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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
12/13/2019 at 04:07:00 PM
Clerk of the Superior Court
By Carolina Miranda,Deputy Clerk

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

ANTHONY SHAMRELL and DARYL RYSDYK, Individually and on Behalf of All Others Similarly Situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 37-2013-00055830-CU-PL-CTL

CLASS ACTION

Declaration of Class Counsel Doyle Lowther LLP In Support Of Plaintiffs' Motion For Attorneys' Fees, Costs And Incentive Awards

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William J. Doyle and John A. Lowther declare as follows:

1. We are attorneys of record for Plaintiffs and for the Certified Classes. Mr. Doyle is an attorney at law admitted to practice in the State of California; and Mr. Lowther is an attorney at law admitted to practice in the State of California.

2. We have personal knowledge of the matters set forth in this Declaration, which is filed in support of Plaintiffs' Motion For Attorneys' Fees, Costs and Incentive Awards. We are counsel with Doyle Lowther LLP, one of the two law firms the Court appointed as Class Counsel for the Certified Classes. If called to testify, we could and would competently testify to the facts stated herein.

3. On November 6, 2019, the Court entered an order preliminarily approving the Settlement and authorizing notice to be disseminated to the Certified Classes and setting dates for final approval. If finally approved, this Settlement resolves this action in accordance with the Settlement Agreement's terms. *See* ¶¶ 153-155, *infra*.

4. We submit this Declaration to describe the substantial effort by Class Counsel during more than six years of contentious litigation, to explain the work of the two Class Representatives provided to the Certified Classes, and to set forth the substantial financial commitment Class Counsel expended, all of which led to a beneficial settlement for the Certified Classes.

5. Class Counsel dedicated significant time and resources in litigating this case for more than six years against a highly-regarded and determined opponent, represented by skilled, experienced, and nationally-recognized counsel well-versed in complex litigation. Among other things, Class Counsel engaged in: significant pre-complaint research, including satisfaction of CLRA and warranty demand requirements, and thereafter drafting and filing four well-researched initial and amended pleadings, relying on Class Counsel's significant deposition and document discovery efforts, which began shortly after suit was filed, to bolster the allegations; opposing Defendants' motions to stay the litigation; opposing three of Defendant's demurrers and multiple motions to strike the initial and amended pleadings.

6. Class Counsel vigorously pursued discovery, including: significant document production and interrogatory efforts, which continued throughout the six years of litigation, including through the eve of trial; taking and defending over 35 fact and expert witness depositions; reviewing and analyzing millions of pages of Defendant and third-party documents, including detailed technical documents, customer service records, warranty returns, sales information, warranty documentation, phone specifications, service records, and wireless carrier records and warranty repairs.

7. Finally, Class Counsel was prepared to try this case to the jury, and undertook significant work and effort to that end, including: submitting five expert reports supporting class certification and in support of Plaintiffs' causes of action at trial; successfully certifying two classes on behalf of California class iPhone purchasers; opposing Defendant's two appeals of the Court's class certification decisions to the California Court of Appeal; significant work and effort in preparing this case for trial, including mock jury panels, draft jury instructions and verdict forms, in limine motions to exclude evidence at trial, preparing deposition testimony for trial, preparing witness examinations for trial, and preparing both exhibits and demonstratives for trial before the jury; engaging in multiple formal mediation sessions with Defendant, assisted by the Hon. Irma Gonzalez (ret.); and participating in lengthy, contentious, and often unsuccessful settlement negotiations, as this matter did not settle until just before trial; and thereafter documenting the settlement, and then submitting preliminary and preparing final approval papers due February 27, 2020.

I. Background and Procedural History

8. On July 2, 2013, Plaintiff Anthony Shamrell filed his class action complaint for various claims on behalf of California purchasers of the iPhone 4 and 4S. Two weeks after filing the initial complaint, on July 17, 2013 Plaintiff Shamrell served his first sets of discovery requests on Defendant, including document production requests, special interrogatories, and form interrogatories. These requests encompassed twenty-five document requests and twenty special interrogatories. On September 11, 2013, Defendant served objections to Plaintiff's discovery requests.

9. Approximately six weeks after the initial class action complaint was filed, Defendant moved to stay this action. Also on August 20, 2013, Defendant filed the first demurrer against Plaintiff's complaint.

10. On October 25, 2013, Plaintiff filed his amended class action complaint, this time including the alleged iPhone 5 sleep/wake button defect (the iPhone 5 had been released in September 2012) and adding claims on behalf of those California consumers who had purchased an iPhone 5.

11. At this stage, Plaintiff had filed his initial complaint, served discovery, received Defendant's responses and objections, and thereafter amended the class action complaint. One month later, Defendant moved to stay this case in favor of two cases against Defendant pending in federal court, one in the Central District of California and the other in the Northern District of California.

12. Also, on November 25, 2013, Defendant filed its second demurrer, which totaled fourteen pages. On December 5, 2013, Plaintiff Shamrell filed his fifteen-page opposition to Defendant's motion to stay, arguing the federal cases were both different, and did not overlap with this case.

13. Four days later, on December 9, 2013, Plaintiff Shamrell filed his fourteen-page demurrer opposition. One week earlier, Plaintiff had filed an eight-page opposition to Defendant's request for judicial notice (together with the previously discussed fourteen-page opposition to Defendant's motion for a stay). After considering the oral argument of counsel, in December 2013 the Court denied the motion to stay and ordered discovery to proceed.

14. On January 31, 2014, Plaintiff served his second set of discovery, which included nineteen document requests and fifteen special interrogatories.

15. On March 7, 2014, the Court heard argument on Defendant's second demurrer to Plaintiff's first amended complaint. The Court granted and denied in part Defendant's demurrer. Leave to amend was also granted.

16. One month later, on April 7, 2014, Plaintiff Shamrell filed his second amended complaint, which totaled thirty pages, and joined Class Representative Daryl Rysdyk as a plaintiff. The second amended complaint was lodged in full under seal and a redacted version was filed in the

public record. Over a period of time, Plaintiff's counsel had negotiated with defense counsel a lengthy protective order. In March 2014, the parties submitted a joint statement regarding the proposed protective order.

17. On May 7, 2014, Defendant filed a fifteen-page demurrer to the second amended complaint. On the same day Defendant also moved to strike Plaintiffs' class allegations. In addition, Defendant requested judicial notice and moved to seal its filings. One month later, on June 6, 2014, Plaintiffs filed their fifteen-page opposition to Defendant's demurrer. Plaintiffs also requested leave to amend if demurrer was granted. Ten days later, on June 16, 2014, Plaintiffs filed their twelve-page opposition to Defendant's motion to strike. Plaintiffs also opposed the motion to seal.

18. Simultaneously as the parties were litigating over the pleadings and the adequacy of Plaintiffs' class definitions and class allegations, Plaintiffs were vigorously pursuing discovery. For example, on May 5, 2014, Plaintiffs served a notice duces tecum for a Defendant person most knowledgeable about the then-recently announced iPhone 5 sleep/wake button replacement program. Several weeks later, on May 29, 2014, Plaintiffs moved to compel the production of documents and to compel further responses to Plaintiffs' interrogatories. Plaintiffs' moving papers included a nine-page brief, two lengthy separate statements, one forty-five pages and the other twenty-eight pages, and a declaration with exhibits. Defendant opposed the motion to compel and filed a 323-page declaration in support. Plaintiffs then submitted their ten-page reply and a brief objecting to Defendant's evidentiary submissions. On July 11, 2014, oral argument was taken on Plaintiffs' motion to compel, which the court granted and denied in part.

19. Plaintiffs continued to refine their pleadings and allegations in accordance with the Court's rulings and the evidence. On May 29, 2014, Plaintiffs requested leave to amend their complaint and to obtain discovery to be used in the amendment. Filed concurrently with Plaintiffs' motion for leave to amend were a declaration and separate statement concerning Plaintiffs' disputed document production requests and Plaintiffs' special interrogatories.

20. On June 10, 2014, Plaintiffs filed a motion to compel discovery responses. Shortly thereafter, on June 19, 2014, Plaintiffs filed an amended notice *duces tecum* for a person most

knowledgeable deposition against Defendant, seeking both documents and information about the recently announced iPhone 5 sleep/wake button replacement program. Two weeks later, on June 30, 2014, Plaintiffs deposed a customer service division Defendant employee concerning the person most knowledgeable topics.

21. Following Plaintiffs' early discovery and deposition efforts, Defendant opposed Plaintiffs' request to amend, filing a June 16, 2014 ten-page opposition. Also on June 16, 2014, Defendant filed its 95-page separate statement opposing Plaintiffs' additional discovery efforts.

22. On July 1, 2014, Defendant filed its reply in support of its demurrer. Eight days later, on July 9, 2014, Defendant filed an eight-page response and a forty-six-page declaration in response to Plaintiffs evidentiary objections. One day after this filing, on July 10, 2014 Plaintiffs filed an objection to the supplemental declaration and other material filed by Defendant concerning its opposition regarding leave to amend and motion to compel.

23. On July 11, 2014, the Court heard oral argument on Plaintiffs' motion to compel and issued a minute order granting in part and denying in part Plaintiffs' motion. The Court also granted Plaintiffs leave to amend, directing Plaintiffs to file their third amended complaint on October 13, 2014.

24. Thereafter, the parties vigorously and diligently worked through the many pending discovery issues. Several issues arose, hence on October 8, 2014, the parties submitted a joint stipulation seeking a short continuance for filing Plaintiffs' third amended complaint pending receipt of final discovery responses and production.

25. Following these substantial litigation and discovery efforts, and after substantial document review from the most recent productions and from the amended discovery responses, Plaintiffs' third amended complaint was lodged on October 29, 2014. This complaint totaled forty-three pages.

26. On December 2, 2014, Defendant filed a motion to strike Plaintiffs' third amended complaint, accompanied by a fifty-one page declaration in support. Soon afterward, the Court

requested a streamlining of the third amended complaint. Plaintiffs' fourth amended complaint was then lodged on January 28, 2015.

27. Even during these contentious litigation efforts and the years-long dispute over the pleadings and class definitions, Plaintiffs continued to vigorously pursue discovery. On January 20, 2015, the parties submitted their joint proposed stipulated protective order to protect and govern Defendants' confidential and highly confidential documents and materials. The Court signed off on the stipulated protective order on January 27, 2015.

28. One week after Plaintiffs filed their fourth amended complaint, on February 4, 2015, Defendant filed a fifteen-page motion to strike allegations in the fourth amended complaint. Defendant requested the Court limit the proposed class period to one year. Plaintiff responded with a fourteen-page opposition. On February 20, 2015, Defendant filed its reply in support of its motion to strike. On February 27, 2015, the Court granted in part Defendant's motion to strike and limited the class definition to those California citizens who purchased a Class iPhone and whose power button stopped working or worked intermittently during the warranty period.

29. Ten days later, on March 9, 2015, Defendant answered the fourth amended complaint and asserted twenty affirmative defenses. After consideration of Defendant's answer, ten days later Plaintiff demurred to the affirmative defenses. In response, on May 15, 2015 Defendant amended its answer; on this same day Defendant filed a response to Plaintiffs' demurrer. Plaintiffs also opposed Defendant's request to seal portions of the fourth amended complaint.

30. The vigorous and contentious litigation and discovery efforts continued. As this matter was deemed complex under California Rule of Court 3.400 *et seq.*, on June 1, 2015 the parties submitted a joint stipulation to appoint Hon. Robert E. May (Ret.) as special referee under California Rule of Court 3.901(a). The parties stipulated Judge May was "empowered to supervise, direct, and decide any and all discovery motions and other disputes related to discovery," and the parties had ten days to seek *de novo* review of his decisions with the Court. On June 17, 2015, the Court issued its order appointing Judge May as special discovery master.

31. On June 25, 2015, Defendant moved for summary judgment, summary adjudication, and a Civil Code Section 1781(c)(3) no-merit determination against Plaintiffs' Fourth Amended Complaint. In support of the motion and memorandum, Defendant submitted three employee declarations, each of which contained exhibits supporting summary judgment and summary adjudication. Also in support was a 204-page declaration by the defense, and a 414-page appendix of non-California authorities in support, which Lead Counsel had to review, analyze and respond at length. Also accompanying Defendant's summary judgment motion was a forty-six page compendium of 212 "undisputed material facts" challenging every aspect of Plaintiffs' claims. Lead Counsel had to respond at length to each of Defendants' undisputed material facts.

32. Three weeks later, on July 17, 2015, Plaintiffs moved for class certification with a twenty-page brief, and Class Counsel's declaration in support contained eighty-nine exhibits, and was further supported by a forty-two page declaration by Plaintiffs' mechanical and electrical engineering expert, Charles Curley. Curley had examined the Plaintiffs' Class iPhones, performed teardown examinations on the devices, and conducted user response testing on the phones. At this time, Plaintiffs' counsel was also preparing a response to Defendant's motion for summary judgment and summary adjudication.

33. Plaintiffs sought certification of two classes—one for iPhone 4/4S purchasers, and the other for iPhone 5 purchasers. Plaintiffs supported their motion for class certification with substantial evidence, including deposition testimony, discovery responses, expert evidence, and numerous documents. In total, Plaintiffs submitted eighty-nine exhibits.

34. As Plaintiffs sought to certify the Classes, Class Counsel's discovery efforts continued, including a July 22, 2015 demand to depose two apex-level executives. Defendant opposed, filing a fifteen-page motion and seventy-nine page declaration for a protective order prohibiting the depositions. Class Counsel opposed on August 24, 2015; concurrently Class Counsel was actively reviewing the custodial files and productions from eight employees concerning the Class iPhones.

35. Class certification efforts continued. Before Defendant filed its response to Plaintiffs' class certification motion, the Court of Appeal issued its decision in *Rutledge v. Hewlett-Packard*

Co., 238 Cal. App. 4th 1164 (2015). In Plaintiffs' view, the *Rutledge* decision supported an expanded class period, which had been limited by the Court's order on the motion to strike, and on August 5, 2015, Plaintiffs moved *ex parte* to amend their operative complaint and their motion for class certification. Plaintiffs' brief totaled five pages, accompanied by an eighty-five page declaration, explaining why under *Rutledge* a revised class definition was proper. Plaintiffs also moved *ex parte* to continue the hearing on Defendant's motion for summary judgment and summary adjudication. These two motions were supported by sworn evidence and documents. After consideration of the arguments of counsel, the Court continued the class certification hearing and the hearing on summary judgment and summary adjudication.

36. On September 24, 2015, Class Counsel filed a twelve-page motion to compel. On this same day, Defendant sought a protective order on these same matters. Dueling oppositions were exchanged on October 5, 2015, including memoranda and supporting declarations. Following these efforts, the Discovery Master's rulings were appealed to the Court. Thereafter, the Court held a status conference.

37. During the December 4, 2015 status conference, the Court agreed to take briefing on what impact the *Rutledge* decision had on the Court's prior order striking certain class allegations. After a full briefing by the parties, the Court denied the request for reconsideration.

38. On January 15, 2016, Plaintiffs lodged their response to Defendant's motion for summary judgment and summary adjudication. Defendant's moving brief, which was twenty pages, raised numerous arguments in support of summary adjudication. Defendant's statement of undisputed facts totaled forty-six pages. The summary judgment motion was also supported by two declarations from Defendant employees, one of which exceeded ninety pages with exhibits and the other thirty pages with exhibits. Defendant relied on almost 200 pages of additional evidence. In addition, Defendant moved to seal substantial parts of the summary judgment evidence.

39. Plaintiffs summary judgment opposition was a twenty-page opposition brief. In a 118-page document with over 212 entries, Plaintiffs provided contravening evidence for most of Defendant's alleged undisputed facts. Beyond this evidence, Plaintiffs adduced an additional forty-

four pages of material facts and eighty-four exhibits opposing summary judgment. Altogether Plaintiffs' responsive papers exceeded 220 pages and were accompanied by at least 84 exhibits, including excerpts from eight depositions. Plaintiffs also defended their evidence from Defendant's attack in a seven-page opposition.

40. After Defendant filed its reply papers, the Court heard oral arguments on the motion for summary judgment and summary adjudication. In its March 15, 2016 Order, the Court overruled Plaintiffs' evidentiary objections, and it also overruled Defendant's evidentiary objections. The Court denied the motion in part and granted it in part. The Court granted summary adjudication in Defendant's favor for, among other things, the implied warranty claims under the UCC and Plaintiff Shamrell's express warranty claim, but denied Defendant's motion as to the majority of Plaintiffs' claims. Through a nine-page brief, Plaintiffs also opposed a motion to seal the summary judgment record.

41. On March 29, 2016, Plaintiffs lodged their amended motion for class certification, which included at twenty page memorandum and over 800 pages of supporting exhibits.

42. Defendant responded to the amended motion for class certification with a twenty-page opposition on April 29, 2016. As evidentiary support, Defendant cited deposition testimony from experts Curley and Xitco and from Plaintiffs Shamrell and Rysdyk. Defendant also submitted a ten-page declaration from a former Director, which attached over 250 pages of internal documents, an eleven-page declaration from a former senior manager, which included more than fifty pages of exhibits, and an expert declaration from Professor Lorin Hitt, who raised many challenges to Plaintiffs' proposed measure of damages in his twenty-four page sworn statement. Defendant also filed a seven-page brief with evidentiary objections to Xitco's expert declaration and the deposition testimony from expert Curley.

43. In their June 28, 2016 reply, Plaintiffs filed a fifteen-page brief addressing arguments raised in Defendant's class certification opposition papers. Plaintiffs also filed a 132-page declaration, wherein Plaintiffs rebutted allegations against experts Curley and Xitco with additional deposition testimony and augmented the factual record with additional documents. After deposing

Defendant expert Loren Hitt, Plaintiffs moved to exclude on admissibility grounds many statements in his declaration. The brief opposing the Hitt declaration totaled fifteen pages. Plaintiffs also filed nineteen pages of evidentiary objections against Defendant's two other declarations and defended the opinions of experts Curley and Xitco in a twelve-page brief.

44. After Defendant filed its closing papers, the Court issued a tentative decision and then on July 8, 2016 held an extensive oral argument (over sixty pages of transcript) on the amended motion for class certification. The Court found Plaintiffs had met the requirements for ascertainability and numerosity. The Court, however, concluded additional evidence was needed to establish how classwide damages would be calculated. The Court continued the hearing on class certification to allow Plaintiffs to conduct additional discovery and supplement the record.

45. On September 6, 2016, Plaintiffs filed another motion to compel seeking additional discovery documents. Plaintiffs' twelve-page motion was accompanied by a declaration containing twenty-four exhibits. Defendant opposed. Plaintiffs' eleven-page reply and supporting declaration was filed on September 16, 2016, along with evidentiary objections to Defendant's declaration.

46. At the September 20, 2016 hearing, the Discovery Master requested additional briefing concerning Plaintiffs' motion to compel. Plaintiffs responded on September 29, 2016 with a seventeen-page single-spaced letter brief and a supporting declaration containing sixty-eight exhibits. The response also included an eighteen-page declaration from Plaintiffs' reliability engineering expert. Defendant also submitted a letter brief to Judge May, which Plaintiffs responded to on October 6, 2016 in a six-page letter brief. Following these efforts, the Discovery Master granted in part and denied in part Plaintiffs' motion for additional discovery records, and also granted Defendants' motions concerning sealing.

47. On November 21, 2016, the Parties jointly requested the class certification hearing be continued until the additional documents could be produced, reviewed, and examined by the experts.

48. On January 3, 2017, Plaintiffs lodged their sixteen-page supplemental brief supporting class certification. Plaintiffs supplemented the factual record with more documents, a supplemental

declaration from Heather Xitco, and a twenty-three-page declaration from Fred Schenkelberg, a failure rate expert.

49. Defendant responded with a February 2, 2017 brief of twenty pages, including employee declarations, expert declarations, and evidentiary objections against Plaintiffs' expert witnesses. During these class certification efforts, Plaintiffs continued to pursue additional discovery, including serving a fourth set of special interrogatories on Defendant. Defendant also sought additional discovery, including filing a motion to compel a second deposition of Plaintiff's expert Heather Xitco, which the Discovery Master granted in part on January 19, 2017.

50. On February 10, 2017, the Court took argument on the parties' supplemental filings regarding class certification. Once more, oral argument was extensive, exceeding fifty pages in transcript. The Court continued the hearing for supplemental briefing. On March 3, 2017, Plaintiffs filed their supplemental submission regarding evidence of aggregate damages. In support, Plaintiffs submitted another expert declaration from Heather Xitco, which totaled six pages and included approximately forty-six pages of additional documents. In addition, Plaintiffs relied on the expert declaration of economist Greg Pinsonneault, who explained in a thirty-page declaration how Plaintiffs could prove diminished value. Dr. Ramamirtham Sukumar, who also offered experts opinions for Plaintiffs, identified conjoint analysis as another means of establishing class-wide relief. Plaintiffs also submitted additional deposition testimony from Xitco to rebut challenges against her, and other supportive documents from Defendant. In addition, the two proposed class periods were modified to exclude persons whose Class iPhones had been repaired or replaced by Defendant.

51. On March 30, 2017, Defendant filed its opposition to this supplemental damages briefing with its own twenty-page brief. Defendant disputed common evidence could establish any of the three measures of damages Plaintiffs' experts had proposed, challenged Fred Schenkelberg's methodology for calculating class size, and asserted *Sargon* objections to the expert evidence. Defense expert Hitt submitted another declaration, totaling twenty-three pages, and McCrary provided a supplemental declaration directed at Schenkelberg'e opinions. Defendant also added another expert, Dr. Olivier Toubia, who criticized Dr. Sukumar's proposed use of Formula 14, and

supplemented the record regarding the trade-in program addressed in Pinsonneault's opinions with more sworn statements. In addition, Defendant moved to strike Plaintiffs' expert evidence, filing more than forty pages of objections.

52. On April 7, 2017, Plaintiffs filed their reply in support of the supplemental submission regarding evidence of aggregate damages. Plaintiffs supported their reply brief with expert declarations and testimony from the depositions of their experts. In addition, Dr. Sukumar submitted a reply declaration to the challenges raised by Toubia. Further, Plaintiffs filed ten pages of objections to a declaration of a Defendant employee and responded to the evidentiary objections to their experts' opinion with over 100 pages of briefing.

53. One week later, the Court heard oral argument on the motion for class certification once more. Again, argument was extensive, surpassing fifty pages of transcript. After argument and consideration of the factual record, the Court confirmed its tentative ruling. The Court certified a class of iPhone 4 and iPhone 4S purchasers, and one of iPhone 5 purchasers.

54. Soon afterward, Defendant moved to seal components of the fourth amended complaint. Plaintiffs opposed this request with a fifteen-page brief. Defendant replied, and then the Court ruled in its favor. Defendant requested and received permission for certain court filing to be placed under seal.

55. On June 6, 2017, before class notice was sent, Defendant requested a writ of mandate from the Court of Appeal regarding the certification order and a stay of the proceedings. The writ petition was almost fifty pages and was accompanied by seventeen volumes of the record. Plaintiffs opposed the stay the next day, which was denied. After being requested to do so, Plaintiffs filed a lengthy and substantive informal response with the Court of Appeal. Plaintiffs filed their verified answer and formal return with the Court of Appeal on August 30, 2017. This document exceeded sixty pages. In January 2018, the Court of Appeal held oral argument on Defendant's writ petition. Two weeks later, the Court of Appeal issued the writ and vacated the order certifying the two classes in *Apple Inc. v. Superior Court*, 19 Cal. App. 5th 1101 (2018). The appellate court instructed the Court to reconsider its class certification order under the governing legal standards, including *Sargon.*

Plaintiffs requested de-publication of the opinion, which the Supreme Court denied. Remittitur issued the next day.

56. On June 1, 2018, the Court held a status conference. Then on August 17, Plaintiffs filed a post-remand brief supporting class certification. The memorandum was nineteen pages in length and addressed concerns raised by the Court of Appeals. Fred Schenkelberg submitted a supplemental declaration of twenty-seven pages, which detailed his methodology. Dr. Sukumar also provided a supplemental declaration, comprising twenty-one pages. Likewise, economist Greg Pinsonneault augmented his evidence with a supplemental declaration, which included forty-one pages of textual explanations and twenty-one pages of supporting schedules. Heather Xitco submitted another declaration, this one nine pages in length and accompanied by numerous supporting documents. In addition, Plaintiffs augmented their motion for class certification with deposition testimony, more than forty additional documents, and a voluminous record of documents on which Greg Pinsonneault relied.

57. Defendant opposed Plaintiffs' supplemental submissions after remand with a twenty-five-page brief. Defendant supplemented the record with additional deposition testimony from Plaintiffs and their experts, who at this time had been deposed multiple times, and a declaration from a Defendant employee. Defendants challenged the expert opinions of Plaintiffs' three damages experts with another declaration from Dr. Hitt (forty-seven pages and addressing Xitco, Pinsonneault, and Sukumar), additional evidence from Dr. Toubia (twenty-three pages against Dr. Sukumar), and another supplemental declaration from Dr. McCrary (twenty-eight pages against Schenkelberg). Defendant also objected to substantial portions of the expert evidence, including under *Sargon*, totaling over 100 pages.

58. On reply, Plaintiffs filed a fifteen-page brief, submitted additional deposition testimony from their experts, and submitted additional documents supporting certification. Further, Plaintiffs submitted a twenty-page reply declaration from Pinsonneault, a reply declaration from Schenkelberg, and a reply declaration from Dr. Sukumar. Like the defense, Plaintiffs also filed evidentiary objections. Together the objections exceeded forty pages, and the response to Defendant's expert

evidence objections surpassed 100 pages. Plaintiffs also opposed Defendant's motion to strike the reply declarations.

59. On November 16, 2018, the Court again heard oral argument on Plaintiffs' motion for class certification. Argument was extensive, covering over seventy pages of transcript. The Court, however, deferred ruling so Defendant could file a short supplemental submission regarding Schenkelberg, which occurred on November 21. One week later, Plaintiffs responded. Then on January 7, 2019, the Court recertified the two classes of iPhone purchasers. On February 26, Defendant petitioned the Court of Appeal for a writ. Defendants moving papers were massive, including a fifty-page brief and twenty-five volumes of materials from the record. On March 14, 2019, Plaintiffs filed an eleven-page informal response to Defendant's writ petition and supplemented the record in the Court of Appeal. The Court of Appeal denied Defendant's request.

60. Plaintiffs finalized the proposed class notice. Some work on class notice had been conducted between the time the Court granted class certification in April 2017 and the Court of Appeal accepted Defendant's writ, but this required updating and many other tasks need completion. For example, Plaintiffs drafted a proposed notice for class members and modified the notice after Court input. Plaintiffs interviewed and proposed a third-party to effectuate class notice. They developed a proposed notice program to meet the specific legal requirements of the certified claims and maximize contact with absent class members. Notice involved direct email distribution and postcard mailings, which involved working with Defendant to identify as many class members as possible and transfer this information to the claims administrator. After receiving Court approval, Plaintiffs initiated the class notice program.

61. Also in early 2019, Plaintiffs pursued additional third-party discovery via subpoenas and out-of-state commissions. Concurrently Class Counsel worked on the final Class notice plan, opposed the writ to the California Appellate Court, and began preparations for trial, starting with expert disclosures.

II. Trial Preparation

62. On April 19, 2019, the parties disclosed their trial experts. Plaintiffs designated five trial experts. Defendant identified four trial experts. In their second designation of trial experts, Plaintiffs disclosed a rebuttal expert and Defendant identified four rebuttal experts. After designating their expert witnesses, Plaintiffs devoted substantial effort in assisting their experts in finalizing their opinions. Models were being adjusted and tested, Plaintiffs obtained additional documents and information from Defendant and third parties, including the major wireless carriers, and identified and obtained other information for their experts to consider.

63. Deposition schedules were adjusted to account for the additional production of certain information. All the while Plaintiffs were aiding their experts in forming their final trial opinions, Plaintiffs were preparing to depose Defendant's experts to discover their trial opinions. Expert depositions occurred in New York City, San Diego, San Francisco, and elsewhere in the Bay Area.

64. On July 8, 2019, Plaintiffs moved to exclude opinions of McCrary and Nauhaus. Plaintiffs filed a fifteen-page challenge to McCrary and filed a ten-page objection to Nauhaus's opinions. Defendant moved to exclude all five of Plaintiffs' experts, filing more than fifty pages of briefing. On August 7, 2019, Plaintiffs filed a fifteen-page opposition to the motion to exclude damages expert Pinsonneault. Accompanying the opposition to exclude Pinsonneault was a declaration summarizing his principal conclusions.

65. Plaintiffs responded to the *Sargon* challenge to expert Curley with a fifteen-page brief and expert Schenkelberg with a thirteen-page brief. Along with the opposition, Plaintiffs submitted a lengthy declaration in opposition from Schenkelberg.

66. Plaintiffs filed a six-page brief to respond to the motion to exclude Dr. Roberts's rebuttal opinions, and filed an eight-page brief concerning defense expert McCrary, and a five-page reply supporting the motion to exclude expert Nauhaus.

67. About six weeks before trial, the parties reached a settlement in principle. The Parties then began drafting details of the settlement agreement, and thereafter began drafting settlement-related papers. Even with agreement on principle terms, it took significant effort to finalize the

settlement agreement itself, and additional time thereafter to finalize related documents. On or about October 24, 2019, the Parties executed the finalized twenty-page Settlement Agreement, thereafter submitted to the Court as Exhibit 1 of the Deborah Dixon Declaration in support of Plaintiffs' preliminary approval application.

68. Plaintiffs also expended substantial effort in other areas of trial preparation. Depositions and declarations needed to be reviewed and considered for identification of trial witnesses. Voluminous documentary evidence was reviewed for identification of trial exhibits. After consideration and reconsideration of the testimony and documentary evidence, trial themes were developed, and additional trial exhibits identified. Plaintiffs drafted proposed jury instructions. Above all, even though this case settled before trial, Plaintiffs spent substantial time building their trial plan and trial evidence.

III. Investigation and Discovery

69. Before filing this case and during active litigation, Plaintiffs conducted substantial investigation, research, and discovery about their claims and Defendant's devices. This included significant pre-complaint factual research for all three models and legal research of potential claims and venues.

70. Plaintiffs served Defendant with form and special interrogatories, document requests, and requests for admission. In addition to reviewing documents from Defendant, counsel spent substantial time investigating Plaintiffs' claims and bolstered their knowledge of the alleged defect in the three models of iPhones at issue, including gaining familiarity with the types and kinds of materials and data both Defendant and third parties wireless carriers collected. Class Counsel's experience with smartphone product liability litigation helped inform the discovery process.

A. Parties' document production, Defendant's privilege log, and Class Counsel's efforts to conserve litigant resources via cost-efficient document management

71. This case involved substantial document production with defendant producing over 180 gigabytes of data comprised of over 550,000 documents and almost 3.9 million pages. And even these numbers underrepresent the total production as a substantial portion of the documents produced were

native file Excel spreadsheets, which were given a single bates number for identification, even though most spreadsheets contained hundreds or thousands of additional pages of data to be reviewed. Approximately 20% of the total documents produced were native files, primarily in Excel spreadsheet form.

72. Defendant's document productions included responsive documents from the custodial files of fifteen current or former Defendant employees. The documents were produced in 74 productions beginning in March of 2014 and ending in August of 2019. The selection of the custodians, including the total number of custodians and which specific custodians would be produced, resulted from multiple meet and confers between the parties and multiple motions to compel.

73. The parties also spent substantial time conferring over the appropriate keywords to be used to search for responsive documents. Because Defendant has its own unique nomenclature for its products and processes, the identification of search keywords was an ongoing process which inevitably required multiple meet and confers and even intervention of the discovery referee.

74. Due to the number of experts for both sides, expert discovery included a substantial production of documents by the experts. Eleven experts were designated as expert witnesses in this matter (six by Plaintiffs, five by Defendant). As part of the production of the materials these experts relied upon in forming their opinions, these experts produced several thousand pages of documents.

75. Typically, in a class case with a document production of this scale, Class Counsel would retain a third party to upload and host the document production, whereafter document review would be accomplished using the third party's software and platform. Typical examples include LexisNexis's Concordance, Cloudnine and Relativity. Class Counsel did not outsource the massive document production to a third-party vendor. Instead, relying on Class Counsel's technical expertise and knowledge of data management, Counsel instead maintained the database internally and used highly cost-efficient, proprietary commercial software for storage and review. Class Counsel's ability to manage the document productions in-house reduced litigation discovery and document production expenses, resulting in more money available to the Certified Classes.

76. Defendant produced a privilege log and a log of redacted materials which identifies documents withheld from production based on privilege and redacted documents. Defendant's Confidential privilege log was over 900 pages in length and contained just under 4,000 entries, with many of the individual entries identifying multiple documents withheld under privilege. Defendant's confidential redaction log was also large at just under a combined 200 pages, with an unknown number of entries as the entries were not numbered. Reviewing the entries required substantial time and the parties had several meet and confers to discuss those entries.

B. Depositions

77. The parties took a combined thirty-five depositions. Plaintiffs took nineteen depositions and Defendant took sixteen depositions. Plaintiffs deposed nine fact witnesses, took four depositions of Defendant under Section 2025.210 of the California Code of Civil Procedure, and took six depositions of Defendant's designated expert witnesses. Defendant took fourteen depositions of Plaintiffs' designated expert witnesses, some of whom were deposed three times, and deposed both Class Representatives.

1. Fact witness depositions

78. Plaintiffs deposed nine current and/or former Defendant employees as fact witnesses. In 2015, Plaintiffs took the depositions of several employee directors, senior directors, and several senior managers, and corporate representatives after they were designated as persons most knowledgeable on various topics. Class Counsel defended the depositions of both Class Representatives in 2015.

79. In 2017, Plaintiffs deposed an employee senior manager and senior director who were both deposed as corporate representatives after being designated as persons most knowledgeable. In 2019, Plaintiffs deposed another employee senior manager and senior director. In 2019, Plaintiffs also deposed two senior executives. A complete list of fact witness depositions:

FACT WITNESS DEPOSITIONS

Deponent	Date	Location	Length
Senior Director	June 30, 2014	Menlo Park, CA	full day
Plaintiff Anthony Shamrell	March 13, 2015	Moreno Valley, CA	full day
Plaintiff Daryl Rysdyk	March 17, 2015	San Diego, CA	full day
Director	March 31, 2015	Menlo Park, CA	full day
Senior Manager	April 03, 2015	Menlo Park, CA	full day
Manager	June 7, 2015	Menlo Park, CA	full day
Senior Manager	October 28, 2015	Menlo Park, CA	full day
Manager	November 18, 2015	Menlo Park, CA	full day
Senior Director	December 16, 2015	Menlo Park, CA	full day
Senior Manager	June 5, 2017	Menlo Park, CA	full day
Senior Director	June 20, 2017	Menlo Park, CA	full day
Senior Manager	May 21, 2019	Menlo Park, CA	half day
Senior Director	May 22, 2019	Menlo Park, CA	half day
Senior Vice-President	August 2, 2019	Menlo Park, CA	full day
Vice-President	August 14, 2019	Menlo Park, CA	full day

2. Expert witness depositions

80. This complex class action required the use of numerous expert witnesses for both parties. Plaintiffs disclosed six retained expert witnesses and Defendant disclosed five retained experts. There were twenty expert witness depositions, with Plaintiffs taking six depositions of Defendant's experts and Defendant taking fourteen depositions of Plaintiffs' experts. Plaintiffs

Reliability Engineering Expert (Schenkelberg), Economics and Damages Model Expert (Pinsonneault) and Account and Damages Expert (Xitco) were each deposed three times (2017, 2018 and 2019). Plaintiffs' Electrical and Mechanical Engineering Expert (Curley) and Conjoint Analysis Expert (Dr. Sukumar) were each deposed twice. Plaintiffs deposed all of Defendant's retained expert witnesses with Dr. Loren Hitt being deposed twice (2016 and 2019). A complete list of expert witness depositions:

EXPERT WITNESS DEPOSITIONS

Deponent	Date	Location	Length	Description
Charles Curley, M.Sc.	August 10, 2016	San Diego, CA	full day	Deposition of Plaintiffs' Electrical and Design Engineering Expert
Heather Xitco	April 18, 2016	San Diego, CA	full day	Deposition of Plaintiffs' Damages Expert re: Accounting
Loren Hitt, Ph.D.	May 23, 2016	San Francisco, CA	full day	Deposition of Defendant's Expert on Economics
Fred Schenkelberg	January 20, 2017	Menlo Park, CA	full day	Deposition of Plaintiffs' Reliability Engineering Expert
Heather Xitco	January 27, 2017	San Diego, CA	full day	Deposition of Plaintiffs' Damages Expert re: Accounting
Greg Pinsonneault, M.A. (Economics)	March 17, 2017	Oakland, CA	full day	Deposition of Plaintiffs' Economics and Damages Expert
Ramamirtham Sukumar, Ph.D.	March 24, 2017	New York, NY	full day	Deposition of Plaintiffs' Damages Expert Re: Conjoint Analysis
Greg Pinsonneault, M.A. (Economics)	September 18, 2018	Oakland, CA	full day	Second Deposition of Plaintiffs' Economics and Damages Expert

Deponent	Date	Location	Length	Description
Heather Xitco	September 24, 2018	San Diego, CA	full day	Third Deposition of Plaintiffs' Damages Expert re: Accounting
Fred Schenkelberg	September 26, 2018	Menlo Park, CA	full day	Second Deposition of Plaintiffs' Reliability Engineering Expert
Ramamirtham Sukumar, Ph.D.	March 24, 2019	New York, NY	full day	Second Deposition of Plaintiffs' Damages Expert Re: Conjoint Analysis
Olivier Toubia, Ph.D.	May 30, 2019	New York, NY	full day	Deposition of Defendant's Expert on Conjoint Analysis
Greg Pinsonneault, M.A. (Economics)	June 03, 2019	Oakland, CA	full day	Third Deposition of Plaintiffs' Economics and Damages Expert
Fred Schenkelberg	June 03, 2019	Menlo Park, CA	full day	Third Deposition of Plaintiffs' Reliability Engineering Expert
Charles Curley, M.Sc.	June 05, 2019	New York, NY	full day	Second Deposition of Plaintiffs' Electrical and Design Engineering Expert
Loren Hitt, Ph.D.	June 06, 2019	San Francisco, CA	full day	Second Deposition of Defendant's Economics Expert
Justin McCrary, Ph.D.	June 07, 2019	San Francisco, CA	full day	Deposition of Defendant's Economics Expert and Rebuttal to R. Sukumar
Genevieve Nauhaus	June 11, 2019	San Diego, CA	full day	Deposition of Defendant's Human Factors Expert
James Roberts, Ph.D.	June 12, 2019	San Diego, CA	full day	Deposition of Plaintiffs' Human Factors Expert
Shukri Souri,	June 14, 2019	San Francisco,	full day	Deposition of Defendant's

Deponent	Date	Location	Length	Description
Ph.D.		CA		Engineering Expert and Rebuttal to Charles Curley

81. The experts above, from fields such as mechanical engineering, electrical engineering, product liability and testing, reliability engineering, failure analyses, consumer surveys, and finance and damages, emphasizes the highly technical nature of this class action. The expert discovery performed was exhaustive and allowed the Parties to develop a complete and thorough understanding of the many expert-related issues. The twenty expert depositions taken in this case confirms how vigorously and thoroughly the matter was litigated.

C. Class Counsels' document and written discovery efforts, including six hearings before the Special Discovery Referee and additional Court hearings

82. This case covered three models of the iPhone and involved conduct over a four-year period. This resulted in substantial written discovery by the Parties. Plaintiffs' propounded eighty-four document requests in five sets of document production requests and 117 special interrogatories in six sets of special interrogatories. Defendant propounded thirty-four special interrogatories, eleven document production requests and eighteen requests for admission to each named Plaintiff.

83. The Parties engaged in a myriad of discovery disputes, resulting in multiple discovery motions being heard by the Special Discovery Referee and by the Court. Plaintiffs filed at least four Motions to Compel Further Production and Responses by Defendant, and Defendant also filed a Motion to Compel Plaintiffs to provide further Special Interrogatory responses and two Motions for Protective Order seeking to prevent Plaintiffs from deposing certain employees. The Parties also engaged in substantial meet and confer efforts in attempts to avoid a motion to compel. This included at least thirty-five letters from Plaintiffs outlining alleged deficiencies in discovery productions and responses.

84. There were at least six hearings before the Special Discovery Referee, the Hon. Robert May of JAMS, to resolve discovery disputes between the Parties, each of which were lengthy, contested hearings with experienced and well-prepared counsel. The volume of document production

along with the number of depositions also resulted in the Parties engaging in many discovery meet and confers, both orally and in writing, including Class Counsel sending 35 discovery dispute letters.

85. **Year 2013**. Following the litigation's inception, on July 17, 2013 Plaintiff served Defendant with the first set of written discovery including Form Interrogatories, 22 Special Interrogatories, 25 Requests for Production and Form Interrogatories requesting information and documents relating to the iPhone 4 and 4S. On September 11, 2013, Defendant served objections and responses to Plaintiff's first set of special Interrogatories and first set of document production requests. On October 11, 2013, Plaintiffs sent Defendant a fifteen-page discovery letter.

86. **Year 2014**. In January 2014, Plaintiffs sent the defense discovery letters concerning document production, the proposed ESI protocol, and a draft protective order governing confidential information and trade secrets. Then Plaintiffs served their second set of special interrogatories and second set of document production requests requesting information and documents about the iPhone 5.

87. In February 2014, Plaintiffs sent an additional discovery letter concerning Plaintiffs' First Set of Special Interrogatories and Document Requests, and thereafter the defense served amended responses to the interrogatories and document production requests. Plaintiffs issued the first out-of-state subpoena to T-Mobile USA, Inc. in Bellevue, Washington requesting data for the sale of the Class iPhones in California during the Class Period and information about any complaints made to T-Mobile regarding the sleep/wake button on the Class iPhones. On February 25, 2014, Plaintiffs issued a similar subpoena to Verizon Wireless Telecom, Inc.

88. On March 6, 2014, Plaintiffs received Document Production No. 1, comprising eighty pages of documents. Also in March 2014, Plaintiffs received additional discovery responses from Defendant, as well sending Defendant additional discovery letters about alleged deficiencies in Defendant's discovery responses. In March 2014, Plaintiffs T-Mobile and Verizon objected to Plaintiffs' subpoenas. After several meet and confer sessions, in August 2014, T-Mobile produced 6,888 pages of documents about complaints made to T-Mobile. At the same time, the Parties continued to exchange discovery meet-and-confer letters.

89. In May 2014, Plaintiffs issued a Notice of Deposition under California Code of Civil Procedure seeking a designated corporate representative to testify about the iPhone 5 Sleep/Wake Button Replacement Program. A short time later, Defendant objected to Plaintiffs' Notice of Deposition. After a meet and confer with Defendant over the deposition notice, a new notice was issued narrowing the deposition topics, and Plaintiffs deposed the corporate representative on June 30, 2014.

90. Also in May 2014, Plaintiffs received additional Amended Responses to Plaintiffs' First Set of Special Interrogatories as well as Document Productions No. 2 and 3, which were comprised of 7,932 and 9,476 pages of documents, respectively. Approximately a week later, Plaintiffs filed a Motion to Compel Defendant to produce documents and further respond to Special Interrogatories. The Motion comprised an eleven-page brief, forty-seven page Separate Statement of Disputed First Set of Discovery Requests and a thirty-one page Separate Statement of Disputed Second Set of Discovery Requests. On June 16, 2014, Defendant opposed Plaintiffs' motion to compel. Plaintiffs filed a twelve-page reply brief supporting their motion to compel. The Court heard oral argument on this matter on July 11, 2014.

91. On July 31, 2014, Plaintiffs issued a second deposition notice under Section 2025(d)(6) seeking a designated corporate representative to testify on topics concerning the iPhone 4S sleep/wake button and all post-release design or manufacturing changes to the button. Also on July 31, 2014, Plaintiffs served their third set of special interrogatories, accompanied with a declaration from Class Counsel in support of the necessity to exceed the number of special interrogatories allowed under California Code of Civil Procedure Section 2030.030.

92. In August 2014, Defendant served its third amended responses to Plaintiffs first set of special interrogatories and document production requests and amended responses to the second set of special interrogatories and document production requests. The Class Representatives were served with Defendant's first set of nineteen special interrogatories, eleven document production requests, eighteen requests for admission, and form interrogatories to each Plaintiff.

93. On September 5, 2014, Plaintiffs received Document Production No. 4 comprised of 12,758 documents and 836,544 pages. On September 10 and 11, 2014, Plaintiffs received Document Production Nos. 6 and 7 comprised of over 2,500 documents and 512,723 pages. On September 17, 2014, Plaintiffs served objections and responses to Defendant's interrogatories, admission requests, document production requests, and form interrogatories, totaling forty-two pages. Following this response, Plaintiffs issued another out-of-state subpoena to AT&T Mobility, LLC in Atlanta, Georgia seeking sales and complaint data regarding the Class iPhones. After a meet and confer, AT&T produced documents on October 7, 2014.

94. On September 21, 2014, Plaintiffs received Document Production Nos. 8-18 comprised of 22,318 documents and 271,242 pages. On September 25, 2014, Plaintiffs received Document Production Nos. 19-21 comprised of approximately 4,000 documents and 97,188 pages. On September 30, 2014, Plaintiffs received Document Production Nos. 22-25 comprised of approximately 7,500 documents and 177,431 pages. Following these productions, Plaintiffs received a thirty-three page response and objection to their third set of special interrogatories.

95. On December 3, 2014, Plaintiffs issued a third-party subpoena to an entity that makes certain component parts of the iPhone sleep/wake button. After a meet and confer with this entity, an amended third-party subpoena was issued on April 21, 2015.

96. Also in December 2014, Plaintiffs were served with additional defense document discovery, and demands to supplement Plaintiffs' interrogatory answers and document responses. On December 16, 2014, Defendant issued deposition notices to Plaintiffs Shamrell and Rysdyk, along with another plaintiff. Defendant deposed Plaintiff Shamrell on March 13, 2015 in Moreno Valley, CA and Plaintiff Rysdyk on March 17, 2015 in San Diego, CA.

97. **Year 2015.** On January 20, 2015, the Parties submitted a jointly negotiated Protective Order for the production of documents and other confidential information. The eighteen-page Protective Order resulted from months of vigorous negotiation between the Parties and was entered by the Court on January 27, 2015.

98. In February 2015, Plaintiffs responded to the demand for further responses by supplementing their responses to interrogatories, requests for admission, document production requests, and form interrogatories. Also in February 2015, Plaintiffs received Defendant's initial privilege log and confidential redaction log. Defendant's privilege log was 411 pages long and contained 1,333 entries while the initial confidential redaction log was 46 pages long.

99. On February 26, 2015, Plaintiffs received Document Production Nos. 26-30, comprised of 14,336 pages of documents. Plaintiffs received Document Production No. 31 on March 6, followed by Document Production No. 32 on March 12. Production Nos. 31 and 32 totaled 208 pages of documents.

100. In March 2015, Plaintiffs served a second set of form interrogatories on Defendant, and thereafter sent a meet-and-confer letter concerning the privilege log and confidential redaction log. Then Plaintiffs' third set of document production requests were served. On March 23, 2015, Plaintiffs received Document Production No. 33 comprised of 8,094 pages. Then on March 26, Plaintiffs received Production Nos. 34-35 comprised of 15,269 pages.

101. On March 25, 2015, Plaintiffs served deposition notices for an employee director and an employee senior manager, who were deposed on March 31, 2015 and April 3, 2015, respectively.

102. Also in March 2015, the Court ordered the Parties to retain a discovery referee to preside over any discovery disputes between the Parties. After meeting and conferring, in May 2015 the Parties agreed on the Hon. Robert E. May (Retired) of JAMS as the special discovery referee. On June 1, 2015, the Parties submitted a joint stipulation appointing Judge May as the discovery referee, which the Court granted on June 17, 2015.

103. On April 3, 2015, Plaintiffs received Document Production No. 36 comprised of 3,528 documents. On April 10, 2015, Plaintiffs received Production No. 37 and Production No. 38 was produced on April 17, 2015. Productions No. 37 and 38 comprised 16,357 and 32,200 documents, respectively. On April 21, 2015, Plaintiffs prepared and served an Amended Subpoena on third-party Panasonic Corp. of North America.

104. On April 23, 2015, Plaintiffs received Document Production No. 39-40 comprised of 21,517 documents combined. On April 30, Plaintiffs received Production Nos. 41-43 which totaled 26,529 documents. On April 29, 2015, Defendant served a Demand for Inspection and Testing on Plaintiffs under California Code of Civil Procedure Sections 2031.010 and 2031.020(a) seeking to perform an inspection and non-destructive testing of the Plaintiffs' iPhones.

105. In May 2015, additional discovery responses and objections were served. On May 21, 2015, Plaintiffs issued a third-party subpoena to a consulting company, which was served on June 8, 2015. After several meet and confer discussions, the company responded to the third-party subpoena on September 1, 2015 producing approximately 141 pages of documents. On May 28, 2015, Plaintiffs issued an out-of-state subpoena to a data analytics consulting firm, who thereafter served objections and responses to Plaintiffs' out-of-state subpoena. On July 6, 2015, after several meet and confer discussions with Plaintiffs' counsel, the firm produced approximately 161 pages of documents.

106. On June 4, 2015, Plaintiffs served deposition notices for an employee manager and a senior manager, who were deposed on June 7, 2015 and October 28, 2015, respectively. Then on June 11, 2015, Plaintiffs received Document Production No. 44, comprised of 22,991 pages of documents.

107. On July 8, 2015, Plaintiffs received a written response to Plaintiffs' subpoena to Panasonic Corporation requesting additional time to respond. On July 10, 2015, Plaintiffs received Document Production Nos. 45-46 comprised of 28,244 pages of documents. On July 30, Plaintiffs received Production Nos. 47-48 totaling 2,364 pages.

108. On July 23, 2015, Plaintiffs noticed depositions for employee vice presidents. On July 27, 2015, Defendant issued a notice of deposition for Plaintiffs' Electrical and Mechanical Engineering Expert, Charles Curley. On August 10, 2015, Defendant deposed Mr. Curley in a full-day deposition.

109. On August 4, 2015, Defendant filed a sixteen-page protective order motion concerning two depositions, and twenty days later Plaintiffs filed a nineteen-page opposition, which included twenty-seven exhibits. On August 31, 2015, Defendant filed a thirteen-page reply in support. On

September 4, 2015, the Parties held a two-hour hearing before the Hon. Robert May on Defendant's protective order motion.

110. On September 16, 2015, Plaintiffs issued deposition notices for an employee director and a senior director. On September 24, 2015, Defendant filed a motion for protective order. On October 5, 2015, Plaintiffs filed a nineteen-page opposition, and on October 12, 2015, Defendant filed a reply.

111. On September 24, 2015, Plaintiffs filed a 16-page Motion to Compel with fifteen exhibits seeking to compel additional document production from Defendant.

112. On October 7, 2015, Plaintiffs served another deposition notice under California Code of Civil Procedure Section 2025(d)(6) seeking a corporate representative(s) to testify about IT infrastructure. Plaintiffs deposed Defendant's corporate representative on November 28, 2015.

113. On October 16, 2015, the Parties appeared before the Hon. Robert May in a hearing to address Plaintiffs' Motion to Compel and Defendant's Motion for Protective Order. On October 30, 2015, Plaintiffs received Document Production No. 49 comprised of 125 documents.

114. On December 24, 2015, the Hon. Robert May issued a Report and Recommendation after hearing Plaintiffs' Motion to Compel and Defendant's Motion for Protective Order.

115. **Year 2016**. On April 18, 2016, Defendant deposed Plaintiffs' damages expert and accountant Heather Xitco in San Diego.

116. On May 6, 2016, Plaintiffs issued a deposition notice for Defendant's Economics/Damages expert, Loren Hitt, Ph.D., who was deposed on May 23, 2016 in San Francisco, CA. Plaintiffs served a fourth set of document production requests and also requested supplemental special and form interrogatory responses. Amended responses were received on August 2, 2016.

117. On June 15, 2016, Plaintiffs received Document Production Nos. 50-51 comprised of 19,623 documents and 42,147 pages. Plaintiffs then received Production Nos. 52, 53, and 54 on July 17 and July 23, 2015. Production Nos. 52-54 comprised 74,899 documents totaling 121,354 pages.

118. On September 6, 2016, Plaintiffs filed a fifteen-page motion to compel with twenty-four exhibits, and Defendant filed a nineteen-page opposition, and Plaintiffs filed a thirteen-page

reply brief and an objection to a submitted declaration. On September 20, 2016, the Parties appeared before Hon. Robert May on Plaintiffs' motion to compel. Judge May requested the Parties submit additional briefing and evidentiary materials on certain issues and ordered the parties to submit simultaneous letter briefs on September 29, 2016 and then simultaneous opposition papers on October 6, 2016.

119. On September 29, 2016, the Parties submitted simultaneous letter briefs on Plaintiffs' motion to compel further production, including a seventeen-page brief with sixty-eight exhibits and a declaration from Plaintiffs' expert Fred Schenkelberg. Thereafter Defendant submitted a four-page letter brief, and Plaintiffs submitted a six-page response.

120. On October 7, 2016, the Parties held a multi-hour hearing before the Hon. Robert May on Plaintiffs' motion to compel, and on October 12, 2016, the Hon. Robert May issued his Report and Recommendation after the hearing.

121. On October 5, 2016, Plaintiffs received Document Production No. 56 comprised of 5,638 pages. Document Production Nos. 57-59 were received on October 13 and October 16 and totaled 107,008 pages. On November 17, 2016, Plaintiffs received Document Productions 60 and 61 and totaled 110,425 pages of production.

122. **Year 2017.** In January 2017, Plaintiffs served a fourth set of special interrogatories, and a deposition notice for the deposition of Fred Schenkelberg, Plaintiffs' reliability engineering expert, who was deposed on January 20, 2017 in Menlo Park, CA.

123. On January 19, 2017, a hearing was held before the Hon. Robert May regarding Defendant's motion to compel a second deposition of Plaintiffs' expert Heather Xitco. Judge May ordered Mrs. Xitco to be deposed. Mrs. Xitco was deposed for the second time on January 27, 2017 in San Diego, CA.

124. On January 23, 2017, Plaintiffs received Document Production No. 62 comprised of 64,450 documents and 174,409 pages.

125. On January 27, 2017, Plaintiffs issued out-of-state subpoenas to Walmart, Inc., Sam's Club, Best Buy Co., Inc., Verizon Wireless, Sprint Corporation, and AT&T Mobility. Each of these

subpoenas required Plaintiffs to prepare and submit out-of-state commissions and declarations in support. On February 28, 2017, AT&T produced additional documentation regarding their Class iPhone sales.

126. In March 2017 Plaintiffs received deposition notices for their economics/damages expert Greg Pinsonneault and conjoint survey expert Ramamirtham Sukumar, who were noticed to be deposed after Plaintiffs' supplemental motion for Class Certification was filed on January 3, 2017 and Plaintiffs' submitted an eleven-page supplemental brief on damages requested by the Court at the January 9, 2017 hearing. The supplemental brief included a seventy-eight page declaration by Plaintiffs' expert Pinsonneault and a twenty-page declaration by Plaintiffs' expert Sukumar. Expert Pinsonneault was deposed on March 17, 2017 in Oakland, CA and Dr. Sukumar on March 24, 2017 in New York. On May 3, 2017, Plaintiffs issued deposition notices for several Defendant employees, who were deposed on June 5 and June 20, 2017, respectively.

127. **Year 2018**. On September 4, 2018, Defendant issued Notices of Depositions for the depositions of Plaintiffs' experts, Pinsonneault, Schenkelberg and Xitco. On September 13, 2014, Plaintiffs' served objections to the Notices of Depositions of Pinsonneault, Xitco and Schenkelberg. Defendant took the second deposition of Pinsonneault on September 18, 2018 in Oakland, CA. Defendant took the third deposition of Xitco on September 24, 2018 in San Diego, CA. Defendant took the second deposition of Schenkelberg on September 26, 2018 in Menlo Park, CA.

128. Plaintiffs continued their efforts to certify both Classes, which included significant briefing before the Court. Simultaneously Plaintiffs responded to the appeal and Writ of Mandate efforts at the California Appellate Court.

129. **Year 2019**. On February 4, 2019, Plaintiffs received Production No. 63 which totaled over 9,000 documents. Plaintiffs received Production No. 64 on February 15, 2019 totaling 18,312 documents.

130. In March 2019, Plaintiffs served out-of-state subpoenas on Target Corporation of Minneapolis, Minnesota and Sprint Corporation of Overland Park, Kansas, which required the preparation of out-of-state commissions. Target was served with the subpoena on April 10, 2019.

Sprint was served with the subpoena on April 11, 2019. Plaintiffs thereafter served a fifth set of special interrogatories on Defendant, who objected and opposed, and thereafter filed a forty-seven page amended objection and response.

131. On April 2, 2019, Plaintiffs issued another California Code of Civil Procedure Section 2025.210 notice seeking a corporate representative to testify about certain topics including product design, testing and modeling; an amended notice was served on May 20, 2019 following a meet and confer. Two Defendant corporate representatives were deposed on May 21 and 22, 2019, respectively.

132. On April 18, 2019, Plaintiffs received Document Production No. 67 comprised of 5,575 documents. Plaintiffs were served with a second set of special interrogatories. And Plaintiffs served a fifth set of document production requests and a sixth set of special interrogatories.

133. On May 10, 2019, Plaintiffs issued deposition notices for defense experts Dr. Loren Hitt, Dr. Justin McCrary, Dr. Shukri Souri, Dr. Olivier Toubia and Genevieve Nauhaus. Plaintiffs deposed Dr. Toubia in New York, NY on May 30, 2019; Dr. Hitt was deposed for the second time on June 6, 2019 in San Francisco, CA; Dr. McCrary was deposed on June 7, 2019 in San Francisco, CA; Genevieve Nauhaus was deposed on June 11, 2019 in San Diego, CA and Dr. Souri was deposed on June 14, 2019 in San Francisco, CA.

134. On May 19, 2019, Walmart Corporation and Sam's Club responded to Plaintiffs' subpoena and produced several large spreadsheets concerning relevant Class Period sales.

135. Also in May 2019, Plaintiffs received deposition notices for their experts Sukumar, Pinsonneault, Schenkelberg, Roberts and Curley. Dr. Sukumar was deposed for a second time on May 28, 2019 in New York, NY; Schenkelberg for the third time on June 3, 2019 in Menlo Park, CA; Pinsonneault was deposed for the third time on June 3, 2019 in Oakland; Curley was deposed for the second time on June 5, 2019 in New York, NY, and Dr. Roberts in San Diego, CA on June 12, 2019.

136. Following these depositions, Plaintiffs served additional deposition notices on Defendant; Plaintiffs deposed these individuals on August 2 and August 14, 2019, respectively in Menlo Park, CA.

137. On July 3, 2019 Defendant produced an amended second consolidated privilege log and second consolidated redaction log. Defendant's Confidential privilege log was over 900 pages in length and contained approximately 4,000 entries. Defendant's confidential redaction log was approximately 200 pages. Discovery correspondence in July 2019 followed, and thereafter Plaintiffs spent substantial time reviewing the logs and conducting meet and confers. Plaintiffs also drafted a motion to compel.

138. On or about July 10, 2019, Sprint Corp. responded to Plaintiffs' subpoena and produced data showing Sprint sales during the Class Period. On August 14, 2019, Plaintiffs received Document Production Nos. 68-73 comprised of over 100,000 documents and 437,521 pages of production.

139. On August 16, 2019, Plaintiffs were served with a motion to compel demanding further special interrogatory responses. Plaintiffs opposed, a reply was filed, and a hearing on the motion to compel was heard by the Special Discovery Referee on September 10, 2019.

D. Third-party discovery

140. Plaintiffs engaged in substantial third-party discovery. Plaintiffs issued third-party subpoenas to every major retailer of the Class iPhones, including AT&T Mobility, LLC, Verizon Wireless Telecom, Inc., Sprint Corporation, T-Mobile Wal-Mart, Inc., Best Buy Co., Inc., Sam's Club and Target Corporation. These subpoenas, primarily out-of-state subpoenas, sought documents and data about sales of the Class iPhones and consumer complaints made to the retailers regarding the Class iPhones' sleep/wake button.

141. Plaintiffs also served third-party subpoenas on several entities who performed relevant consulting work for Defendant or supplied component parts of the sleep /wake button on the Class iPhones. Plaintiffs issued subpoenas to Panasonic Corp. of North America, and engineering and analyst firms. Combined, these third parties produced several hundred pages of technical documents and substantial data showing sales of the Class iPhones and complaints about non-functioning sleep/wake buttons. Detail about these efforts appear in Paragraphs 87-138, *supra*.

IV. Mediation

142. The settlement agreement, reached only shortly before trial, resulted from a lengthy settlement history, with the Parties undergoing several mediation sessions with the Hon. Irma Gonzalez of JAMS during the litigation and numerous settlement discussions between the Parties outside of mediation.

143. As part of the settlement negotiation process, the Parties negotiated directly with each other and used the services of Hon. Irma E. Gonzalez (Ret.), a well-known and highly regarded mediator with extensive knowledge and expertise in consumer class action litigation. Negotiations were protracted, well-informed, and highly contentious. Often, settlement negotiations failed, and vigorous litigation efforts followed, including extensive discovery and two appeals to the California Appellate courts. Agreement on principal settlement terms was not achieved until the eve of trial, when the parties' final challenges on trial expert testimony had been briefed and the parties were actively preparing trial exhibit lists, to be submitted to the Court.

144. On May 18, 2016, the Parties held an all-day mediation session with Judge Gonzalez in San Diego, CA. At Judge Gonzalez's request, Plaintiffs prepared and submitted a twenty five-page Mediation Statement with twenty-five exhibits, that attempted to concisely explain the pertinent facts, the claims, the size of the class and classwide damages. Plaintiffs' also held several pre-mediation calls with Judge Gonzalez to answer questions about Plaintiffs' Mediation Statement. Despite Judge Gonzalez's best efforts, the all-day mediation session ended without a settlement. However, via Judge Gonzalez, the Parties continued settlement discussions for several weeks after the mediation session, though these settlement talks were ultimately unsuccessful.

145. In January 2017 and again in May 2017, assisted by Judge Gonzalez, the Parties continued settlement discussions. These discussions were outside of a formal mediation session and although unsuccessful, the Parties made some progress.

146. The Parties agreed to a second mediation session with Judge Gonzalez on June 7, 2017. Although the full-day mediation did not result in a settlement agreement, it did help further negotiations by reducing the areas in dispute.

147. Settlement discussions resumed in February 2019 after the case had been remanded back with instructions from the Court of Appeal, and the trial court following those instructions granted Plaintiffs' Motion for Class Certification. While the Parties continued to have some settlement discussions, not until August 2019 did the Parties make substantial progress. After approximately a six-week period of almost daily settlement discussions, the Parties reached a settlement agreement on September 18, 2019.

148. The settlement negotiations were thorough, protracted and exhaustive, involving in-person, full-day, mediation sessions, the exchange of numerous offers and counteroffers, and a final two-month period of contentious negotiating and drafting before the Parties finalized and signed an agreement. The entire settlement process was contested and involved significant disputed issues. Due to the fact the case was not resolved until almost the eve of trial, the Parties were intimately familiar with each other's claims, defenses, and factual and legal contentions, and each side's respective strengths and weaknesses.

149. The extensive discovery efforts spanning years, from case inception and continuing through the eve of trial, extensive motion practice, detailed document review, informational analysis by Class Counsel and Plaintiffs' retained experts, and the voluminous depositions identified above, ensured Class Counsel were fully informed of the strengths and weaknesses before a settlement agreement was reached.

V. Settlement Benefits

150. The Settlement Agreement establishes a $20,000,000 common fund to pay Class Members' claims, attorneys' fees and costs, incentive awards for the Class Representatives and the costs of class notice and administration of the Settlement, with any remainder going to *cy pres*.

151. The Settlement Agreement calls for each Class Member who submits a valid claim to receive a payment of up to $24.00 per eligible Class Device. This means there is no cap on how many valid claims can be submitted by a Class Member. This was important as a significant percentage of California Class iPhone owners purchased more than one Class iPhone. The Settlement Agreement specifies if the number of valid claims submitted exceeds the amount of settlement money available

to compensate all these claims at a rate of $24.00 per claim, then the settlement money will be distributed on a pro rata basis. However, it is highly unlikely that the number of valid claims paid will exceed the available settlement money.

152. The Agreement contains another unique and important provision. Certain Class Members will receive a direct payment from the settlement fund without having to file a claim form. These Direct-Payment Class Members are individuals who owned one or more of the Class Devices and who complained to Apple or a wireless carrier about a malfunctioning sleep/wake button within the warranty period but did not receive a free repair or replacement from Apple. Direct-Payment Class Members will receive a settlement check without having to file a claim, as the settlement administrator will issue and send a check to the last known mailing address for these individuals.

VI. Preliminary Approval Of The Settlement

153. On October 25, 2019, Plaintiffs filed their unopposed motion and application for preliminary approval of this class action Settlement, along with a sixty-one page supporting declaration and exhibits. (ROA Nos. 1122-1128.) The papers detailed the relief obtained for the Class and sought approval of the form of Class Notice, which was submitted to the Court. On October 29, 2019, Plaintiffs submitted an amended notice concerning the preliminary approval hearing.

154. On November 1, 2019, after an extensive hearing on Plaintiffs' motion for preliminary approval, the Court took the matter under submission. On November 6, 2019, the Court submitted its minute order granting Plaintiffs' motion for preliminary approval of the Settlement and approving the claim form and notices submitted by Plaintiffs. (ROA No. 1137.) The Court scheduled a hearing for final approval of the class action Settlement on March 20, 2020.

155. The Notice and the Settlement website maintained by the Settlement Administrator informs consumers of the terms of the Settlement, and includes a section stating Class Counsel will "ask the Court for an award of attorneys' fees from the Settlement Fund of no more than 35% of the Settlement Fund and reimbursement of their expenses. The Court will determine these amounts." Both the Notice and the Settlement website further informs Class Members of their options, including whether to participate in the Settlement, object to the Settlement, or opt out of the Settlement.

VII. Attorneys' Fees, Costs, And Incentive Awards

156. Doyle Lowther LLP and Gomez Trial Attorneys served as Class Counsel, and the tasks undertaken by the firms are summarized in ¶¶ 5-139, *supra*. At the direction of Class Counsel, attorney Alan Mansfield of the Consumer Law Group of California helped prosecute select matters, including the appeals.

157. Class Counsel is requesting a collective attorneys' fees award of $7,000,000 and reimbursement of $844,706.26 in expert costs and litigation expenses incurred in this litigation, exclusive of payment to the Class Administrator for class notice and settlement notice and administration. This fee award would result in a negative multiplier if applied to counsel's total collective lodestar of $7,423,165.00.

158. Class Counsel also is requesting service awards for Plaintiffs Shamrell and Rysdyk in the amount of $10,000 each (total $20,000). The Parties did not negotiate the service awards until after they had agreed to the materials terms of the Settlement. The service awards reflect the considerable time and effort the class representatives expended in pursuing this six-year litigation, which ultimately resulted in the Settlement. The Plaintiffs each underwent a full-day deposition, had to answer extensive written discovery and supplemental written discovery responses, and had to relinquish their Class iPhones to Class Counsel as evidence.

159. Doyle Lowther LLP is experienced in complex consumer and product liability class actions and has billed their time and hours in accordance with court approved practices. Their current billing rates have been approved in courts in this locality and are based on surveys of rates. Doyle Lowther LLP has successfully prosecuted complex class action matters involving defective technology products. Thus, as active practitioners in San Diego, and through their current and former professional memberships, they have kept themselves familiar with billing rates charged by other lawyers who practice in this legal community and have reviewed publicly available information about local billing rates.

160. The schedule below is a summary indicating the time spent by Doyle Lowther LLP attorneys and professional support staff who were involved in this Action, and the lodestar calculation

based on our firm's current billing rates. This schedule is based on a review of contemporaneous time records, pleadings, briefs, drafts and records of communications regularly prepared and maintained by our firm.

161. The total billed hours for the Doyle Lowther LLP firm and the lodestar value of the time is as follows.

TIME REPORT, INCEPTION THROUGH DECEMBER 13, 2019

Name	Total hours	Hourly rate	Lodestar
Doyle Lowther partners			
William J. Doyle	201.2	$675.00	135,810.00
John A. Lowther	717.1	$625.00	448,187.50
James R. Hail	3,752.4	$625.00	2,345,250.00
Doyle Lowther associates			
Samantha Smith	22.5	$400.00	9,000.00
Chris Cantrell	4,074.2	$395.00	1,609,309.00
Katherine DiDonato	96.5	$300.00	28,950.00
Project attorney			
Jennifer Macpherson	194.6	$395.00	76,867.00
Ari Basser	1,062.3	$300.00	318,690.00
Doyle Lowther paralegals			
Kristina Davis	81.2	$260.00	21,112.00
Brandy Roberts	216.3	$260.00	56,238.00
Aleah Werner	9.8	$185.00	1,813.00
Totals	**10,428.1**		**$5,051,226.50**

162. The hourly rates for attorneys and professional support staff in our firm, as identified above, are the same as the regular current rates charged for services in non-contingent matters or which

1 have been accepted and approved by both state and federal courts in California in other class action
2 litigation.
3 163. Class Counsel's lodestar figures are based upon the firm's billing rates, which rates do
4 not include charges for expense items. Expense items are billed separately, and such charges are not
5 duplicated in our firm's billing rates.
6 164. As detailed below, Doyle Lowther LLP has incurred $433,026.94 in unreimbursed
7 expenses in connection with the prosecution of this litigation.
8 **DOYLE LOWTHER LLP EXPENSE REPORT: INCEPTION THROUGH DECEMBER 13, 2019**
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Category	**Amount**
deposition transcripts	25,508.65
deposition videos	3,062.74
deposition travel	18,922.19
expert fees	316,405.88
external vendor copy charges / storage	2,219.92
court-order discovery referee	15,408.15
court filing fees	6,241.74
service of process	--
appellate counsel	40,664.29
postage & mailing	747.90
treatise	409.00
travel / meals	3,436.48

Category	Amount
class outreach	--
phone	--
electronic legal research / databases	--
total expenses	**$433,026.94**

165. The expenses incurred in this Litigation are reflected on the books and records of our firm and were necessarily and reasonably incurred. These books and records are prepared from expense vouchers, check records and other source materials and represent an accurate recordation of the expenses incurred.

166. Attorney Alan Mansfield with the Consumer Law Group of California helped prosecute this Action at Class Counsel's direction. Mr. Mansfield was involved in initiating this Action and strategically assisted with key motions, including the appeals. The Consumer Law Group of California's total lodestar is $241,965 and is included in Class Counsel's total collective lodestar and fee request. The Consumer Law Group of California also incurred $54.73 in unreimbursed expenses, which is included in Class Counsel's total expenses. Details of the total billed hours and expenses can be found in the Declaration of Alan M. Mansfield in Support of Fee and Expense Application, annexed hereto as Exhibit A.

167. Class Counsel have received no payment for their services in prosecuting this Action, nor have they been reimbursed for their expenses incurred in the prosecution of this Action.

168. Class Counsel undertook this Action on a contingent basis. From the outset, Class Counsel understood they were embarking on a complex, expensive and lengthy litigation with no guarantee of ever being compensated for the enormous investment of time and money the case would require. In undertaking this responsibility, Class Counsel had to ensure sufficient resources were dedicated to the prosecution of this Litigation and to ensure funds were available to compensate staff and the considerable out-of-pocket costs that a case such as this entails.

169. The Doyle Lowther LLP firm resume is annexed hereto as Exhibit B.

VIII. Conclusion

170. The Settlement is the product of extensive litigation and contentious settlement discussions, which were held in the utmost good faith and always at arm's length. The action has been vigorously yet efficiently litigated, with qualified expert assistance and with the assistance of a nationally recognized independent mediator. The intent in crafting the Settlement was to provide ready compensation to claiming Certified Class Members in a timely and cost-efficient manner.

171. The approved Notice program, which sent direct notice to all California iPhone owners, fully advised consumers of their options, and thus they are able to make an informed decision on whether to accept the Settlement, to opt out and pursue their own claims, or to object to any part of the Settlement.

172. For the reasons set forth above and in the forthcoming Final Approval Brief, we respectfully submit the Settlement is fair, reasonable and adequate and should be finally approved by the Court.

173. We further submit Class Counsels' request for $7,000,000 in total attorneys' fees, $844,706.26 in unreimbursed expenses, and payment to the two Plaintiffs of $10,000 each (total $20,000) is fair and reasonable under the circumstances of this case and conforms to widely-approved metrics commonly relied upon and approved in California.

IX. Exhibits

174. Annexed hereto as Exhibit A is a true and correct copy of the Declaration of Alan M. Mansfield in Support of Fee and Expense Application.

175. Annexed hereto as Exhibit B is a true and correct copy of the Doyle Lowther LLP firm resume.

We declare under penalty of perjury under the laws of the United States of America the foregoing is true and corrected. Executed this 13th day of December 2019 at San Diego, California.

s/ William J. Doyle
William J. Doyle, Esq.
Doyle Lowther LLP

s/ John A. Lowther
John A. Lowther, Esq.
Doyle Lowther LLP

Exhibit A

William J. Doyle (SBN 188069)
John A. Lowther (SBN 207000)
Christopher W. Cantrell (SBN 290874)
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John H. Gomez (SBN 171485)
Deborah S. Dixon (SBN 248965)
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(619) 237-3490 (phone)
(619) 237-3496 (fax)

Attorneys for Plaintiffs and the proposed class

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

ANTHONY SHAMRELL and DARYL RYSDYK, Individually and on Behalf of All Others Similarly Situated,

Plaintiffs,

v.

APPLE, INC.,

Defendants.

Case No. 37-2013-00055830-CU-PL-CTL

CLASS ACTION

DECLARATION OF ALAN M. MANSFIELD IN SUPPORT OF PLAINTIFFS' COUNSEL'S FEE AND EXPENSE APPLICATION

Judge: Hon. Ronald L. Styn
Dept.: C-74
Date: March __, 2020
Time: 2:00 p.m.

I, ALAN M. MANSFIELD, declare and state as follows:

1. I am over the age of 18. I have personal knowledge of the facts set forth herein and, if called as a witness, I could and would testify competently with respect to these facts.

2. I respectfully submit this declaration in support of Plaintiffs' Counsel's Fee and Expense Application. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration, and could testify competently to them if called upon to do so.

Background and Experience

3. I have practiced primarily in the area of national health care, privacy, and consumer class action and public interest litigation since 1989. My clients have included such public interest organizations as the Consumer Watchdog, the Utility Consumers Action Network, California Medical Association, the Independent Physical Therapists of California, and the Privacy Rights Clearinghouse. I have also been involved in several important nationwide class actions involving technology related issues since 201, including actions relating to the NVIDIA GPU development and cell phone defects against Samsung and LG, in which I was one of the lead counsel for Plaintiffs. I received my B.S. degree, cum laude, in Business Administration – Finance from California Polytechnic State University, San Luis Obispo in 1983 and my Juris Doctorate degree from the University of Denver School of Law in 1986. I am admitted to the Bar of the State of California, to the United States District Courts for all Districts of California, to the United States District Court for the Districts of Colorado and Michigan, to the Third, Fifth, Sixth, Ninth and Tenth Circuit Courts of Appeal, and to the Supreme Court of the United States of America. My full biography can be found in the Consumer Law Group of California ("CLGCA") firm resume, attached as Exhibit A.

CLGCA's Role in This Litigation

4. CLGCA began investigating this matter in 2013, preparing one of the first pre-litigation demand letters sent to Apple to resolve this issue prior to litigation.

5. I also assisted in drafting the original and amended Complaints, working with the Doyle Lowther firm to do so.

6. In additional to working with Mr. Doyle, I worked with the Gomez Trial Firm, and specifically Ms. Dixon, who were brought into this action because of their extensive experience in

trials of class cases, including an action we were involved in relating to Sony laptop computers that resolved on the verge of trial several years ago.

7. I helped prepare various written submissions relating to this action. This included, among other things, working on the oppositions to defendant's various pleadings motions and motions for summary judgment, on which we largely prevailed.

8. I also assisted counsel both in drafting and revising the briefing on the motions for class certification, class-certification related discovery, the writ petitions and resulting responses, and preparation for trial court hearings and appeals relating to the motions for class certification and the several of the expert related motions brought by Defendants, as well as research and memoranda on various damage models that could be developed on a class-wide basis for trial.

9. I also assisted Mr. Cantrell in reviewing discovery and reviewing briefing on various discovery matters, and helping to prepare for certain witness depositions.

10. I participated with Mr. Doyle in one of the first mediations in this action with the Hon. Irma Gonzalez (Ret.) of JAMS in May 2016, and continued to be involved in the various settlement negotiations. I also assisted in reviewing and drafting the settlement papers and associated exhibits, and preparing and reviewing drafts of the preliminary approval papers.

Contingent Nature of the Action

11. Work on this matter required CLGCA to spend time that could have been spent on other matters. CLGCA shouldered the risk of expending costs and time in litigating this action without any monetary gain in the event of an adverse judgment.

CLGCA's Lodestar and Billing Rates

12. CLGCA sets its rates for attorneys and staff members based on a variety of factors, including, among others: the experience, skill and sophistication required for the types of legal services typically performed; the rates customarily charged in similar matters; the rates charged to and paid by various of our hourly rate clients; and the experience, reputation and ability of the attorneys and staff members. CLGCA's attorney and paralegal rates have been specifically approved by courts throughout the country on multiple occasions, and were detailed and discussed in *Doe v. United Healthcare Ins. Co.*, 2014 WL 12586448, at *3 (C.D. Cal. Oct. 15, 2014) (approving rates

for me and my staff ranging from $225/hour to $700/hour; my current rate was adopted in January 2015).

13. Between the inception of our investigation through November 30, 2019, attorneys and staff at CLGCA worked a total of hours in this action, for a total lodestar of $242,190. I will continue to work on this action in preparing the final approval papers, reviewing reports on claims submissions, and the pending fee application.

14. The following chart details the time each attorney and paralegal at CLGCA worked on this case, and their contribution to CLGCA's total lodestar as of November 30, 2019:

Attorney	Title	Hours	Rate	Lodestar
Alan Mansfield	Attorney	313.2	$750	$234,900.00
Sally Cormier	Paralegal	22.3	$225	$5,017.50
Elle Chaseton	Paralegal	8.1	$225	$1,822.50
Angie Fitzpatrick	Paralegal	1.0	$225	$225
Total		344.6		$241,965

15. I believe that the lodestar reported in this Declaration expended by CLGCA is reasonable, particularly in light of the collective efforts and accomplishments in resolving this litigation, and was not duplicative of the efforts of co-counsel. If requested I can provide a more detailed breakdown of the time expended on each of the subject matter areas set forth above.

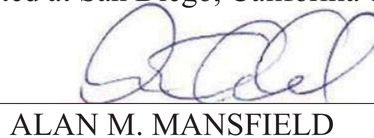
CLGCA's Costs

16. CLGCA maintains books and records regarding costs expended on each case in the ordinary course of business, which books and records are prepared from expense vouchers and check and credit card records. I have reviewed the costs expended in this matter.

17. CLGCA incurred $371.19 in litigation related expenses in connection with this action, but are only listing the following:

- Parking (attendance at hearings and mediation): $17.50
- Filing and Service Fees: $37.23

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, and that this declaration was executed at San Diego, California on December 12, 2019.



ALAN M. MANSFIELD

CONSMER LAW GROUP OF CALIFORNIA

16780 W. BERNARDO DRIVE, SUITE 400

SAN DIEGO, CA 92127

619-308-5034

Alan M. Mansfield, the founder of the Consumer Law Group of California, has practiced primarily in the area of national health care, privacy, automotive and consumer class action and public interest litigation since 1989. His clients have included such public interest organizations as the California Medical Association, the Independent Physical Therapists of California, Consumer Watchdog, the Utility Consumers Action Network and the Privacy Rights Clearinghouse.

Mr. Mansfield has been involved in numerous significant healthcare matters, including a class action against Anthem Blue Cross for improperly closing certain health plans which resulted in a settlement requiring defendant to limit plan rate increases and requiring any plan changes to be without medical underwriting for several years (*Feller v. Anthem Blue Cross*, Ventura County Superior Court Case No. 56-2010-00368587-CU-BT-VTA); and a class action representing a number of California pharmacists seeking to require Pharmacy Benefits Managers to provide data required under state law, obtaining a significant decision from the Ninth Circuit and the California Supreme Court interpreting the scope of the First Amendment as applied to California pharmacists' claims under California law (*Beeman v. Anthem Prescription*, 2011 U.S. App. LEXIS 14687 (9th Cir., July 19, 2011), *Beeman v. Anthem Prescription*, 58 Cal. 4th 529 (2013). He also has been actively involved resolving numerous cases on behalf of patients with HIV/AIDS, including *Doe v. United Health Care*, No. 13-cv-00864 (C.D. Cal. filed 2013) (national class action settlement approved in July 2014 permitting consumers to opt out of mail order program); *Doe v. Cigna Health Care*, No. 15-cv-60894 (S.D. Fla. filed 2015) (national settlement implemented in December 2015 that removed HIV/AIDS specialty medications from the mandatory mail order tier); *Doe v. Blue Cross of California*, No. 37-2013-31442 (San Diego Super. Ct. filed 2013) (California-only settlement implemented in May 2013 cancelling mandatory mail order program); *Doe v. Anthem, Inc.* (national settlement implemented in June 2016 that also removed HIV/AIDS specialty medications from the mandatory mail-order requirement tier for all of Anthem's subsidiaries in the United States), and *DOE v. Aetna, Inc. and Coventry Health Plans* (nationwide settlement revising similar mandatory mail-order pharmacy programs). He was also one of the counsel who negotiated a settlement of claims by the IPTCA against a nationwide workers compensation claims processor, revising the procedures and review of submitting and adjudicating such claims. He is currently one of the primary counsel in an action against CVS Health for violating the privacy rights of thousands of recipients of HIV/AIDS medications in Ohio, as well as other significant health care matters.

As part of his commitment to public interest litigation, Mr. Mansfield was one of the lead counsel in *Garrett v. City of Escondido*,465 F.Supp. 2d 1043 (S.D. Cal. 2006), in the U.S. District Court for the Southern District of California, which successfully challenged the legality of the City of Escondido's immigration landlord-tenant enforcement ordinance, resulting in one of the first decisions addressing the constitutionality of local ordinances or state laws addressing immigration issues. Based on that and other work in the community performed by both him and the previous firm for which he was the managing partner that specialized in automotive finance litigation (Rosner & Mansfield LLP), he and his firm was awarded the 2007 Public Service by a Law Firm Award by the San Diego County Bar Association. He also assisted the ACLU in obtaining a significant First Amendment victory regarding the improper seizure by the U.S. Government of property belonging to members of the Mongols Motorcycle Club (*Rivera v. Melson,*No. 2:09-cv-02435 DOC (JCx)(C.D. Cal.)). He was also involved in the "Joe Camel" teen smoking case, a landmark decision that permitted false advertising claims to proceed against a major tobacco company. *Mangini v. R.J. Reynolds Tobacco Co.*(1994) 7 Cal.4th 1057.

Highlights from other recent successful actions where he was appointed as one of the lead class counsel include a class action against American Honda for misrepresenting gas mileage on Honda Civic Hybrids, resulting in a settlement valued at over $165 million (*Lockabey v. American Honda*, S.D. Sup. Ct. Case No. 37-2010-00087755-CU-BT-CTL); and an action involving the unauthorized billing of consumers for overdraft fees on checking and debit account, resulting in the creation of a $35 million common fund and significant *cy pres* contributions to several non-profit organizations (*Closson v. Bank of America*, San Francisco Superior Court Case No. CGC 04436877). He also prevailed, after a two-week long class action arbitration in January 2009, on behalf of a class of senior citizens residing at a senior living community who were charged entrance fees in violation of California's landlord-tenant laws, obtaining significant relief for the benefit of the class members and contributions for Alzheimer's Disease research (*VanPelt v. SRG*).

Mr. Mansfield was one of the lead counsel in a class action against NVIDIA for misrepresenting the processing speed of its 970 GTX GPU, resulting in a cash settlement valued at over $30 million (In Re NVIDIA GTX 970 Graphics Chip Litigation, N.D. Cal. Case No. 15-cv-00760-PJH); a class action against Sprint Communications for charging customers improper telephone fees for data plan communication, resulting in a settlement that fully refunded the vast majority of such charges (*Taylor v. Sprint Communications*, Case No. C07-CV-2231-W (RJB)); a class action involving billing customers for previously promised airtime, resulting in a class action settlement that gave over 1 million customers the ability to claim full reimbursement for the uncredited airtime (*Nelson v. Virgin Mobile*, Case No. 05-CV-1594-AJB); a case challenging Sprint's failure to provide a cancellation window when it imposed certain additional fees against customers in July 2003, resulting in a class-wide settlement returning Early Termination Fees that had been charged to consumers, as well as improving certain disclosure practices (*UCAN v. Sprint Spectrum LP*, San Diego Superior Court Case No. GIC 814461); and *Maycumber v. PowerNet Global Telecommunications*, Case No. 06-cv-1773-H (RBB) (S.D. Cal.), which challenged the practice of charging a "Network Access Charge" as a tax when it was not, resulting in a significant refund of such charges. Mr. Mansfield also represented the public interest group UCAN in an action before the California Public Utilities Commission involving improper billing for Early Termination Fees, resulting in a refund of over $18 million in fees to over 100,000 former Cingular Wireless customers (*In Re Cingular Wireless*, CPUC Case No. I.02-06-003), as well as an action challenging AT&T California's practice of terminating 911-only service to California residents in violation of the Public Utilities Code, resulting in a multi-million dollar fine and an order requiring significant practice changes (*UCAN v. SBC California*, CPUC Case No. C.05-11-011). He is been involved in over 25 separate appeals and is counsel of record in over 125 reported decisions nationwide.

Mr. Mansfield is currently the Vice President of the Association of Business Trial Lawyers, San Diego Chapter (Secretary – 2017; Treasurer – 2018); member of Executive Committee (2008-present); Program Chair, 2017 ABTL Annual Seminar and 2018 ABTL Joint Board Retreat; Planning Committee member, 2016; Program Co-chair, 2009 ABTL Annual Seminar; Co-chair, mini-annual seminar, 2009, 2013 and 2015; Editor, ABTL Report (2004-2009). He also is a Master member of the Enright Inn of Court, and in that capacity have been team leader for committee each year responsible for making presentations to members of Inn. He is a member of the Anti-Trust Section of California Bar Association (now California Lawyers Association), where he participated in committee that made presentation to State's Anti-trust and Unfair Competition Law section related to Proposition 64 (2005). Mr. Mansfield was a Lawyer Representative to the Ninth Circuit Judicial Conference, Southern District of California (6/2008 to 6/2010), where he helped make presentations to the Southern District of California Judicial Conference, and attended the Ninth Circuit Judicial Conference. He is a member of the San Diego County Bar Association, the Federal Bar Association, the Consumer Attorneys of San Diego, and American Bar Association.

Mr. Mansfield has been a panelist or speaker on numerous issues, including the following: California Center for Judicial Education And Research (July 2001) – participant in panel discussion on mechanics of Bus. & Prof. Code Section 17200 ("UCL") to state court judges in continuing legal education program for judges; The Rutter Group (2001) -- panel discussion on mechanics of UCL; Consumer Financial Services Litigation (PLI, April 2000 and 2001) – participant in panel discussion on choice of law issues arising in nationwide class certification and jurisdictional issues arising from being engaged in Internet activities; Judge Advocate General Naval Training Center (Nov. 2004) – lectured on procedure and substance of state consumer

(November 1997); and Life After BMW v. Gore - Who Is Now the Trier of Fact?, Consumer Financial Services Litigation (Supplement) at 55 (PLI, April 1997).

Mr. Mansfield received his B.S. degree, *cum laude*, in Business Administration - Finance from California Polytechnic State University, San Luis Obispo in 1983 and his *Juris Doctorate* degree from the University of Denver School of Law in 1986. He is admitted to the Bar of the State of California, to the United States District Courts for all Districts of California, to the United States District Court for the Districts of Colorado and Michigan, to the Third, Fifth, Sixth, Ninth and Tenth Circuit Courts of Appeal, and to the Supreme Court of the United States of America.

Exhibit B

4400 NE 77th Avenue, Ste 275
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Doyle Lowther LLP represents consumers and investors across the United States in class action litigations. The firm's lawyers have decades of complex litigation experience and have represented consumers in many product defect and consumer fraud class actions.

Our firm aggressively prosecutes corporate wrongdoing and other unlawful activity. We efficiently and effectively prosecute complex cases from inception and investigation through trial. Doyle Lowther believes in being readily available to clients, and responding quickly to our clients' needs and concerns. Our clients are kept informed about their legal matters, from beginning to end.

Our lawyers have substantial complex litigation track records. We are skilled in representing clients in complex disputes that involve multiple parties, sophisticated subject matters, extensive discovery and complicated testimony. We have extensive experience litigating complex cases in federal and state courts throughout the country and are familiar with the procedural complexities associated with class certification, multi-district litigation, and representing clients where parallel litigation is underway in state and federal court.

Doyle Lowther has experience in a wide range of complex litigation. Doyle Lowther leverages technology to streamline our complex cases. The firm uses proven technologies and processes in the areas of electronic document coding and imaging, database design, computerized presentations, investigative databases, and real-time data and analytics.

Representative Class Action Litigation

Honda Civic Hybrid MPG Litigation

Doyle Lowther and its co-counsel represented California consumers in a false advertising and product defect class action regarding Honda Civic hybrid vehicles. Doyle Lowther alleged Honda misrepresented the fuel economy estimates of its model year 2003 through 2009 Honda Civic Hybrid vehicles and charged the vehicles' IMA battery underperformed. The litigation concluded successfully with class members receiving compensation for the alleged misrepresentation in fuel economy estimates and extended warranty protection on the expensive hybrid battery. Approximately 60,000 class members claimed benefits in a settlement conservatively valued at $87.5 million.

NVIDIA GPU Products Liability Litigation

Doyle Lowther and its co-counsel represented purchasers of Dell, Hewlett-Packard, Compaq and Apple computers containing defective graphics processing chips manufactured by NVIDIA. For years, notebook and desktop computers sold to consumers contained defective NVIDIA chips, resulting in video and graphics problems, distorted video, peripheral component malfunctions, overheating, and other problems. Doyle Lowther filed a class action complaint alleging NVIDIA and the computer manufacturers failed to remedy the defective components. The firm further alleged defendants used a temporary "fix" that failed to remedy the problem, and instead delayed the defects from manifesting until the affected computers were out of warranty. In late 2010, after years of hard-fought litigation, Doyle Lowther and co-counsel obtained a settlement for consumers that repaired or replaced their defective computers at no cost. As part of the settlement, consumer could also seek reimbursement for out of pocket repair costs. Ultimately, NVIDIA took an accounting reserve of more than $500 million to remedy the defect and resolve the litigation.

LG G2x Class Action Litigation

Doyle Lowther successfully represented consumers who purchased defective smartphone handsets from LG, resulting in a $7.7 million settlement on behalf of affected consumers. In the G2x matter, plaintiffs alleged a defect with LG's cell phones caused the phones to repeatedly and randomly freeze, crash, reset or power-off completely, rendering the phones inoperable and unfit for their intended use and purpose. Worse, to restart the phones, users must remove and replace the phones' battery, as often as ten times per day, infuriating consumers. Despite having received thousands of complaints, LG refused to issue a recall or provide any remedy, other than to replace the defective phones with the same model of defective phone. Doyle Lowther defeated defense motions to dismiss, vigorously pursued discovery in multiple states, and achieved an excellent resolution for consumers.

Platinum and Palladium Commodities Antitrust Litigation

Doyle Lowther served as lead counsel for a physical purchaser class in a platinum and palladium bullion artificial price manipulation litigation. *In re: Platinum and Palladium Commodities Litig.*, No. 10-civ-3617 (WHP) (S.D.N.Y.). Plaintiffs alleged certain hedge funds conspired with other entities to manipulate the price of the platinum and palladium futures and physical market by systemically engaging in "market on close" orders, artificially inflating the closing price of platinum and palladium. The Court finally approved a settlement valued at approximately $100 million, including a $12.4 million recovery to the physical purchaser class Doyle Lowther represented. This was a significant recovery for class members who not only recovered nearly all of their provable damages resulting from the fraudulently induced artificial price inflation.

LG Optimus M Smartphone Class Action Litigation

Doyle Lowther represented consumers who purchased defective smartphone handsets from LG. Plaintiffs alleged a defect with the expensive cell phones caused the phones to

randomly freeze, crash, reset or power-off completely, rendering the phones inoperable and unfit for their intended use and purpose. Doyle Lowther successfully defeated a motion to arbitrate in state court and prevailed at the California Court of Appeal on LG's appeal, and defeated LG's appeal efforts at the California Supreme Court. The matter settled favorably on behalf of plaintiffs and the Class, with a settlement value of approximately $5.6 million. The Court deemed the settlement both "creative" and "meaningful."

In re Sony VAIO Computer Notebook Trackpad Litigation

Doyle Lowther was appointed co-lead counsel in the certified class action litigation against Sony Electronics. Doyle Lowther represented thousands of class members who owned defective Sony VAIO laptops. Plaintiffs allege Sony sold its premium VAIO computer line knowing the laptops contain a trackpad defect. The trackpad defect rendered consumers' computers inoperable, including causing VAIO notebooks to freeze, lock up, randomly open and close files, and cause the computer's cursor to move in directions opposite to a user's input. The VAIO trackpad defect made it impossible to use Sony's VAIO notebooks as warranted and as advertised. Immediately before trial, the parties reached a resolution in the case. Thereafter final settlement approval was granted in July 2017, with the Settlement Class entitled to claim up to $32 million in aggregate compensation.

Sequenom Shareholder Derivative Litigation

Doyle Lowther served as co-lead counsel and represented nominal defendant *Sequenom, Inc., Turnock v. Stylli*, Case No. 37-2009-00089975-CU-BTCTL (San Diego Sup. Ct. May 2009). We prosecuted claims alleging Sequenom's directors and senior officers breached their fiduciary obligations to the company by making false statements and concealing material information from consumers, including falsifying test results from clinical medical trials, which Sequenom has since admitted. The case was favorably resolved in

2010, resulting in a settlement which included no payoffs or "golden parachutes" to managers and directors who engaged in wrongdoing and were terminated, saving Sequenom and its shareholders millions of dollars, a $14 million cash payment to the company funded by director and officer insurance carrier proceeds, and significant revisions to Sequenom's corporate governance practices, including mandated independent directors, board and committee governance practices, and internal control compliance procedures to avoid a repeat of the wrongful conduct.

ev3 Shareholder Merger Litigation

Doyle Lowther served as co-lead counsel in representing ev3 shareholders in Minnesota litigation arising from the ev3 board of directors' attempt to sell the company to an interested party, Covidien, at an alleged unfair price using transaction devices to forcibly divest shareholders of their share ownership. Our firm spearheaded the litigation, including filing the first complaint, conducting discovery, working with valuation experts, and deposing the company's CEO concerning the transaction. The matter settled favorably, which included pending actions in both Delaware and Minnesota, resulting in changes to the unfair transaction provisions, disclosure of additional material information to shareholders, and revised statutory appraisal procedures for shareholders who sought to exercise their appraisal rights.

Citigroup Hedge Fund Litigation

Doyle Lowther sued Citigroup and related entities and individuals for misrepresenting the investment risk associated with its MAT hedge funds and investments. Doyle Lowther successfully negotiated resolution of its client's claims in a confidential settlement. Citigroup promoted its MAT funds as conservative investments, appropriate for high-end clients who wanted to place their money in a safe investment. Plaintiff alleged the MAT funds were never the safe, conservative investment Citigroup represented. Instead, Citigroup's MAT funds, it was charged, were predicated on risky investment strategies,

and the funds eventually imploded, forcing Citigroup to infuse $660 million into the MAT funds to keep them afloat, as public attention increased regarding the manner in which the risky hedge funds were promoted to conservative investors. MAT investors lost as much as 90% of the value of their investments.

San Diego Wildfire Litigation

Doyle Lowther represented multiple litigants whose homes and business were destroyed during the October 2007 San Diego fires. *In re 2007 Wildfire Individual Litigation – Witch Creek/Guejito Fires*, Case No. 2008-00093080 (San Diego Sup. Ct. 2008). The fires destroyed thousands of homes and forced half a million San Diego residents to flee in the largest mass evacuation in California history. For over a week, the fires scorched hundreds of thousands of acres causing the deaths of two residents and injuring forty-five firefighters.

The 2007 Wildfire litigation was a highly complex mass tort action, with hundreds of parties, including sureties, individuals, and corporations on both sides. This litigation required complex case expertise to manage the factual, procedural, and resource complexities in advancing the litigation. Doyle Lowther served on several litigation committees and took a leading role, working cooperatively with co-counsel, to advance the litigation. Doyle Lowther recovered millions of dollars on behalf of devastated homeowners the firm represented, and total settlements in the case were over $1 billion.

Apple iPhone Product Defect Litigation

Doyle Lowther currently is pursuing class action litigation against Apple Inc. and represents thousands of class members who own iPhone 4, 4s and 5 smartphones with defective sleep/wake buttons. Currently pending in the San Diego Superior Court, plaintiffs allege Apple sold its premium iPhone line knowing it contained a defective power button. The sleep/wake button defect renders key iPhone features inoperable. The iPhone sleep/wake button defect makes it impossible to use Apple's iPhone as warranted

and as advertised. The matter currently is scheduled for final settlement approval in March 2020.

Pelvic Mesh Products Liability Litigation

The firm currently represents women who received defective medical products used in the treatment of pelvic organ prolapse and stress urinary incontinence. The defective products, frequently called "pelvic mesh" or "vaginal mesh," are the subject of thousands of lawsuits and an investigation by the U.S. Food and Drug Administration investigation into their safety and efficacy. Doyle Lowther has favorably resolved scores of cases on behalf of affected women, resulting in significant recoveries for their injuries and future needs.

Firm History

Before founding Doyle Lowther, two of the firm's partners were principal litigators for seven years in *In re Enron Corp. Securities Litigation*, Civ. No. H-01-3624 (S.D. Tex. 2001), and directly participated in recovering $7.2 billion on behalf of thousands of individual and institutional investors hurt in the massive Enron securities fraud. The $7.2 billion recovery is one of the single largest recoveries ever in a securities fraud class action. The firm's partners also litigated *In re Dynegy Inc. Securities Litigation*, File No. H-02-1571 (S.D. Tex.), resulting in a $474 million recovery for investors.

Members

William J. Doyle II

William Doyle is a founding partner of Doyle Lowther LLP and is licensed to practice law in the states of California and Washington. Since 1998 Mr. Doyle has focused his practice on representing individuals, institutional investors and consumers as plaintiffs in complex litigation involving securities fraud, mergers and acquisitions, ERISA, consumer

fraud, internet privacy and defective products. Mr. Doyle successfully represented consumers in recent class action litigations against Honda and Nvidia. He serves as lead counsel in the LG smartphone cases, and Platinum and Palladium Antitrust litigation.

Prior to founding Doyle Lowther, Mr. Doyle was a partner in the national class action law firm of Lerach Coughlin Stoia Geller Rudman & Robbins LLP. While at Lerach Coughlin and its predecessor firm Milberg Weiss, he represented clients in complex class action litigations and investigated and initiated new cases. Mr. Doyle also played a lead role in developing the firm's first portfolio monitoring program for institutional investors.

In 2003 Mr. Doyle filed the first case against the New York Stock Exchange and its seven specialist trading firms for illegal trading and market manipulation practices. While at his prior firm, Mr. Doyle had the privilege of representing the California Public Employees' Retirement System (CalPERS) as lead counsel in the NYSE securities litigation.

In the *Trans Union Corp. privacy litigation* Mr. Doyle served as co-lead counsel, representing millions of consumers whose private credit information was unlawfully disclosed to third parties. Mr. Doyle successfully certified a statutory damages class action of approximately 9 million Illinois consumers and helped negotiate a nationwide settlement for consumers valued at over $109 million.

Mr. Doyle has been appointed by federal judges to be lead or co-lead counsel in numerous multi-district litigation proceedings, including, MDL-1329 *In re RealNetworks, Inc. Privacy Litigation*; MDL-1341, *America Online, Inc. Version 5.0 Software*; MDL-1346, *In re Amazon.com Privacy Litigation*; MDL-1350, *In re Trans Union Corp. Privacy Litigation*; MDL-1352, *In re DoubleClick Inc. Privacy Litigation*; MDL-1381 *Toys R Us, Inc. Privacy Litigation*; and MDL-1400, *In re Pharmatrak Privacy Litigation*.

Mr. Doyle served as lead or co-lead counsel for plaintiffs in a series of landmark Internet privacy cases. Applying unique and untested legal theories, Mr. Doyle and his co-counsel achieved important new privacy protections for online consumers. For example, in the *In re Pharmatrak Privacy Litigation*, Mr. Doyle took the lead in writing a successful First Circuit appellate brief that overturned summary judgment and applied, for the first time, federal wiretap statutes to Internet technology. In the Amazon.com case, a federal court certified

the first nationwide class for Internet privacy claims and a settlement in the DoubleClick litigation provided important online privacy protections for nearly every user of the internet in the United States.

Mr. Doyle has also served as co-lead counsel in complex product defect class actions, including a lawsuit against Apple for defects in the DVD player of its iMac personal computer ($47 million settlement); a class action against SBC Communications for defective DSL Internet service ($55 million settlement); and a class action against America Online, Inc. for software defects. ($15.5 million settlement).

A native of San Diego, California, Mr. Doyle graduated from the University of San Diego with an undergraduate degree in economics. After working in the legal field, Mr. Doyle earned his law degree in 1996 from the California Western School of Law. Mr. Doyle is admitted to practice in the state courts of Washington, and state and federal courts throughout California, the United States District Court for the Western District of Washington, and the United States Court of Appeals for the First and Second Circuits. Mr. Doyle is a member of the American Bar Association, the American Association for Justice, The State Bar of California, and the National Trial Lawyers Association. Mr. Doyle also served on the board of directors for the Association of Business Trial Lawyers and as a director of the San Diego County Bar Foundation.

John A. Lowther

John Lowther is a founding partner of Doyle Lowther and is licensed to practice law in both California and Washington state. Since 2000 Mr. Lowther has participated in large and complex litigations on behalf of individuals, investors, consumers and financial institutions, helping them to recover billions of dollars in damages due to fraud and malfeasance. Mr. Lowther has been appointed lead counsel and litigated myriad security and consumer complex class action litigations on behalf of aggrieved consumers and investors, including the Sequenom litigation, Platinum and Palladium Antitrust litigation, as well as *Inicom Networks, Inc. v. Nvidia Corp.*, No. C08 04332 (N.D. Cal. 2008).

Currently, Mr. Lowther is lead counsel in *In re: Platinum and Palladium Commodities Litig.*, No. 10-civ-3617 (WHP) (S.D.N.Y.), and recent final approval of this matter resulted in a recovery in excess of $12 million for the physical class he represented, an excellent result. Mr. Lowther was lead counsel in LG G2x Class Action Litigation, No. 3:11-cv-01576-H-RBB, in which final settlement approval was granted one year ago, resulting in a multi-million dollar recovery for aggrieved consumers. Mr. Lowther also represented tens of thousands of consumers whose notebook and desktop computers have been rendered defective by faulty graphic processing chips. *In re NVIDIA Corp. GPU Products Liability Litigation*, No. 08-04312-JW (N.D. Cal. 2008). Previously, Mr. Lowther was co-lead counsel in derivative litigation against San Diego-based Sequenom, Inc., arising from alleged breaches of fiduciary duty by Sequenom's board of directors. *In re Sequenom, Inc., Derivative Litigation*, No. 37-2009-00089683 (Cal. Sup. Ct. 2009).

Mr. Lowther and his partners represented a number of San Diego families and homeowners who lost everything in the October 2007 San Diego wildfires allegedly caused by SDG&E and Cox. In Re 2007 Wildfire Individual Litig., No. 2008-00093080 (Cal. 2008). These cases were effectively prosecuted with a team of lawyers and favorably settled, resulting in millions of dollars recovered for homeowners represented by Doyle Lowther. Mr. Lowther was appointed lead counsel and represented shareholders against Abercrombie & Fitch in securities litigation arising from insider trading, *Ross v. Abercrombie & Fitch Co.*, No. 2:05-cv-00819 (E.D. Ohio 2007). Just before founding his own firm, Mr. Lowther defeated a motion to dismiss in securities fraud litigation against advertising company ADVO arising from failed merger negotiations, investor misrepresentations, and excessive executive payoffs and compensation, *Kelleher v. ADVO et al.*, No. 3:06-cv-01422 (D. Conn. 2007).

Before founding Doyle Lowther, Mr. Lowther and his prior firm were appointed lead counsel, and Mr. Lowther was a principal litigator, in *In re Enron Corp. Securities Litigation*, Civ. No. H-01-3624 (S.D. Tex. 2001). Mr. Lowther and the litigation team pursued Enron, its Board, and its financial enablers following Enron's implosion in December 2001. He participated directly in the Enron litigation for over seven years, helping to recover $7.2 billion on behalf of thousands of individual and institutional investors hurt

in the massive Enron securities fraud. The $7.2 billion recovery is one of the single largest recoveries ever in a securities fraud class action.

Mr. Lowther and his prior firm also were appointed lead counsel and litigated *In re Dynegy Inc. Securities Litigation*, File No. H-02-1571 (S.D. Tex. 2003), in which individual investors and institutions pursued Dynegy and its executives for fraud. Dynegy investors suffered massive losses after discovering Dynegy had engaged in questionable transactions and misrepresented its financial results. In April 2005 Mr. Lowther helped secure a $474 million settlement on behalf of defrauded investors, an extremely favorable result for injured investors and a substantial financial recovery.

Born and raised on Long Island, New York, Mr. Lowther graduated from the State University of New York at Stony Brook, where he was an honors college resident. Mr. Lowther received his law degree from University of San Diego School of Law, where he served as Executive Editor of the San Diego Law Review. Before founding Doyle Lowther, Mr. Lowther was a judicial intern for the U.S. District Court for the Southern District of California, and thereafter was an associate with Coughlin Stoia Geller Rudman & Robbins, where he worked on complex securities and derivative litigations on behalf of injured investors. Mr. Lowther is licensed to practice in the state courts of Washington, and state and federal courts throughout California.

Associated Counsel

James R. Hail

James Hail is a former partner and currently is of counsel with Doyle Lowther. Since 1999 Mr. Hail has focused his practice on representing defrauded investors in both individual litigations and class actions. Mr. Hail has extensive experience litigating complex cases under federal and state securities laws, and the laws applicable to corporate governance. He continues to represent individual and institutional investors who are victims of investment fraud. Mr. Hail represented consumers in class action litigations

against Honda and Nvidia and families who lost their homes or businesses during the 2007 wildfires in San Diego County.

At his prior firm, Mr. Hail represented individual and institutional investors in some of the nation's most notorious securities frauds. For more than five years, he was a principal litigator in the securities fraud litigation arising from the collapse of Enron Corp. The *In re Enron Corp. Securities Litigation* recovered over $7 billion for investors. Mr. Hail also represented the lead plaintiff against Dynegy Inc. and its officers and directors. The *In re Dynegy Inc. Securities Litigation* recovered over $470 million for injured investors.

Mr. Hail has represented the lead plaintiff as lead counsel or co-lead counsel in other securities fraud litigations, including a lawsuit against Coca-Cola ($137.5 million settlement); a class action against Rural/Metro Corp. ($15 million settlement); and a class action against Secure Computing ($10 million settlement).

Mr. Hail graduated from UCLA with a degree in political science. He received his law degree cum laude from Southern Methodist University. During law school, he served as an Articles Editor of The International Lawyer law journal. Mr. Hail was admitted to the State Bar of Texas in 1997 and the State Bar of California in 1999. He is also admitted to practice law in the United States District Courts for the Eastern, Northern, and Southern Districts of Texas, and the United States District Courts for the Northern, Central, and Southern Districts of California.

Christopher Cantrell

Mr. Cantrell is an attorney with Doyle Lowther. Mr. Cantrell joined Doyle Lowther after relocating to California from Alabama, where he practiced for several years. Mr. Cantrell concentrates his practice on defective pharmaceuticals and medical devices, mass actions, and other complex litigation matters.

Mr. Cantrell has represented thousands of individuals harmed by defective pharmaceuticals and medical devices including Vioxx, Phenylproponalamine (PPA), Ephedrine, Oxycontin, Fentanyl Time Released Patches, Baycol, Medtronic ICD

Batteries, Medtronic Sprint Fidelis Leads, Lipitor, Fen-Phen, Kugel Hernia Mesh Patches, and Prempro.

Mr. Cantrell also worked on one of the largest class actions in United States history, *In re: Managed Care Litigation*, (MDL 1334 S.D. Fla.). In this immense class action, Mr. Cantrell's former firm represented hundreds of thousands of primary care physicians in a RICO class action against the nation's largest health insurance providers who were systematically defrauding doctors of payments owed.

At his prior firm, Mr. Cantrell worked on several antitrust matters including the representation of thousands of independent pharmacists in an antitrust action against the nation's largest pharmacy benefit managers. *In re Pharmacy Benefit Managers Antitrust Litigation* alleges the four largest pharmacy benefit managers conspired to artificially suppress the reimbursement payments to independent pharmacists nationwide.

Litigating these matters has allowed Mr. Cantrell to practice in state and federal courts across the nation including Florida, Georgia, New York, Illinois, Pennsylvania, Minnesota, Missouri, Nevada, Oklahoma, Louisiana and the District of Columbia.

Mr. Cantrell represents individuals injured by medical device manufacturers. These cases, to be litigated in the Southern District of West Virginia and other federal courts, involve implantation of defective products suffering from various medical ailments, including pelvic organ prolapse and incontinence.

Mr. Cantrell graduated from the University of Alabama at Birmingham in 1999 with Bachelors degrees in criminal justice and chemistry. Mr. Cantrell is a 2003 graduate of the University of Alabama School of Law where he was a Campbell Moot Court Board member. Mr. Cantrell is a member of the State Bar of California and the State Bar of Alabama. Mr. Cantrell is admitted to practice law in the United States District Courts for the Southern, Central and Eastern districts of California, the United States District Courts for the Northern, Southern and Middle districts of Alabama, and the United States Court of Appeals for the Tenth and Eleventh Circuits.

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