Settlement Agreement, the fees and expenses of the Settlement Administrator for notice and claims administration are to be paid out of the Settlement Fund. We request that this Court authorize Class Counsel to pay their actual documented fees and expenses not to exceed \$195,000 out of the Settlement Fund to the Settlement Administrator for notice and claims administration fees and expenses.

Service Awards

66. The certified classes have been represented by nine named plaintiffs and class representatives: David Starr, Bernadette Mavrikos, Edmund Quiambao, James Tettenhorst, Jeremy Hansen, Krista Karo, Arlene Reed-Cossairt, Peter Stavros, Heather Farkas. Multiple class representatives were necessary in this case because Plaintiffs' brought state law claims on behalf of nine state law classes:
- a. Plaintiff Krista Karo was appointed as class representative for the Florida Class;
 - b. Plaintiff Arlene Reed-Cossairt was appointed as class representative for the Idaho Class;
 - c. Plaintiff James Tettenhorst was appointed as class representative for the Illinois Class;

- d. Plaintiff Peter Stavros was appointed as class representative for the Kentucky Class;
 - e. Plaintiff David Starr was appointed as class representative of the Massachusetts Class;
 - f. Plaintiff Edmund Quiambao was appointed as class representative for the Michigan Class;
 - g. Plaintiff Bernadette Mavrikos was appointed as class representative for the New Jersey Class;
 - h. Plaintiff Jeremy Hansen was appointed as class representative for the Washington Class; and
 - i. Plaintiff Heather Farkas was appointed as class representative for the Wisconsin Class.
67. In its Memorandum and Order certifying the classes, this Court determined that each of the plaintiffs were adequate representatives of the classes. ECF No. 339, at pp. 23-24.
68. As this Court held in its class certification decision: “The Plaintiffs commenced this case in 2019, and the litigation history of this case makes clear that they have actively participated in this litigation since that time.” ECF No. 339, at p. 23.
69. Each of the named Plaintiffs devoted considerable time to this litigation and contributed to its successful outcome. In addition to meetings with counsel to support the allegations of the complaints, each of the named Plaintiffs produced documents, including medical records, answered interrogatories, sat for depositions. In addition, they helped facilitate the production of their medical records by their health care providers, who were also deposed. Their role was critical in a case which involved deception about a healthcare product that was marketed as being clinically tested to treat the severe gastrointestinal conditions they had, when that was not the case.
70. We ask the court to award a service award of \$10,000 for each of the named plaintiffs,

which in our opinion is both highly warranted and very reasonable.

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

Executed on September 20, 2026

/s/ Edward F. Haber
Edward F. Haber

Executed on September 20, 2026

/s/ Jeremy W. Schulman
Jeremy W. Schulman