

[Submitting Counsel on Signature Page]

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE JUUL LABS, INC., MARKETING,
SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

Case No. 19-md-02913-WHO

**DECLARATION OF DENA C. SHARP IN
SUPPORT OF MOTIONS FOR FINAL
APPROVAL AND FOR ATTORNEYS'
FEES, EXPENSES, AND SERVICE
AWARDS**

This Document Relates to:
ALL CLASS ACTIONS

DATE: August 9, 2023
TIME: 2:00 P.M.
LOCATION: Courtroom 2

HON. WILLIAM H. ORRICK III

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1 I, Dena C. Sharp, declare as follows:

2 1. I am a partner of Girard Sharp LLP and am admitted to practice in the Northern District
3 of California. I am one of the Court-appointed Co-Lead Counsel in this matter and serve as Class
4 Counsel.

5 2. I make this declaration based on my own personal knowledge. If called upon to testify, I
6 could and would testify competently to the truth of the matters stated herein. I submit this declaration in
7 support of Plaintiffs' Motion for Final Approval and Class Counsel's Motion for Attorneys' Fees,
8 Expenses, and Service Awards.

9 3. In this declaration, I refer to my firm and myself as "Class Counsel." Lawyers from my
10 firm and other firms who worked on class-related issues are referred to as "Class Committee." And all
11 lawyers who worked for the common benefit in this MDL are referred to as "MDL Lawyers."

12 **I. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

13 4. My firm has extensive experience leading multidistrict and complex cases, and obtaining
14 favorable results for clients and the classes we have represented. *See* ECF No. 102 at 2-3¹ (Girard Sharp
15 Application for Appointment as Lead Counsel). In light of that experience and the substantial work
16 performed on this matter over the past several years, Class Counsel² is thoroughly familiar with the
17 relative risks and rewards of settlement in relation to trial, and is well-positioned to evaluate the
18 benefits of settling this case rather than defending the class certification order on appeal and proceeding
19 to trial.

20 5. Class Counsel believes the Class Settlement is fair, reasonable, and adequate. The Class
21 Settlement represents a significant recovery for consumers of JUUL Products. Based on information
22 presently known about the submission of Claims, Class Counsel estimates Eligible Claimants will
23 receive between 15-50% of the single damages they could have recovered at trial.

24 6. Aside from providing substantial relief to Class Members, the Class Settlement also
25 avoids the substantial risks that proceeding through trial to verdict would have posed. In addition to
26

27 ¹ All references to "ECF No." are to filings in this litigation on the MDL docket unless otherwise noted.

28 ² The capitalized terms are intended to have the same meaning as defined in the Class Settlement Agreement and Plan of Allocation except as otherwise noted.

1 establishing that Defendants fraudulently misrepresented and omitted the safety and addiction risks of
2 JUUL Products, and targeted minors in the sale of such products, Class Plaintiffs would have had to
3 convince the jury that the Individual Defendants entered a RICO conspiracy using JUUL Labs, Inc.
4 (“JLI”) as the enterprise. Class Plaintiffs also faced the possibility that class certification would be
5 overturned on appeal, or that they would lose at summary judgment or trial. There was also a
6 substantial risk that JLI would declare bankruptcy after the Food and Drug Administration (“FDA”)
7 denied its Premarket Tobacco Authorization (“PMTA”) in June 2022, which would have imperiled any
8 potential recovery and at a minimum would have caused significant delay.³ Despite these risks, Class
9 Counsel was able to secure a recovery for consumers who were harmed by Defendants’ unlawful
10 conduct, harms that were particularly acute as to youth who became addicted to nicotine products.

11 7. While the Class Settlement speaks for itself, the Court, through its close supervision of
12 this litigation and rulings on key issues, is ultimately best qualified to assess the fairness,
13 reasonableness, and adequacy of the Class Settlement. Given the size of the recovery and potential for a
14 reversal on appeal or an unfavorable trial outcome, Class Counsel respectfully submits that the Class
15 Settlement is more than fair, reasonable, and adequate.

16 **II. WORK PERFORMED FOR THE BENEFIT OF THE CLASS**

17 8. For four years, Class Counsel and the Class Committee actively litigated the Class
18 claims against several leading defense firms who defended the case with skill and vigor. Over the
19 course of the case, Class Counsel and the other Co-Lead Counsel appointed in the MDL led efforts on
20 behalf of the Class to defeat Defendants’ multiple motions to dismiss, pursue discovery of Defendants
21 and non-parties, respond to Defendants’ discovery of the class representatives, review over 33 million
22 pages of documents produced by Defendants, participate in taking over 100 depositions of fact
23 witnesses, depose Defendants’ expert witnesses, litigate key discovery disputes, prevail on class
24 certification and related *Daubert* motions, defend the class certification order on appeal, coordinate and

25 ³ <https://www.axios.com/2022/11/10/juul-bankruptcy-new-funding-investors-fda> (noting that “Talks of
26 bankruptcy began amid the company's ongoing dispute with the FDA, which ordered this past summer
27 for Juul's e-cigarettes to be taken off the shelves in the U.S. market.”); *see also* ECF No. 3338 at 3 (“On
28 June 23, 2022, the U.S. Food and Drug Administration (“FDA”) issued a Marketing Denial Order
29 (“MDO”) to JLI for all of their products currently marketed in the United States. On July 5, 2022, FDA
30 entered an administrative stay of the MDO.”).

1 work with other MDL Lawyers to obtain favorable rulings on Defendants’ motion for summary
2 judgment and *Daubert* motions in personal injury and government entity suits asserting the same or
3 overlapping claims based on the same evidence, and work with Special Master Perrelli toward potential
4 resolution. The Class Committee and MDL Lawyers performed the requisite work despite the stress
5 and strain of actively litigating a nationwide multidistrict case during the height of an unprecedented
6 global pandemic. As Judge Corley observed in this case on December 11, 2020, “these are tough
7 times.... Everything just takes longer and just seems so much harder right now.” 12/11/2020 Hr’g Tr. at
8 17-18; *see also* ECF No. 1191.

9 9. As explained in further detail below, each phase of the litigation required the expertise
10 and expenditure of substantial time and resources by Class Counsel.

11 **A. Investigation and Complaint Filing**

12 10. The first class action complaint in this multidistrict litigation was filed on April 26,
13 2018. *See Colgate, et al. v. JUUL Labs, Inc., et al.*, No. 3:18-02499 (N.D. Cal.) (“*Colgate*”). The matter
14 was assigned to this Court, with Adam Gutride and Esfand Nafisi, who later became members of the
15 Plaintiff’s Steering Committee (“PSC”) in the MDL, representing the proposed class. Early in the
16 litigation, JLI moved to compel arbitration to dismiss plaintiffs’ amended complaints; the Court later
17 largely denied those motions. *See id.*, ECF Nos. 40, 41, 66, 82, 98, 99, and 139; *Colgate v. JUUL Labs,*
18 *Inc.*, 345 F. Supp. 3d 1178, 1187 (N.D. Cal. 2018); *Colgate v. Juul Labs, Inc.*, 402 F. Supp. 3d 728
19 (N.D. Cal. 2019).

20 11. While early briefing was underway in *Colgate*, JLI filed a motion with the Judicial Panel
21 on Multidistrict Litigation (“JPML”) to centralize coordinated pretrial proceedings in this Court. The
22 JPML granted JLI’s motion in October 2019, this Court then entertained leadership motions, and
23 appointed Co-Lead Counsel as well as the PSC. ECF No. 341.

24 12. After the MDL was created and centralized before this Court, on March 10, 2020, Class
25 Counsel—in coordination with the other Co-Lead Counsel— filed and served a 667-page Consolidated
26 Class Action Complaint (“CAC”), and an additional 422 pages of allegations specific to each of the
27 proposed class representatives and 43 pages of JUUL advertisements. ECF No. 387.

1 13. Class representatives brought claims on behalf of a nationwide class under the Racketeer
 2 Influenced and Corrupt Organizations Act (“RICO”) against Defendants JLI, the Altria Defendants, and
 3 the Individual Defendants, alleging that these RICO Defendants formed an “association-in-fact
 4 enterprise—the Nicotine Market Expansion Enterprise,” which existed separately from the otherwise
 5 legitimate business operations of JLI, Altria, or the investment companies with which the ODDs were
 6 affiliated. *Id.*, ¶¶ 704–23. Class representatives also brought claims on behalf of nationwide classes and
 7 California subclasses for violations of the California Unfair Competition Law (Cal. Bus. & Prof. Code
 8 § 17200, *et seq.*), the California Consumer Legal Remedies Act (Cal. Civ. Code § 1750, *et seq.*),
 9 common law fraud, breach of the implied warranty of merchantability, and unjust enrichment. *Id.*, §
 10 VII.A.. Class representatives also brought claims under the Magnuson-Moss Warranty Act (15 U.S.C.
 11 §§ 2301, *et seq.*), and under various state laws for all fifty states and the District of Columbia. *Id.*, §§
 12 VII.D.–E.

13 14. The CAC was the first complaint to name the Other Director Defendants (“ODDs”)⁴ as
 14 Defendants. Class Counsel had been focused, since before the Court’s leadership appointments, on
 15 developing theories of liability as to the ODDs in particular, given those individuals’ reported roles in
 16 Altria’s investment in JLI, the profits they personally realized from that transaction, their oversight of
 17 JLI business operations, and the troubled financial condition JLI already found itself in by late 2019.
 18 Class Counsel advocated vigorously to name these key individuals in the MDL, and the claims against
 19 the ODDs ultimately became central to the case and to the RICO claims in particular. In the complaint,
 20 class representatives “allege[d] hundreds of pages [of] facts regarding JLI’s and the Officer and [Other]
 21 Director Defendants’ intent to create and market a ‘blockbuster sequel’ to combustible cigarettes.” ECF
 22 No. 1084.⁵

23
 24 ⁴ Nicholas Pritzker, Riaz Valani, and Hoyoung Huh.

25 ⁵ Meanwhile, the Federal Trade Commission had filed antitrust claims against JLI and Altria, and Class
 26 Counsel proposed adding antitrust claims to the MDL (including by filing a proposed amended
 27 complaint that included antitrust claims). After the Court determined that the antitrust claims should
 28 proceed separately, class representatives filed an amended class action complaint on June 18, 2020, to
 conform the class claims to that ruling. ECF No. 679.

1 15. Also in the spring of 2020, Class Counsel identified a potential issue: certain proposed
2 class representatives might, in addition to their class “economic loss” claims, wish to separately seek to
3 recover for personal injuries they suffered as a consequence of using JUUL Products. To protect those
4 rights, Class Counsel included in the CAC an express provision explaining that the class representatives
5 and proposed class(es) did not, through the causes of action asserted in the class complaint, seek
6 damages or other relief as a result of personal injuries. *See id.*, § IX. Class Counsel instead anticipated
7 and advocated that any class representatives’ personal injury claims could be advanced through the
8 personal injury master complaint and subsequent short-form complaints. To head off confusion or
9 inefficiencies, Class Counsel explained this plan to counsel for Defendants before the CAC was filed,
10 and asked for confirmation that Defendants agreed that the class representatives’ personal injury claims
11 (1) were not waived by virtue of the filing of the economic loss class complaint, and (2) could be
12 asserted by way of later-filed personal injury short-form complaints (or tolled pursuant to agreement of
13 the parties). Class Counsel also flagged this potential issue to the Court. ECF No. 397.

14 16. With the guidance and approval of the Court, the parties developed a motion-to-dismiss
15 briefing schedule with early motion practice focused on issues that cut across a variety of claims or
16 claimants in the MDL, as well as case-specific issues. ECF No. 551 at 7. Class Counsel took the lead
17 on coordinating with counsel for the ODDs to generally align their initial motion to dismiss briefing
18 with the earlier-filed motions by JLI and Altria Defendants, expediting the case and creating a more
19 efficient process. *Id.* at 8-9.

20 17. Between May 29, 2020, and July 6, 2020, Defendants moved to dismiss claims asserted
21 in the CAC, the Amended Master Complaint (Personal Injury), and in seven of the Government Entity
22 Complaints (“Public Entity Complaints” or “PECs”). ECF Nos. 626, 627, 628, 629, 632, 645, 647, 649,
23 738, 740, 748, 750, 751, 752/778, 754, 771, 772, 773/779.

24 18. The aim of the “first wave” of motions to dismiss was to address potentially cross-
25 cutting issues across the complaints, including the following:

- 26 a. Motions to dismiss or stay based on the Food and Drug Administration’s primary
27 jurisdiction over JLI’s products;
28 b. Motions to dismiss claims as preempted by federal law;

- c. Motions to dismiss the federal RICO claims asserted in the CAC and PECs;
- d. Motions to dismiss the California law claims asserted in the CAC; and
- e. Motions to dismiss the public entity claims asserted in seven of the PECs.

19. Many of the issues raised during the first wave of motions to dismiss were novel and complex. For example, whether and to what extent federal regulation of nicotine products precluded or could stay private enforcement efforts has rarely been litigated. Some of these issues had been addressed in the *Colgate* litigation, and the impacts of the Court’s prior decisions on preemption were a central part of the 2020 motion to dismiss briefing. Additionally, whether two companies worth billions of dollars each were engaged in a RICO conspiracy was an open question. Class Counsel worked closely with the other Co-Lead Counsel and MDL Lawyers to thoroughly research RICO and California caselaw to fully respond to each of Defendants’ arguments, opposing the motions in briefing that spanned more than 200 pages. ECF Nos. 755–758, 830.

20. Class Counsel took the lead in drafting the opposition to the class-specific motions. Mr. Grzeczyk argued those motions on September 21, 2020, and Class Committee members assisted with briefing related to preemption and the various plaintiff groups’ overlapping RICO claims. ECF No. 993. The Court issued an October 23, 2022, order largely denying Defendants’ motions to dismiss and upholding the class representatives’ claims. ECF No. 1084. The Court identified two deficiencies in the complaint: (1) failure to establish a RICO enterprise that operated separately from JLI itself, a ruling the Court applied to the government entity claims as well; and (2) a lack of sufficiently particularized allegations of misconduct on the part of the ODDs and the Altria Defendants. *Id.* at 2, 93–94. Although the Court determined that the class representatives adequately pled most of the elements of their RICO, UCL, and common law claims against these defendants, the Court found these two deficiencies applied to those claims and granted leave to amend. The Court also dismissed without prejudice one theory of the class representatives’ implied warranty claims and their UCL claims against Altria for lack of standing.

21. To address these deficiencies, the Class Committee, along with other MDL Lawyers, researched, drafted, and filed a 729-page Second Amended Consolidated Class Action Complaint (“SAC”) on November 12, 2022, including hundreds of pages of plaintiff-specific allegations, as well

1 as many pages of examples of JUUL advertisements. ECF Nos. 1135, 1135-1, 1135-2. Taking cues
2 from the Court’s order, Class Counsel led a team that conducted a targeted review of the discovery
3 produced to date to develop and support the SAC’s new and more detailed allegations about the
4 specific acts of misconduct committed by the ODDs and the Altria Defendants. For example, the SAC
5 provided specific examples of the ODDs’ involvement in key decisions regarding unlawful conduct,
6 exactly how the ODDs controlled JLI’s Board, and the illegal acts taken by the Board as a result of that
7 control. Similarly, the SAC showed how Altria worked with Pritzker and Valani to direct JLI and
8 further the fraudulent schemes. Instead of pleading an association—in-fact enterprise that included JLI
9 as a participant, class representatives pled that JLI itself was the RICO enterprise, operated for
10 fraudulent purposes by Defendants.

11 22. Also in advance of filing the SAC, Class Counsel sought a ruling to resolve the issue
12 flagged early in the litigation—that a plaintiff named in the class action complaint be allowed to pursue
13 both the economic loss claims asserted in the class action complaint as a class representative and
14 separate personal injury claims. *See* ECF No. 1125 at 3 (Order regarding (1) Lexecon and Bellwether
15 Selection for Personal Injury Cases and (2) Class Representatives Personal Injury Claims). Defendants
16 argued that any such determination was premature and would be a disfavored advisory opinion given
17 that the SAC had not yet been filed. *Id.* Defendants also argued that allowing a plaintiff to assert claims
18 in both the class action complaint and in parallel personal injury complaint was impermissible claim
19 splitting. *Id.* The Court disagreed, finding that “[a]s a matter of effective case management,” it was
20 appropriate to resolve the issue, and that a particular plaintiff’s class claims and personal injury claims
21 could be severed and pursued in parallel. *Id.* Class Counsel’s early advocacy on this issue reduced
22 confusion, increased efficiency, and ultimately protected many class representatives’ right to participate
23 in both the Class Settlement and the personal injury settlement. As the Court noted, “this decision
24 provides clarity to all concerned....” *Id.*

25 **B. Second Round of Motions to Dismiss**

26 23. On January 4, 2021, Defendants filed almost 200 pages of briefing in a “second wave”
27 of motions to dismiss, seeking to dismiss claims asserted in the SAC and in seven of the Second
28 Amended Public Entity Complaints, often for reasons that applied equally to both sets of cases. ECF

1 Nos. 1222, 1223, 1225, 1229, and 1397 (filed February 8, 2021). Class representatives opposed the
2 motions (ECF Nos. 1364, 1481), and Defendants replied (ECF Nos. 1463, 1465, 1467 and 1557). Class
3 Counsel, in coordination with the other Co-Lead Counsel, prepared for and participated in oral
4 argument to the Court on March 26, 2021. In the minute order describing the hearing, the Court
5 “commend[ed] counsel for their professionalism, particularly given the amount of work being
6 conducted to move the litigation forward.” ECF No. 1617.

7 24. In an order issued on April 13, 2021, the Court largely denied Defendants’ second wave
8 of motions to dismiss. ECF No. 1694. The Court held that class representatives and the government
9 entity plaintiffs (1) asserted a plausible theory to maintain their RICO claims against Altria and the
10 Individual Defendants, specifically that these defendants used JLI as a RICO enterprise, and that (2) the
11 additional allegations about the ODDs’ (i) control of the Board by virtue of number of seats held, (ii)
12 knowledge about JUUL’s youth appeal and the growth of underage users, (iii) significant involvement
13 in marketing decisions, and (iv) unusually active roles in management and decisions from which they
14 profited billions of dollars, were sufficient to plead a claim under RICO and state law. *Id.* at 1–2. The
15 Court also held that personal jurisdiction was proper given the ODDs’ personal participation and their
16 forum-related contacts as directors of JLI, a San Francisco-based company. *Id.* at 2. Class Counsel’s
17 strategic plan to include the ODDs in the class complaint, and persistence in identifying facts from
18 voluminous initial discovery and public sources to overcome Defendants’ motions to dismiss, proved
19 critical to holding those individuals in as Defendants in the litigation.

20 25. In response to Defendants’ arguments concerning the Court’s subject matter jurisdiction
21 over certain class claims (ECF Nos. 1397, 1481, 1557), Class Counsel prepared individual, underlying
22 complaints on behalf of 57 class representatives named in the SAC. ECF No. 1604. In ruling on the
23 second-wave motions to dismiss, the Court largely denied Defendants’ arguments as to subject matter
24 jurisdiction, noting that class representatives’ plan to file complaints on behalf of the 57 class
25 representatives who had not yet filed an underlying complaint with class action claims mooted in large
26 part JLI’s motion to dismiss or strike those class representatives. ECF No. 1694. The Court did,
27 however, dismiss without prejudice the class action claims asserted under the laws of Delaware, the
28

1 District of Columbia, Idaho, and North Dakota given the lack of any class representative who resides in
2 those jurisdictions or otherwise conferred subject matter jurisdiction over those claims. *Id.*

3 **C. Case Management**

4 26. As noted above, on October 2, 2019, the JPML granted JLI's motion to centralize and
5 transferred all cases to this Court. ECF No. 144. Following centralization in this Court, dozens of firms
6 applied to the Court seeking to be appointed as Lead or Co-Lead Counsel, or on the PSC.

7 27. In the minute order describing the November 8, 2019, initial case management
8 conference, the Court appointed "in an interim capacity" Ms. London, Ms. Relkin, Mr. Kawamoto, and
9 me "to move the initial discovery process forward and to address other issues as necessary." ECF No.
10 250. After the appointment, interim Co-Lead Counsel immediately set to work together, and began
11 coordinating with defense counsel to move the initial discovery process forward.

12 28. Interim Co-Lead Counsel began discussions with defense counsel regarding various case
13 management orders. Interim Co-Lead Counsel provided a draft version of an ESI protocol and
14 protective order on November 16, 2019, and Defendants subsequently provided their own proposed
15 draft orders, as well as a draft order regarding privilege issues. Though the parties' respective proposed
16 draft orders had significant differences, through the parties' cooperation and diligence, the issues in
17 dispute were substantially narrowed and presented to the Court in the parties' joint case management
18 statement. ECF No. 291.

19 29. Ultimately, Interim Co-Lead counsel were able file proposed case management orders
20 regarding an Initial Case Census Order (ECF No. 262), a Direct Filing Order (ECF No. 291), a
21 Protective Order (*id.*), a Privilege 502(d) Order (*id.*), and an ESI Order (*see* ECF No. 323). Interim Co-
22 Lead Counsel and defense counsel raised several disputes regarding their competing proposals for a
23 Privilege 502(d) Order (ECF No. 291), several of which were argued during the December 2019 status
24 conference, and the Court largely ruled in interim Co-Lead Counsel's favor (*See* ECF No. 299). On
25 December 20, 2019, the Court affirmed that interim Co-lead Counsel would serve as Co-Lead Counsel
26 and appointed various firms to the PSC and as liaison counsel. ECF No. 341.

27 30. Overall, Co-Lead Counsel coordinated with Defendants to stipulate to seventeen case
28 management orders (excluding amendments), including Case Management Order Nos. 2: Initial Case

1 Census (ECF No. 260), 3: Direct Filing Order (ECF No. 309 & 651 (Amended) & 996 (Amended)), 4:
2 Rule 502(d) and Privileged Materials Order (ECF No. 322), 5: Common Benefit Order and
3 Timekeeping Expense Protocol (ECF No. 352 & 381 (Amended) & 586 (Amended) & 1202
4 (Amended) & 2307 (Amended)); 6: Discovery Dispute Resolution Procedures (ECF No. 357); 8: Fact
5 Sheet Implementation Order (ECF No. 406); 9: Joint Coordination Order (ECF No. 572); 10:
6 Deposition Protocol Order (ECF No. 573 & 1378 (Amended) & 1631 (Amended); 11: Re Remote
7 Depositions (ECF No. 914); 14: Non-Bellwether Class Representative Fact Sheet Implementation
8 Order (ECF No. 1547); 16: Implementing JLI Settlement (ECF No. 3714); and 17: Ongoing Litigation
9 Against Settling Defendants (ECF No. 3780). In addition, Class Counsel coordinated with Defendants
10 to stipulate a Protective Order (ECF No. 308) and an ESI Order (ECF No. 323).

11 31. Early in the MDL, Co-Lead Counsel also worked with Defendants to obtain early
12 document productions before a consolidated complaint was filed or any document requests were
13 propounded, including (1) documents that were produced by JLI in the pre-MDL *Colgate* case; (2)
14 additional documents produced to certain government agencies by JLI and Altria; and (3) JLI's
15 insurance policies. Obtaining these documents early in the case helped the class representatives and
16 proposed classes defend against both waves of Defendants' motions to dismiss, reflected in the lengthy
17 CAC and SAC that included detailed and specific conduct of the Defendants.

18 32. In addition to this initial discovery, Co-Lead Counsel advocated for an aggressive
19 discovery schedule. They conducted a Rule 26(f) conference with defense counsel on January 30, 2020,
20 and submitted a Joint Rule 26(f) report on February 12, 2020. ECF No. 368. In the Report, Defendants
21 argued that "[d]iscovery should be phased in accordance with the PMTA review process and other key
22 points of inflection that both will impact and transcend the issues in this MDL," and advocated against
23 an aggressive discovery schedule. *Id.* By contrast, Class Counsel, along with the other Co-Lead
24 Counsel, advocated against phased discovery and fought for an aggressive discovery schedule. To
25 ensure discovery would stay on track, this Court referred resolution of discovery disputes to then-
26 Magistrate Judge Jacqueline Scott Corley (ECF No. 299), who implemented procedures for quickly and
27 efficiently resolving any disputes (CMO No. 6, ECF No. 357). Judge Corley provided Co-Lead
28

1 Counsel and Defendants with extensive assistance in making the discovery process as smooth as
2 possible, as described below.

3 33. Co-Lead Counsel also pushed for an aggressive schedule for the case overall, including
4 a proposal that class claims proceed as to three bellwether states and any national class claims, to
5 streamline the litigation and reduce demands on judicial and party resources. ECF No. 910 (discussing
6 Plaintiffs' and Defendants' arguments for proposed schedule); *see also* Order Regarding Bellwether
7 Selection and Case/Trial Schedule, ECF No. 938 (Sept. 9, 2020) (largely adopting "the plaintiffs'
8 suggestions because they are more likely to achieve a representative bellwether trial pool and meet in a
9 realistic manner the aggressive trial schedule that I seek"). That schedule allowed the plaintiffs to
10 largely complete discovery by September 2021, less than two years after the Court's December 2019
11 Order appointing Co-Lead Counsel.

12 34. Co-Lead Counsel also took several steps early on to facilitate the efficient prosecution of
13 plaintiffs' claims. They established committees to better manage the massive amount of work being
14 performed in the MDL and to avoid duplication of efforts. These committees included the Class
15 Committee, Discovery Committee, Trial Committee, Privilege Review Committee, Expert Committee,
16 and Law and Briefing Committee. The members of each committee were selected based on their skills
17 and experience handling similar issues in complex cases, especially large multidistrict litigations. The
18 Class Committee consisted of Class Counsel and a small number of lawyers whose clients were class
19 representatives and were tasked with primary responsibility for the prosecution of the class-specific
20 aspects of the litigation. The Class Committee also worked to ensure that MDL-wide discovery was
21 being pursued in a manner that would focus on evidence and documents essential or particular to the
22 class case.

23 35. Co-Lead Counsel, in coordination with lawyers in the JCCP, also explored the
24 possibility of appointing a special master to handle common benefit issues, and help create an efficient
25 system for tracking and vetting common benefit time. The parties met and conferred, and on June 17,
26 2020, reported that they had reached agreement, subject to the Court's approval, on the proposed terms
27 of appointing Hon. (Ret.) Gail A. Andler as the Common Benefit Special Master. ECF No. 672 at 4.
28

1 36. To advance efforts to ensure that the MDL was led in a manner consistent with the
2 Court's and the parties' interests in advancing the interests of diversity, equity, and inclusion, and in
3 consultation with the Court, Co-Lead Counsel submitted a proposed Third Amendment to Case
4 Management Order No. 5: Common Benefit Timekeeping and Expense Protocol, that was adopted by
5 the Court. ECF No. 2307. The Amended CMO 5, prepared in consultation with experts including
6 Common Benefit Special Master Andler and Yolanda Jackson, Executive Director and General
7 Counsel of the Bar Association of San Francisco (BASF) and Executive Director of the Justice and
8 Diversity Center (JDC), included a survey for gathering salient metrics (e.g., race, gender identity,
9 sexual orientation) from MDL Lawyers to track diversity efforts and staffing in the MDL. *See* ECF No.
10 2269. The amendment also included an updated monthly time report form to facilitate the reporting of
11 Common Benefit time with additional task codes for organizing and reviewing time entries to track
12 diversity, equity, and inclusion. *Id.* To Class Counsel's knowledge, this is one of the most detailed time
13 and expense reporting protocols implemented in any MDL to date. And, more importantly, it represents
14 a cutting-edge approach—the first of its kind—designed to meaningfully collect data that can be used
15 to track and measure progress on important goals, and help us all learn from our successes and
16 mistakes. The hope is that the focus on diversity in this MDL will benefit courts and litigants across the
17 country in advancing the interests of diversity, equity, and inclusion and can be used as a model and a
18 building block in future litigation.

19 37. Effective communication among the parties and with the Court was critical to advancing
20 the plaintiffs' interests. Co-Lead Counsel held weekly calls with JCCP counsel regarding discovery
21 coordination and have consistently coordinated with counsel in the JCCP as appropriate and warranted
22 by the developments in the litigation. *See e.g.*, ECF No. 1266 at 11. Although the JCCP did not have a
23 class component, the personal injury and government entity claims being asserted in the JCCP
24 addressed issues that overlapped with the Class claims, and thus it was important to coordinate to avoid
25 duplicating work.

26 38. Over the course of the litigation, the Court held approximately forty monthly status
27 conferences, not including joint discovery conferences which are described below. At the conferences,
28 the parties discussed the overall conduct of the litigation, the progress of discovery, the case schedule,

1 and any pending disputes. Before each conference, the parties jointly submitted case management
2 conferences statements, an exercise that often required collaboration with defense counsel in late-night
3 negotiations that narrowed important disputes and facilitated agreement. Class Counsel attended and
4 participated in all case management conferences and took an active role in preparing, finalizing, and
5 filing the statements, with a particular focus on class-related issues.

6 **D. Discovery of Defendants**

7 39. In addition to the negotiated priority document requests described above, Co-Lead
8 Counsel collectively served hundreds of requests for production and requests for admissions, and
9 dozens of interrogatories on Defendants. These discovery requests required numerous rounds of
10 negotiations, which Class Counsel, along with other Class Committee members, participated in. And
11 the MDL Lawyers, including Class Committee members, took more than 100 depositions. The parties
12 briefed and, with the assistance of Judge Corley, resolved numerous discovery disputes, many of which
13 resulted in plaintiffs obtaining important information in support of their claims. Further details
14 concerning written discovery, negotiations, and depositions are described below.

15 **1. Requests for Production of Documents**

16 40. Over approximately one and a half years, the MDL Lawyers served close to a dozen sets
17 of RFPs on Defendants that included hundreds of requests, targeting a broad range of topics. These
18 topics included issues related to corporate governance and the relationship between the Defendants;
19 JLI's sales and marketing practices and youth prevention programs; JUUL Products' manufacturing,
20 labeling, safety, and addictiveness, Altria's investment in JLI; ODDs' investment in, and ultimate
21 return on, JLI; and government investigations into Defendants related to JUUL Products and the Altria
22 investment, among others. Defendants objected to a majority of these requests, and complex and
23 lengthy negotiations were required to obtain the millions of pages of documents produced in this MDL.

24 **2. Interrogatories**

25 41. Over a similar year and a half period, MDL Lawyers served close to one hundred
26 interrogatories, including detailed contention interrogatories. These interrogatories involved similar, but
27 more targeted, requests for information as the RFPs and enabled the MDL Lawyers to identify areas of
28 inquiry and where relevant information might be found in Defendants' voluminous document

1 productions. The contention interrogatories resulted in hundreds of pages of responsive information
2 that proved invaluable at class certification and the related bellwether personal injury and government
3 entity summary judgment proceedings and trial. MDL Lawyers had to aggressively negotiate these
4 responses, and multiple times received supplemental responses through their negotiation efforts.

5 **3. Requests for Admission**

6 42. MDL Lawyers served over 450 requests for admission (“RFAs”) on JLI between April
7 and August 2021, and several RFAs on Altria. MDL Lawyers met and conferred with JLI concerning
8 these RFAs and ultimately served deficiency letters on JLI, which resulted in JLI serving amended
9 responses and objections.

10 **4. Discovery Negotiations**

11 43. Early in the MDL, the parties met and conferred regarding the format of the production
12 of ESI and reached agreements on these issues, which was memorialized in this Court’s December 17,
13 2019, ESI Order. ECF No. 323. Co-Lead Counsel worked with the JCCP to agree that a single ESI
14 order should govern discovery in both proceedings.

15 44. The parties met and conferred numerous times to discuss document productions in this
16 case, including Defendants’ systems and processes for preserving, storing, and collecting ESI. The
17 parties also met and conferred numerous times on custodians and search terms, engaging in several
18 rounds of search term exchanges and narrowing and refining custodian. By November 2020, MDL
19 Lawyers had agreed to search terms and custodians with JLI and Altria (ECF No. 1143), providing for
20 the quick and efficient production of relevant discovery well in advance of the fact discovery cutoff.

21 **5. Depositions**

22 45. MDL Lawyers noticed or requested nearly 100 depositions of JLI-related witnesses.
23 ECF No. 2872 at 2. MDL Lawyers also took 20 depositions of current and/or former Altria employees
24 and deposed each of the Individual Defendants. *Id.* Once it become clear that significant disputes were
25 likely to arise during depositions, Co-Lead Counsel negotiated with Defendants and agreed, again
26 subject to the Court’s approval, to appoint the Honorable Stephen Larson (Ret.) as a Special Master to
27 resolve disputes at depositions. ECF No. 1695 at 2.

28

1 46. Co-Lead Counsel led a coordinated effort to assign lawyers to deponents based on the
2 lawyer's experience and familiarity with the issues the witness was expected to testify about, but with
3 an emphasis on giving opportunities across the MDL to a diverse group of lawyers. In addition, the
4 deposition preparation teams generally included a mix of lawyers representing the class, personal injury
5 plaintiffs, and government entity plaintiffs working together on common issues for the benefit of all
6 plaintiffs.

7 47. Among Class Counsel's contributions to depositions was Ms. Sharp's lead role in the
8 fact deposition of Defendant Riaz Valani, Mr. Grzenczyk's deposition of JLI 30(b)(6) witness Andrew
9 Flynn, and Ms. Gliozzo's deposition of fact witness Regan Pritzker. Ms. Sharp and Ms. Gliozzo were
10 instrumental in preparing the outline and identifying documents to be used during several other key
11 depositions, including Defendants Nicholas Pritzker (whom Ms. Sharp later cross-examined at trial)
12 and Hoyoung Huh, and fact witnesses Scott Dunlap, Christopher Olin, and Alexander Asseily, among
13 others. Other Class Committee members likewise took depositions of fact witnesses like Zachary
14 Frankel (Mr. Valani's associate) and James Xu (owner of Avail Vapor), and assisted in preparations for
15 others. In instances where other MDL Lawyers led the deposition examination, Class Committee
16 members were also present as appropriate to assist the questioner, coordinate on follow-up questions,
17 and ensure that all critical issues were covered. Many of these depositions yielded statements and
18 admissions that featured prominently in the San Francisco Unified School District ("SFUSD") trial
19 against Altria, and would have played a significant role in the case-in-chief in a class trial as well.

20 **E. Third-Party Discovery**

21 48. As of February 14, 2022, MDL Lawyers had issued third party subpoenas to more than
22 190 entities or persons. In total, responsive recipients produced over 400,000 pages of documents, and
23 MDL Lawyers ultimately deposed five third-party witnesses. ECF No. 2872.

24 **F. Document Review**

25 49. JLI ultimately produced over 26 million pages of documents, the Altria Defendants
26 produced 6.6 million pages of documents, other defendants produced hundreds of thousands of pages of
27 documents, and (as noted above) non-parties produced over four hundred thousand pages of additional
28 documents and data. *See* ECF No. 2872, 2/14/2022 Joint Discovery Status Report. Co-Lead Counsel,

1 including Class Counsel, created a committee to assemble, organize, and supervise a team of attorneys
2 to review the documents. Lawyers from across the MDL served on document review teams,
3 collaborating to identify information beneficial to all the claims in the MDL and avoid duplication of
4 work. The Discovery Committee developed training materials for document reviewers, identified key
5 issue tags to attach to documents during review, and created a two-tier review structure to elevate key
6 documents and identify potential deponents. Document reviewers coded documents in a manner visible
7 across the MDL to facilitate an efficient review process as document productions came in. Document
8 reviewers also performed targeted searches as the case progressed to prepare for depositions. And these
9 reviewers gave regular presentations organized by topic to the larger group of attorneys working on
10 discovery. These regular discovery meetings were used to discuss strategy and give feedback to and
11 receive feedback from the reviewers.

12 **G. Discovery and Privilege Disputes**

13 50. As noted above, early in this MDL, on January 14, 2020, then-Magistrate Judge
14 Jacqueline Scott Corley was tasked with overseeing discovery, informally assisting the parties in
15 resolving disputes, and hearing any disputes that required formal briefing. ECF No. 299. She swiftly
16 implemented procedures to efficiently carry out this work, with the goal and effect of promoting
17 compromises and agreement among the parties while quickly resolving disputes that required court
18 intervention. CMO No. 6, ECF No. 357. Judge Corley oversaw discovery for 26 months, holding
19 monthly, and sometimes bi-weekly, conferences with the parties to keep discovery on track, provide
20 formal and informal guidance on the discovery process, and resolve any disputes promptly. Class
21 Counsel, along with the other Co-Lead Counsel, attended all these conferences and regularly
22 participated by providing summaries of the discovery process and plaintiffs' positions on disputed
23 issues. In advance of these conferences, the parties provided Judge Corley with joint discovery status
24 reports to crystalize the issues to discuss at the conferences. In many instances, discovery-related
25 disputes were presented solely through the status conference statements instead of separate discovery
26 letter briefs. The preparation of those materials required extensive coordination, first among the
27 plaintiffs, and then between Co-Lead Counsel and defense counsel, and often led to resolution of all but
28 the most intractable disputes.

1 51. All told, Judge Corley presided over approximately 27 discovery hearings, and issued at
2 least 28 orders (excluding scheduling orders), ruling on numerous discovery disputes, including issues
3 related to discovery of Defendants and their employees and class representatives, privilege disputes,
4 and an attempted renegotiation of the deposition protocol. Judge Corley also resolved numerous
5 discovery disputes through discussions with the parties, rather than issuing a formal order.

6 52. A selection, but not a complete list, of disputes Judge Corley resolved is below.

7 53. On October 6, 2020, the parties submitted a joint letter brief concerning discovery
8 regarding JLI's PMTA. ECF No. 1022. Plaintiffs sought to compel the production of JLI's final PMTA.
9 JLI argued that discovery of its PMTA, and related discovery covering drafts, referenced studies, expert
10 support, etc., should be stayed pending the FDA's ultimate determination on its PMTA. In the
11 alternative, JLI stated it would be willing to produce the final PMTA only if plaintiffs agreed to
12 production of some categories of related information (supplements to the PMTA, final research studies,
13 custodian communications regarding "the science") but agree not to seek other categories of related
14 information (drafts and communications not regarding "the science") and agree to specific staging of
15 certain expert depositions. *Id.* Judge Corley granted Plaintiffs' motion to compel and ordered JLI to
16 produce the final PMTA within seven days, noting also that "[a]fter the final PMTA is produced,
17 plaintiffs shall inform JLI as to the PMTA-related discovery they seek, prioritizing categories of
18 related-to discovery and suggesting reasonable staging of that discovery." *Id.*

19 54. With regard to the number of class representative depositions Defendants would be
20 permitted to take, the Court held a formal discovery hearing on October 30, 2020. ECF No. 1100. Judge
21 Corley granted Defendants 15 class representative depositions in addition to the depositions of the
22 Class Plaintiffs. ECF No 1117. After receiving direction from Judge Corley, the parties worked to
23 identify the deponents and schedule depositions without delay.

24 55. Defendants later sought production of the medical and educational records for the Class
25 Plaintiffs, and the parties briefed the issue in April 2021. ECF No. 1763 at 6-11. After hearing
26 argument, Judge Corley provided guidance that led to further extensive negotiations, and ultimately an
27 agreement between the parties. ECF No. 2034 at 9.

28

1 56. Depositions were another frequent topic of discussion in the parties’ regular conferences
2 with Judge Corley. On April 12, 2021, for example, the parties submitted a joint discovery letter brief
3 to address whether the Court should preclude the deposition of Altria Group Inc.’s Chief Executive
4 Officer, William Gifford. ECF No. 1693. Securing Mr. Gifford’s testimony was important to help
5 prove class representatives’ RICO claims, as Mr. Gifford served as one of the main negotiators of the
6 JLI investment on behalf of Altria and personally played a key role in nearly every facet of the
7 initiation, investigation, resuscitation, execution, and public justification of the deal. *Id.* Altria opposed
8 plaintiffs’ efforts to depose Mr. Gifford, arguing plaintiffs had failed to satisfy the requirements under
9 the “apex deposition” doctrine. *Id.* at 6-11. The Court granted plaintiffs’ request, permitting a seven-
10 hour deposition of Mr. Gifford. ECF No. 1704. As anticipated, Mr. Gifford’s testimony provided key
11 evidence supporting the RICO claims of both the Class Plaintiffs and the government entity plaintiffs,
12 and portions of his deposition were played at the first bellwether trial against Altria. *See* ECF No. 3978
13 (transcript of Gifford deposition designations played at trial on April 28, 2023).

14 57. Plaintiffs also had to devise a strategy to compel the deposition of Scott Dunlap, the
15 former Chief Marketing Office and Chief Operating Officer of JLI, as Mr. Dunlap resided in Austria at
16 the time and had refused to accept service of a deposition subpoena. On May 3, 2021, MDL Lawyers,
17 on behalf of all plaintiffs, moved for issuance of a subpoena under 28 U.S.C. § 1783 (the “Walsh Act”)
18 and to authorize Federal Rule of Civil Procedure 4(f)(3) alternative service of the subpoena on Mr.
19 Dunlap. Plaintiffs had a critical need for Mr. Dunlap’s testimony because he was a “key player”
20 involved in launching the JUUL e-cigarette and its major marketing campaigns and had “personal
21 knowledge of events and discussions” that were critical to proving plaintiffs’ claims. *Id.* at 3-7. Mr.
22 Dunlap did not contest that plaintiffs had adequately shown a basis for the issuance of a subpoena
23 under the Walsh Act. ECF No. 1875. Instead, he opposed plaintiffs’ request for alternative service of
24 any subpoena under Rule 4(f)(3). Mr. Dunlap contended that because Austrian law prohibits direct
25 service of foreign legal documents, plaintiffs instead had to proceed by letters rogatory issued through
26 diplomatic channels. *Id.* at 3. The Court granted plaintiffs’ Walsh Act motion. ECF No. 1908. And as
27 anticipated, Mr. Dunlap’s testimony was central to proving the claims of all the plaintiffs in the MDL.
28 He painted a picture of the early days at JLI, and the roles the ODDs, including Mr. Valani and Mr.

1 Pritzker, played. His testimony was heavily cited in the bellwether personal injury and government
2 entity plaintiffs’ oppositions to summary judgment, and portions of his deposition were played at the
3 first bellwether trial against Altria. *See* ECF No. 3997 (transcript of Dunlap deposition designations
4 played at trial on May 2, 2023).

5 58. On June 14, 2021, the parties submitted competing letter briefs regarding a dispute over
6 production of JLI’s correspondence with the FDA. ECF No. 1975 at 2. Judge Corley ordered JLI to
7 produce all communications from the FDA related to the PMTA, finding that “[t]he distinction between
8 formal and non-formal correspondence with the FDA is not persuasive—if correspondence is relevant
9 i[t] must be produced.” ECF No. 1999.⁶

10 59. Throughout the litigation, the parties also engaged in negotiations and disputes
11 concerning documents withheld on the basis of privilege. Co-Lead Counsel created a privilege task
12 force that reviewed privilege logs and determined which documents to challenge. These negotiations
13 came to a head when, in the spring of 2021, plaintiffs challenged 95,000 entries on JLI’s privilege log.
14 The parties agreed to a protocol by which plaintiffs would select 60 log entries (without having seen the
15 corresponding documents), JLI would select another 40 log entries, and JLI would submit all 100 log
16 entries and corresponding documents to the Court for *in camera* review. ECF No. 2034 at 3. JLI made
17 the agreed submission on June 14, 2021, and indicated that it was withdrawing privilege as to 48 of the
18 60 log entries identified by plaintiffs, and partially withdrawing privilege as to another 5 of those
19 entries. *Id.* JLI also stated that it was embarking on a voluntary re-review of its logs and withheld
20 documents. *Id.* Both parties briefed the law regarding the scope of privilege. ECF Nos. 1978-1979.

21 60. On July 6, 2021, Judge Corley ruled on the privilege dispute after conducting an *in*
22 *camera* review of certain sample documents included on JLI’s privilege log to determine if they were
23 protected by the attorney-client or attorney work product privilege. Per the parties’ agreement, plaintiffs
24 originally selected 60 entries from JLI’s privilege log. After selection, JLI withdrew the privilege
25 assertion for 48 of the 60. ECF No. 2052. Of the 12 documents reviewed by the Court from plaintiffs’
26 selection, six documents were found to be wholly or partially discoverable. *Id.* The parties continued to
27 meet and confer regarding JLI’s privilege logs, and based on these conferrals and the Court’s July 6,

28 ⁶ The Court ordered a limited stay as to the production of these communications. ECF No. 2022.

1 2021, guidance, JLI continued to conduct a re-review of its privilege logs. ECF No. 2167 at 2. On
2 August 16, 2021, JLI had reported it had de-designated (in full or in part) approximately 15,000
3 documents after a review of 64,000 entries. ECF No. 2255 at 2-3.

4 61. As of August 16, 2021, plaintiffs had challenged JLI's privilege claims regarding
5 communications among board members that were shared with third parties, based in part on deposition
6 testimony. JLI agreed to produce documents shared with third parties who were merely board
7 observers, but maintained privilege claims for certain individuals. ECF No. 2255 at 3. On October 24,
8 2021, Judge Corley ruled on a privilege dispute regarding whether JLI had properly withheld as
9 attorney-client privileged communications shared with four individuals: Gwendolyn May, Zachary
10 Frankel, Ben Schwartz, and Isaac Pritzker. ECF No. 2422 (ruling on ECF Nos. 2404 & 2405). Judge
11 Corley held that privilege was waived with respect to communications shared with Ms. Moy and Mr.
12 Pritzker. ECF No. 2422.

13 **H. Discovery of Class Plaintiffs**

14 **1. Written Discovery**

15 62. Having previously agreed to defer production of initial disclosures by plaintiffs, on July
16 7, 2020, JLI, Altria, and the Individual Defendants asked class representatives in the MDL to serve
17 initial disclosures (ECF No. 803), which they did.

18 63. On June 19, 2020, JLI served 20 requests for production of documents and 20
19 interrogatories on class representatives. ECF No. 904. The parties raised the issue with Judge Corley.
20 With the benefit of her guidance, the parties agreed that only the Class Plaintiffs would respond to all
21 of the discovery requests, and that other class representatives would complete plaintiff facts sheets
22 (except those portions only relevant to personal injury claims) and respond to a single interrogatory.
23 The agreement was formalized in CMO No. 14. ECF No. 1547.

24 64. Consistent with these agreements, by November 16, 2020 “[t]he significant majority of
25 the Class Representatives who are not presently a part of the bellwether proceedings ha[d] completed
26 Plaintiff Fact Sheets, and those who have not [were] in the process of completing them.” ECF No. 1143
27 at 9. Nearly all class plaintiffs completed a plaintiff fact sheet, and those that did not had their claims
28 dismissed pursuant to CMO No. 14.

1 65. The Class Plaintiffs fully responded to Defendants’ discovery requests. They provided
2 responses in August 2020, and after further discussions with and guidance from Judge Corley, provided
3 amended responses in December 2020. As a result of further meet and confers, Class Plaintiff L.B.
4 served further amended responses in April 2021.

5 66. Between April 2021 and July 2021, Defendants served contention interrogatories and
6 RFAs on Class Plaintiffs, and bellwether plaintiffs in the personal injury and government entity cases.
7 The Individual Defendants and Altria each sent separate requests and interrogatories to each type of
8 plaintiff regarding evidence in support of the fraud and RICO claims. Class Counsel, and in particular
9 Mr. Grzenczyk, Ms. Gliozzo, and Mr. Quackenbush, led the team that marshalled the evidence in
10 support of the fraud and RICO claims, and coordinated the response by the various plaintiff groups, as
11 there was significant overlap in the various requests and interrogatories. Ms. Gliozzo and Mr.
12 Quackenbush drafted the objections and responses and compiled supporting evidence for the Class and
13 other plaintiff groups. Between July and August 2021, the various plaintiffs served their responses and
14 objections to Defendants’ contention interrogatories and RFAs. Each response was voluminous and
15 comprehensive—for example, Class Plaintiffs’ responses to Altria’s contention interrogatories were
16 105 pages, their responses to the ODD’s contention interrogatories spanned 95 pages, and their
17 responses to ODD’s RFAs was 60 pages.

18 **2. Document Productions**

19 67. The parties extensively negotiated search terms and data sources to use in Class
20 Counsel’s collection of class representatives’ documents in response to Defendants’ discovery requests.
21 While there was no dispute that Class Plaintiffs should have to produce documents, the parties
22 disagreed over whether non-bellwether class representatives should do so as well. In response to
23 Defendants’ concern that, absent production, relevant evidence from non-bellwether class
24 representatives may be lost, Judge Corley directed all class representatives to collect and maintain
25 potentially relevant documents, though they were not required to produce them.

26 68. Class representatives worked with ILS, the electronic discovery vendor retained by Co-
27 Lead Counsel, to preserve all potentially relevant electronically stored information in a forensically
28 sound manner. The task of document collection and preservation was not a trivial one. It required each

1 class representative to participate in a half-hour interview with ILS to identify all potentially relevant
2 email, chat, and social media accounts and all potentially relevant stand-alone files. Each class
3 representative then had to participate in a follow-up meeting with ILS to ensure that ILS could access
4 all accounts, copy each account in its entirety, and completely upload the copied files to an ILS server
5 or standalone hard drive. Because entire accounts—as opposed to a limited set of emails, chats, or
6 posts—were copied, the majority of preserved information contained highly personal and private
7 information. For many class representatives, the process was extremely uncomfortable and, from Class
8 Counsel’s perspective, their participation demonstrated their commitment to serving as class
9 representatives. In addition, several class representatives had a significant amount of electronic data
10 that required more than one follow up meeting and several hours with ILS to completely copy and
11 upload the data.

12 3. Depositions

13 69. As noted above, Class Counsel successfully limited Defendants to taking the depositions
14 of each Class Plaintiff and an additional 15 other class representatives, far fewer than the total number
15 of class representatives named in the SAC. *See* ECF No. 1584 at 7-8. Defendants then raised a dispute
16 regarding whether individuals deposed in the personal injury cases who were also class representatives
17 would count against the 15 additional class representative depositions (*id.*), and the Court again ruled in
18 Class Counsel’s favor. ECF No. 1593 at 1 (“The three non-bellwether class representatives who are
19 also in the bellwether personal injury group shall be deposed only once. Those depositions shall count
20 against the 15 non-bellwether class representative depositions allowed.”).

21 70. Defendants deposed all five of the Class Plaintiffs. ECF No. 2034 at 8. In the case of the
22 two who were under the age of 18 as of the filing of the SAC, the parent who brought the case on their
23 behalf was also deposed. *Id.* Eleven depositions of non-bellwether class representatives took place as
24 well. ECF No. 1816 at 5. Class Counsel, and in particular Mr. Grzenczyk, played a central role in
25 preparing Class Plaintiffs and the class representatives for their depositions.

26 71. On June 11, 2021, Class Counsel moved for a protective order and to quash the
27 subpoenas served by JLI on six non-parties who were friends and family of Class Plaintiffs Bradley
28 Colgate and C.D. ECF No. 1968. Judge Corley held a hearing on June 16, 2021, and heard argument

1 from Class Counsel on behalf of the Mr. Colgate and C.D. The Court allowed the depositions of the
2 non-parties (save one) to proceed, but limited the scope and time allotted for the depositions. ECF No.
3 1999. As to the document subpoenas, the Court granted Class Counsel’s motion to quash on the
4 grounds that defendants had “not shown that any third party is likely to possess sufficiently relevant
5 information to justify the burden placed on the non-parties for searching for such documents.” *Id.*

6 **I. Class Certification and Related Proceedings**

7 **1. Plaintiffs’ Class Certification Motion**

8 72. On April 28, 2021, Class Plaintiffs moved for an order certifying four classes of
9 purchasers of JUUL Products on theories that defendants’ marketing of JUUL was unlawfully
10 deceptive, JUUL was unlawfully marketed to youth, and JUUL Products are not fit for ordinary use.
11 ECF No. 1772. Class Counsel had begun preparing a class certification strategy immediately upon
12 being appointed by the Court as Co-Lead Counsel. A key focus of this work was not only analyzing
13 consumer protection cases where plaintiffs had been successful, but also the many tobacco products
14 cases in which courts had denied motions for class certification. By focusing early in the litigation on
15 the issues that would need to be overcome in this case, Class Counsel was able to develop the record
16 and legal theories necessary to address those issues.

17 73. In support of their motion, and to address the challenges that proved fatal in other cases,
18 Class Counsel engaged and worked with five experts—Dr. Hal Singer, Dr. John Chandler, Dr. Sherry
19 Emery, Dr. Anthony Pratkanis, and Dr. Alan Shihadeh—to prepare reports specifically for class
20 certification purposes.

21 74. Leading economist Dr. Hal Singer was asked to develop a model to analyze the extent to
22 which Class Members were injured and damaged on a classwide basis. Dr. Singer served his initial
23 report on April 28, 2021. His report relied primarily on a “choice-based conjoint survey,” based on
24 which Dr. Singer estimated class damages of \$1.9 billion under his “Addiction-Risk Theory of Harm,”
25 and damages of \$1.3 billion under his “Safety-Risk Theory of Harm,” and using a supply-side method,
26 estimated a range from \$971 million under the Addiction-Risk Theory of Harm to \$643 million under
27 the Safety-Risk Theory of Harm. Defendants deposed Dr. Singer on August 4, 2021. Class Counsel
28 prepared Dr. Singer for his deposition and defended him at the deposition.

1 75. After Defendants served their own expert reports, Class Committee members worked
2 with Dr. Singer to prepare a 188-paragraph rebuttal report, in which he addressed the critiques each of
3 Defendants’ rebuttal experts (Rossi, Murphy, Orszag, Marais, and Henningfield) lodged as to Dr.
4 Singer’s opinions. Class Committee members worked with Dr. Singer to “put a revised model back into
5 the field to test certain” critiques from Defendants that resulted in “new survey results” for the Safety-
6 Risk group. Singer Reply Report, ¶¶ 1, 8. Dr. Singer also conducted significant further analysis—also
7 in response to Defendants’ experts’ criticism—to incorporate additional control variables into his
8 “nonlinear demand model” that already took into account various supply-side factors.

9 76. Defendants moved to strike portions of Dr. Singer’s reply report—the opinions
10 regarding the New Safety Risk survey (Singer Reply Report, ¶¶ 8, 203-206 & Appendix 3) and his
11 amended supply-side analysis to his non-linear demand model (*id.*, ¶¶ 189-202). *See* ECF No. 2479 at
12 1. Class Plaintiffs opposed Defendants’ motion, arguing that Dr. Singer’s reply report responded to
13 Defendants’ experts’ points and that Defendants failed to provide a compelling justification for striking
14 the report. ECF No. 2493. The Court concluded that the challenged portions of Dr. Singer’s reply report
15 were properly considered rebuttal, but nonetheless gave Defendants the opportunity to file
16 supplemental reports and allowed Class Plaintiffs to file a supplemental report from Dr. Singer (ECF
17 No. 2496), which they did.

18 77. Class Plaintiffs also submitted a report by Dr. John Chandler, a Clinical Professor of
19 Marketing at the University of Montana and former Research Director at Microsoft Advertising, who
20 was retained by Class Counsel to assess JUUL’s marketing and opine on its pervasiveness or “reach,”
21 meaning the number of individuals who were exposed to JUUL’s advertising. Class Counsel prepared
22 Dr. Chandler for his deposition and defended him at the deposition. Dr. Chandler’s opinions were
23 critical to addressing an issue on which plaintiffs in many other cases had lost class certification:
24 showing that the class was sufficiently exposed to the challenged misrepresentations and omissions to
25 support an inference of reliance.

26 78. Class Plaintiffs also submitted a report by Dr. Sherry Emery, Senior Fellow in the Public
27 Health Group and Director of the Social Data Collaboratory at NORC at the University of Chicago,
28 who currently studies the impact of media marketing on the sales of e-cigarettes for the Centers for

1 Disease Control and Prevention (“CDC”). Class Plaintiffs retained Dr. Emery to review JUUL
2 marketing strategies and their appeal to youth. Defendants deposed Dr. Emery, and Class Committee
3 members prepared Dr. Emery for her deposition and defended her at the deposition. Class Committee
4 members also worked with Dr. Emery to prepare a rebuttal report responding to Defendants’ expert Dr.
5 Berger.

6 79. Class Plaintiffs also submitted a report by Dr. Anthony Pratkanis, an experimental social
7 psychologist, and Emeritus Professor of Psychology at the University of California-Santa Cruz, who
8 was retained by Class Counsel to analyze JUUL marketing to determine the Unique Selling Proposition
9 (“USP”) of JLI’s marketing campaigns and apply his experience studying the science of social
10 influence and marketing. Dr. Pratkanis opined that JUUL’s USP was “[a] tech lifestyle product that
11 satisfies,” and that this message was common to all JUUL’s marketing despite the variation in
12 campaigns over time. Defendants deposed Dr. Pratkanis, and Class Committee members, together with
13 another MDL Lawyers, prepared Dr. Pratkanis for his deposition and then defended him at the
14 deposition. Dr. Pratkanis—like Dr. Chandler—was retained to address another specific issue that often
15 proved fatal at class certification: whether there is sufficient cohesion among the advertising that class
16 members were exposed to.

17 80. Class Plaintiffs also submitted a report by Dr. Alan Shihadeh, an engineer specializing
18 in tobacco products. He was retained by Class Counsel to offer an opinion on whether or not the “abuse
19 liability” of JUUL Products (*i.e.*, the risk of these products causing addiction) could be determined
20 using attributes common to all JUUL devices, and, if so, how that would be done. Defendants deposed
21 Dr. Shihadeh, and Class Counsel and two of the MDL lawyers prepared Dr. Shihadeh for his
22 deposition, defended him at the deposition, and worked with him to prepare a rebuttal report.

23 81. Each of the Defendants opposed Class Plaintiffs’ motion. ECF Nos. 2303 (ODDs); 2308
24 (Altria); 2309-2313 (JLI); 2314 (Monsees); and 2315 (Bowen). The overarching theme of their
25 opposition was that no class could be certified given the “heterogeneity” of the proposed Class
26 Members and the “multifactorial” nature of the inquiry: each Class Plaintiff and each proposed Class
27 Member were exposed to different advertisements over different periods of time; each had different
28 impressions of the impact (or materiality) of the misrepresented or omitted information; each

1 experienced different levels of alleged economic injury; and each had their own “nicotine journey”
2 given their unique use of JUUL Products (as well as other nicotine delivery products like cigarettes or
3 other e-cigarette products) and unique experiences with possible addiction.

4 82. Defendants also moved to exclude all of Class Plaintiffs’ experts in connection with the
5 motion for class certification. JLI’s Omnibus Motion to Exclude (“Omnibus *Daubert* Mot.”), ECF Nos.
6 2309-9.

7 83. On October 8, 2021, Class Plaintiffs filed their (a) reply brief in support of their motion
8 for class certification; (b) opposition to Defendants’ Omnibus *Daubert* Motion; and (c) a *Daubert*
9 motion as to one of Defendants’ class certification experts. As part of these materials, Class Plaintiffs
10 submitted rebuttal reports from three of their five class certification experts, totaling more than 200
11 pages. ECF Nos. 2438-2439. Class Counsel prepared the reply brief, and the larger group of Class
12 Committee members and Class Counsel worked on the rebuttal expert reports and, along with other
13 MDL Lawyers with substantial experience litigating *Daubert* issues, opposed Defendants’ Omnibus
14 *Daubert* motion. ECF No. 2439-2.

15 84. On November 10, 2021, Defendants filed a reply in support of their Omnibus *Daubert*
16 Motion. ECF No. 2535 & 2536 (corrected version). On November 15, 2021, Class Plaintiffs objected to
17 Defendants’ citations to, and reliance on the rebuttal reports of their experts Peter Rossi and Kevin
18 Murphy, as well as other new evidence and arguments included in Defendants’ reply in support of their
19 Omnibus *Daubert* Motion. ECF No. 2545. Although Class Counsel believed it would be appropriate to
20 seek leave to submit additional briefing to respond to the objectionable material, Class Counsel opted
21 not to do so out of respect for the Court’s time, and instead noted they would be prepared to discuss the
22 supplemental Rossi and Murphy reports and Defendants’ new arguments at the December 6 hearing. *Id.*

23 85. On December 6, 2021, Class Counsel argued the class certification and related *Daubert*
24 motions. ECF No. 2606. The Court took the matters under submission after argument.

25 86. On June 28, 2022, the Court granted the motion to certify four classes—a Nationwide
26 Purchaser Class, Nationwide Youth Class, California Purchaser Class, and California Youth Class—in
27 a 94-page opinion. ECF No. 3327. The Court found that “[t]he individual differences defendants
28 identify or attempt to create do not preclude class certification. Some of the identified differences – for

1 example, differences in advertisements that the named plaintiffs or class members may have seen over
 2 time or differences in the amount of JUUL product purchased – are simply not *material*. Given the
 3 legal standards applied to plaintiffs’ claims, other identified differences – what an advertisement meant
 4 or portrayed to a specific named plaintiff or class member – are not material for purposes of class
 5 certification. Still more purported differences hinge on classic ‘battles of the experts’ that must be
 6 resolved by the trier of fact.” *Id.* The Court also denied all of Defendants’ *Daubert* motions. *Id.*

7 87. Shortly before the Court issued its class certification decision, the FDA had denied JLI’s
 8 PMTA, effectively barring JLI from marketing and selling its JUUL Products.⁷ The FDA’s denial again
 9 sparked credible speculation that JLI was likely on the brink of bankruptcy, including public comments
 10 by Defendants to that effect.⁸ Despite JLI seeking and receiving an administrative stay and second
 11 review by the FDA,⁹ fears of an FDA PMTA denial and JLI bankruptcy persisted up until the
 12 settlement was reached.

13 2. Class Notice

14 88. Defendants sought to stay class notice proceedings while the Ninth Circuit considered
 15 their Rule 26(f) petitions (described below), which Class Plaintiffs opposed. ECF No. 3338 at 8. The
 16 Court denied Defendants’ request for an interim stay and directed the parties to meet and confer
 17 regarding class notice and a notice plan. ECF No. 3347.

18 89. Shortly after the Court certified the Classes, Class Counsel sent requests for proposals to
 19 five class action administration support firms seeking proposals for dissemination of notice and
 20 estimates on pricing and timing. Class Counsel reviewed the firms’ respective submissions, including
 21 their methods for providing notice, procedures for securely handling class member data, acceptance of
 22 responsibility and maintenance of insurance in case of errors, and made follow-up inquiries. After
 23 several rounds of discussions and careful consideration of respective the proposals, Class Counsel

24 _____
 25 ⁷ <https://www.fda.gov/news-events/press-announcements/fda-denies-authorization-market-juul-products>.

26 ⁸ See e.g., *Altria's Juul stake goes up in smoke: from \$12.8 bln to \$450 mln*, Reuters (July 28, 2022),
 27 <https://www.reuters.com/business/retail-consumer/altria-cuts-juul-stake-value-by-72-2022-07-28/>
 (“Altria said there is higher probability of Juul seeking bankruptcy protection as its cash reserves dry
 up.”)

28 ⁹ <https://filtermag.org/fda-juul-additional-review/>

1 selected Epiq Class Action & Claims Solutions, Inc. (“Epiq”) as the notice administrator. ECF No.
2 3381.

3 90. Class Counsel worked with Epiq to develop a comprehensive notice plan that used a
4 combination of direct and publication notice to reach at least 75% of class members. *Id.* Class Counsel
5 took great care in designing the notice program to effectively target Class Members, who consisted of
6 largely younger, tech-savvy individuals. In the Notice Plan, Class Counsel focused on digital notice,
7 including a variety of social media and internet sites, and used video and banner ads. Class Counsel
8 also spent significant time drafting an accessible and understandable Long-Form Notice. To that end,
9 Class Counsel worked closely and with invaluable assistance from the Impact Fund,¹⁰ to create a Long-
10 Form Notice that used plain English and a consumer-friendly visual layout. Class Counsel submitted
11 the Notice Plan for approval on August 12, 2022. *Id.*

12 91. Class Counsel also provided copies of the proposed notice materials to Defendants, met
13 and conferred with Defendants, and modified the proposed notice materials in light of the feedback
14 received. Defendants’ remaining objections to the Notice Plan, and Class Plaintiffs’ responses, were set
15 forth in a joint statement (ECF No. 3413), and the Court issued an order approving the Notice Plan on
16 August 26, 2022, overruling Defendants’ objections except for their objection to requiring JLI to post
17 notice on its website or social media channels and their objection to the length of time provided to
18 Class Members to opt-out (ECF No. 3426).

19 92. Before the Notice Plan was implemented, Class Plaintiffs reached the settlement now
20 before the Court. Given the work already performed on the notice by then, Class Counsel was able to
21 adapt the draft notices and accompanying work for the Settlement Notice Plan, discussed below,
22 creating efficiencies and costs savings to the Settlement Class.

23 3. Defendants’ 23(f) Petition and Briefing on Appeal

24 93. On July 12, 2022, Defendants filed with the Ninth Circuit Court of Appeals three
25 petitions for immediate appeal of the Court’s class certification opinion pursuant to Federal Rule of

26 _____
27 ¹⁰ The Impact Fund is a public interest nonprofit whose “mission is to provide grants, advocacy, and
28 education to support impact litigation on behalf of communities seeking economic, environmental,
racial, and social justice.” <https://www.impactfund.org/aboutus>. Among other things, the Impact Fund
has recently dedicated significant time to a project devoted to improving class action notices.

1 Civil Procedure 23(f). *See* Ninth Circuit Case Nos. 22-16693, 22-16694, 22-16695. JLI and Director
 2 Defendants’ appeals were stayed pending final approval of the Settlement. *J. D. v. Hoyoung Huh, et al*,
 3 Case No. 22-16694, ECF No. 10 (Jan. 10, 2023) (Order temporarily closing docket for administrative
 4 purposes); *J. D. v. Juul Labs Inc.*, 22-16695, ECF No. 10 (Jan. 10, 2023) (same). On February 1, 2023,
 5 Altria filed its 63-page opening brief, primarily arguing that the District Court should not have certified
 6 the Classes because Class Plaintiffs should have measured the harm caused only by the portions of the
 7 alleged fraud which Altria had first-hand involvement, and because Class Members’ reasons for
 8 purchasing JUUL Products were not identical. *See In re: J. D. v. Altria Group, Inc., et al*, Case No. 22-
 9 16693 (lead case), ECF No. 12. Class Counsel thoroughly researched the relevant case law and opposed
 10 Altria in a 65-page brief. *Id.*, ECF No. 22. The appeal was pending when the parties announced the
 11 subsequent settlement with Altria in May 2023, and has since been administratively closed pending the
 12 finalization of the settlements. *Id.*, ECF No. 42 (order temporarily closing docket for administrative
 13 purposes).

14 **J. Merits Experts**

15 94. The first bellwether trial in this case was initially scheduled to occur in early 2022. In
 16 preparation for trials of the various types of claims in the MDL, the parties exchanged dozens of merits
 17 expert reports on a range of topics.

18 95. In addition to Class-specific experts like Dr. Singer, addressed above, Co-lead Counsel
 19 jointly retained 23 generic merits experts:

- 20 • **Alan Shihadeh**, who opined that design elements of JUUL (the flavors, the “smooth
 21 nicotine” salt formula, and the sleek and easily concealable design) targeted or
 22 “uniquely” appealed to youth.
- 23 • **Alicia Casey**, who opined on the pivotal role of JLI in creating the vaping epidemic, the
 24 chemical components of JUUL and its inhalant toxicology concerns, the harmful
 25 pulmonary effects from JUUL, the harmful effects associated with the high nicotine
 26 content in JUUL, the toxic effect associated with flavorings and stabilizing agents in
 27 JUUL, the impact of particulate matter in JUUL on the lungs, and JUUL’s lack of
 28 warnings regarding these risks.

- 1 • **Anthony Pratkanis**, who primarily assessed JUUL’s marketing and unique appeal to
2 youth, and the USP common to all JUUL’s marketing campaigns, and how JUUL
3 caused an epidemic of youth addiction to nicotine,
- 4 • **Bonnie Halpern-Felsher**, who opined primarily that Defendants failed to act to protect
5 adolescents and youth despite their awareness of JUUL being uniquely attractive to
6 youth.
- 7 • **Charles Pue**, pulmonologist who opined that JUUL aerosol and vapor can cause or
8 contribute to lung disease.
- 9 • **David Cutler**, who opined that JLI and Altria were responsible for the recent increase in
10 youth usage of e-cigarettes, using standard economic and econometric methodologies.
- 11 • **Eric Lindblom**, who discussed industry standards for e-cigarette manufacturers and
12 who opined that JLI failed to meet these standards.
- 13 • **John Chandler**, who opined primarily on how JLI achieved its reach through social
14 media and viral marketing strategies.
- 15 • **Jonathan Winickoff**, who opined primarily on the basic science of tobacco and nicotine
16 and the impact of use on youth.
- 17 • **Judith Prochaska**, who opined primarily that nicotine exposure during youth is more
18 likely to result in addiction and on the addictiveness of JUUL.
- 19 • **Kurt Ribisl**, who opined about JLI’s youth prevention practices related to age and
20 identity verification of purchasers at retail stores and online, and JLI’s marketing of their
21 devices.
- 22 • **Minette Drumwright**, who opined on the nature and impact of JLI’s marketing and
23 advertising and corporate codes of conduct.
- 24 • **Neil Grunberg**, who opined primarily on the addictiveness of JUUL, the psychology of
25 addiction, and how JLI’s marketing impacted perception and use of JUUL, in particular
26 by youth.
- 27 • **Randall Tackett**, who opined about the chemicals in the JUUL aerosol, their
28 toxicological profiles, and health risks to users of the JUUL Products.

- 1 • **Robert Jackler**, who opined primarily that JUUL’s branding and marketing were
2 unreasonably attractive to youth, were misleading and deceptive, and did not adequately
3 warn about the risks associated with use of the product.
- 4 • **Robert Johnson**, who analyzed the financial status of the Defendants as relevant for
5 punitive damages, and the payouts they received from Altria’s investment in JLI.
- 6 • **Robert Proctor**, who opined on “deceptions” created by JLI and Altria through the
7 advertising of JUUL and harms related to JUUL use, as well as the inadequacy of testing
8 JUUL prior to releasing it on the market, and analyzed JLI’s marketing tactics by
9 comparing them with “Big Tobacco” techniques.
- 10 • **Sam Woolley**, a communications expert who explained how JLI’s coordinated online
11 and offline campaigns influenced youth perceptions of its products and leveraged user-
12 generated content to create the appearance of organic viral spread of popularity of the
13 JUUL brand.
- 14 • **Seth Noar**, who opined on the processes used by JLI to communicate to youth about
15 product risks, including the best practices for health warnings and the inadequacy of
16 JUUL’s warnings, how JLI failed to follow best practices for warnings, and the
17 consequence of such failures that led to misperceptions by youth about JUUL’s health
18 risks.
- 19 • **Sherry Emery**, who primarily opined on JLI’s youth marketing, including its use of
20 social media and other tactics.
- 21 • **Sharon Levy**, who primarily opines on general issues regarding the addictive properties
22 of JUUL and its impact on youth.
- 23 • **Steve Boyles**, who analyzed the special dividend distribution provided by JLI to
24 investors and identified the portion of such distribution that pertained to the wrongful
25 acts alleged by plaintiffs.
- 26 • **Thomas Eissenberg**, who opined on JUUL Products’ abuse liability, design process and
27 defects, and the inadequacy of JUUL’s warnings.
- 28

1 96. Class Counsel worked closely with the other Co-Lead Counsel and the MDL Lawyers to
2 produce expert reports for each of these twenty-three generic merits experts and served reports on
3 September 20, 2021. *See* ECF No. 2458 at 11. Each of these experts was deposed. ECF No. 2629 at 8.

4 97. Defendants disclosed twenty generic merits experts. *See id.* Class Counsel worked
5 closely with the other Co-Lead Counsel and the MDL Lawyers to evaluate the experts' reports and their
6 impact on the litigation and worked cooperatively with plaintiffs' generic experts on the preparation of
7 rebuttal reports. Co-Lead Counsel and other MDL Lawyers shared responsibility for separate experts
8 based on their respective areas of expertise and the issues they had focused on throughout the litigation.
9 Co-Lead Counsel and the MDL Lawyers worked cooperatively to depose Defendants' experts and
10 defend plaintiffs' generic experts at their depositions.

11 98. JLI moved to exclude or strike opinions, in whole or part, of 22 of plaintiffs' experts.
12 ECF No. Nos. 2690-2709. Altria sought to strike or exclude opinions of eight of those experts. ECF No.
13 No. 2683. The ODDs moved to exclude or strike opinions of three experts specifically and "other"
14 experts generally (ECF No. 2686-88) and fully joined in JLI's motions (ECF No. 2720). The Founder
15 Defendants fully joined JLI's motions and raised specific objections to particular opinions of many of
16 the experts. ECF Nos. 2712-15. According to the Court, Defendants' "briefing included many
17 hundreds of pages of often repetitious arguments." ECF No. 3270. The Court also found that for at least
18 one issue, JLI's argument "ignore[d the Court's] prior limited preemption rulings." *Id.* at 3. Plaintiffs
19 moved to exclude one of Defendants' experts—Dr. Jeffrey Arnett—arguing that he should not be
20 allowed to testify concerning the relative health risks of JUUL and combustible cigarettes given his
21 lack of expertise in toxicology. ECF No. 2727 at 2.

22 99. Class Counsel worked with the other Co-Lead Counsel and a small group of MDL
23 Lawyers to respond to the mountain of Defendants' briefing, opposing each of Defendants' motions.
24 ECF No. 2823. Mr. Grzeczyk served as one of the lead drafters of the omnibus opposition. Defendants
25 filed replies in support of their motions. ECF Nos. 2875-89.

26 100. The Court denied all of Defendants' motions to exclude or strike plaintiffs' shared
27 experts and deferred ruling on plaintiffs' motion to exclude. *See generally* ECF No. 3270.

28

1 **K. Summary Judgment in B.B., the First Personal Injury Bellwether**

2 101. On December 15, 2021, Co-lead Counsel filed a motion for partial summary judgment
3 on discrete choice-of-law issues with respect to the B.B. trial, the first bellwether trial. ECF No. 2647.
4 Though B.B. was a personal injury bellwether case, Class Counsel participated in the drafting this
5 motion.

6 102. JLI moved for partial summary judgment on B.B.'s claims for fraud (Counts 9-12),
7 failure to warn (Counts 2, 5), breach of warranty (Counts 13-14), manufacturing defect (Counts 3, 6),
8 failure to recall and retrofit (Count 8), and medical monitoring (Count 15)¹¹ (ECF No. 2651-3), and
9 Altria moved for summary judgment as well (ECF No. 2654). Class Counsel again participated in the
10 drafting of the opposition to these motions, given the substantial relevant overlap between the personal
11 injury claims and the Class claims, and the evidence that supported them. ECF Nos. 2791 (B.B.
12 Opposition to JLI's motion), 2784 (B.B. Opposition to Altria's motion). On April 29, 2022, the Court
13 denied Defendants' summary judgment motions, save for the medical monitoring and negligent
14 misrepresentation claims that B.B. abandoned in her opposition to the motion. ECF No. 3083 (Order
15 Denying Summary Judgment in B.B.).

16 103. As with all the collaborative efforts between counsel for the different types of plaintiffs
17 in this MDL, the denial of Defendants' summary judgment motions for the first personal injury
18 bellwether not only benefited B.B., but also the Class and the other personal injury and government
19 entity plaintiffs as a whole.

20 **L. Pretrial Submissions and Trial Preparations in Personal Injury and Government**
21 **Entity Bellwether Cases**

22 104. Class Counsel also participated significantly in the pretrial briefing and trial preparations
23 for two bellwethers in the MDL that ran parallel to the Class case. Because of the significant overlap in
24 the relevant evidence, fact and expert testimony, and legal claims asserted, the development and
25 prosecution of the bellwether trials also served to develop the Class's trial claims.

26
27
28 ¹¹ B.B.'s claims against the Founder Defendants and ODDs were dismissed with prejudice by stipulation. Case No. 20-cv-07174, ECF No. 27.

1 105. Early in the MDL, Co-Lead Counsel established a Trial Committee comprised of
2 lawyers representing all types of plaintiffs, whose charge was to work together to develop the best
3 evidence to support the various overlapping claims in the MDL at trial, as well as trial themes and
4 strategy, and to prepare for and conduct focus groups and jury exercises. Ms. Sharp and Ms. Gliozzo
5 served on the Trial Committee and participated extensively in general trial preparations as well as
6 preparations for the bellwethers that were assigned trial dates, including the B.B. case and the SFUSD
7 case. Ms. Sharp also served on the trial team and as one of four lead trial counsel for the SFUSD
8 bellwether, in which Ms. Gliozzo was a central player as well.

9 106. The trial team for each bellwether, with support from the Trial Committee as needed,
10 worked cooperatively to develop an outline of their case-in-chief, the order of proof, and related trial
11 materials. Lawyers were assigned to subject areas based on work they had done in the litigation to date.
12 Trial team members also identified potential admissibility issues associated with plaintiffs' selected
13 testimony and documents, and developed strategies to overcome those challenges. Members of the core
14 trial team and other attorneys responsible for trial preparation conducted numerous strategy sessions
15 during which the trial team decided how to allocate the time available for their case-in-chief, which
16 attorneys would be responsible for questioning fact and expert witnesses, which fact witness deposition
17 testimony would be designated and played for the jury, and what testimony and exhibits to include (and
18 exclude), among other things.

19 107. In the spring of 2022, the parties began preparing deposition designations to be played at
20 trial in connection with the B.B. personal injury bellwether. Class Counsel, and in particular Ms.
21 Gliozzo, was instrumental in ensuring the deposition designation project was successful and effective,
22 including working with opposing counsel to establish procedures and deadlines for exchanging
23 designations and with co-counsel to designate testimony, responding to defense objections, and
24 asserting objections to defense designations. The parties agreed that their objections to designations
25 would be initially submitted to Special Master Stephen Larson, who would in turn submit
26 recommended rulings to the Court. Ms. Gliozzo played a key role in ensuring all the designations were
27 completed and timely submitted to Judge Larson.

28

1 108. The first exchange of affirmative designations in the B.B. case occurred in March 2022,
2 with objections, counter designations, and counter-counters following in April and May 2022. All
3 designations were submitted to Judge Larson for recommended rulings by June 2022. Plaintiffs initially
4 affirmatively designated testimony from 57 witnesses, but endeavored to narrow the set to 27
5 affirmative witnesses by the time designations were submitted for rulings. During this time, the B.B.
6 trial date was postponed, first to June 2022, then September 2022, and ultimately January 2023. Judge
7 Larson submitted his recommended rulings on the B.B. designations on a rolling basis between August
8 and early October 2022. *See* ECF Nos. 3403, 3432, 3441, 3471, 3568 (Special Master’s Report and
9 Recommendations). Again, while these designations were being prepared for the B.B. personal injury
10 trial, much of the testimony and designations would have been equally relevant in the Class case, and
11 as Ms. Gliozzo and others worked through designations, they identified and developed themes and
12 issues to address in preparation for the trial on the Class claims.

13 109. The parties exchanged their initial proposed pretrial materials—including exhibit lists,
14 witness lists, jury instructions, deposition designations, motions *in limine* (“MILs”), and verdict
15 forms—throughout March and April 2022. *See* ECF No. 2929-1 (agreed schedule for exchange of
16 pretrial materials). The parties conferred extensively and ultimately filed the joint pretrial statement for
17 B.B. on April 25, 2022. ECF No. 3062.

18 110. The set of jury instructions submitted with the pretrial statement in B.B. addressed
19 important issues that impacted all types of plaintiffs in the MDL. Class Counsel provided input into the
20 B.B. proposed instructions and responses to the voluminous instructions proposed by the Defendants.
21 The final set of proposed instructions submitted to the Court for B.B. included 93 agreed and contested
22 instructions spanning over 170 pages. ECF No. 3062-1.

23 111. The parties also filed MILs addressing a wide range of issues likely to arise at trial. The
24 Trial Committee and the B.B. trial team jointly prepared twelve MILs that were generally applicable to
25 all cases in the MDL, as well as another dozen MILs that were specific to the B.B. case. ECF No. 2945.
26 B.B. responded to twenty MILs filed by Defendants (ECF No. 3021), and the parties also stipulated to
27 exclude twenty-one topics, including issues raised by B.B. and Defendants, such that a MIL was not
28 required (ECF. No. 2942). Class Counsel participated in strategizing about which motions to bring and

1 worked on drafting the motions. Ms. Sharp argued some of the motions before the Court, and Ms.
2 Gliozzo was prepared to argue others. The Court ruled on each side's MILs. ECF No. 3170. For
3 example, the Court denied Defendants' request to exclude evidence of historical tobacco industry
4 conduct, marketing that B.B. might not have seen personally, and third-party social media content
5 regarding JUUL, all of which were relevant to the theory, common to all plaintiffs, that JUUL's
6 marketing followed the Big Tobacco playbook and intentionally created the viral spread that caused
7 epidemic level youth usage of the nicotine product. B.B. and all the other MDL plaintiffs, including the
8 Class, benefited from these rulings.

9 112. Ultimately, the B.B. case settled before trial as part of the global settlement between JLI
10 and the various plaintiff groups. But nearly all the work that the Trial Committee and B.B. trial team,
11 including Class Counsel, had completed already was applicable and helpful as the parties prepared the
12 next-in-line bellwether case, government entity plaintiff SFUSD, and would have been equally
13 applicable to a class trial. Ms. Sharp and Ms. Gliozzo continued to commit significant time and energy
14 to trial preparation, and Ms. Sharp served as one of the four lead trial counsel for SFUSD when the case
15 was tried in April and May 2023.¹²

16 113. As before in the B.B. case, Ms. Gliozzo played a central role in preparing the
17 depositions designations to be exchanged and submitted, applying the rulings of the Special Master and
18 then the Court, and finalizing the video to be played at trial. In the SFUSD case, the parties used the
19 B.B. designations and rulings as their starting point, because of the substantial overlap in the evidence
20 at issue. The parties exchanged affirmative designations objections, counter designations, and counter-
21 counters between February and March 2023, and all designations were submitted to the Court for
22 rulings in April 2023. Ultimately, SFUSD presented sixteen witnesses via video deposition at trial.

23 114. Class Counsel also participated in the preparation and exchange of pretrial materials for
24 the SFUSD case. The parties initially submitted their Joint Pretrial Statement for SFUSD on October
25

26 ¹² Much of this work occurred after the settlement with JLI but is being described in this declaration in
27 the interests of completeness and to illustrate the overlapping nature of the claims and work produced in
28 the litigation, including trial preparations. As explained below, the lodestar figures presented in this
declaration and the attorneys' fees motion reflect only time incurred through December 6, 2022 (the date
of the JLI settlement).

1 11, 2022 (ECF No. 3591), and after JLI and the Individual Defendants settled and the remaining parties
2 made adjustments to try the case with Altria as the sole defendant, submitted an updated Pretrial
3 Statement on February 24, 2023 (ECF No. 3817). The set of jury instructions submitted for SFUSD
4 were highly relevant to the Class, because they included the parties' competing positions on the
5 instructions for the RICO claims, which were common to the Class and government entity cases. Class
6 Counsel provided input into SFUSD's proposed instructions and responses to the voluminous
7 instructions proposed by Altria. The initial proposed instructions submitted to the Court for SFUSD
8 included 167 agreed and contested instructions spanning over 311 pages. ECF No. 3591-1. The
9 subsequent proposed instructions for the Altria-only trial included 147 agreed and contested
10 instructions spanning over 257 pages. ECF No. 3817-1.

11 115. As members of the SFUSD trial team, Ms. Sharp and Ms. Gliozzo spent significant time
12 preparing for trial, including conferring with co-counsel on trial strategy, developing trial themes,
13 coordinating with defense counsel on logistical trial issues, drafting the direct and cross examinations
14 of key witnesses, preparing SFUSD witnesses to testify live, and working collaboratively on the
15 opening statement and closing arguments.

16 116. The jury for the SFUSD case was selected on April 21, 2023 (ECF No. 3949, minute
17 entry), and SFUSD presented its case in chief between April 24 and May 9, 2023 (ECF No. 4031, Index
18 of Trial Transcripts). Ms. Sharp conducted the examinations of several witnesses at the trial, including
19 settling Defendant Nicholas Pritzker, whose conduct was central to the RICO claims; Dr. David Cutler,
20 a health economist from Harvard; and four SFUSD-related witnesses. All of the trial team's work to
21 develop the RICO claims and present them to the jury benefited the Class, which would have presented
22 the same claims had the Class case proceeded to trial against some or all of the Defendants. On May
23 10, 2023, after SFUSD had rested and before Altria put on its case, Co-Lead Counsel announced a
24 global settlement with Altria that, combined with the earlier JLI settlement, would resolve all claims in
25 the MDL.

26 **M. Settlement**

27 117. Early on in this case, the Court issued a Notice of Intent to Appoint Settlement Master
28 Thomas J. Perrelli. ECF No. 523. No party opposed the appointment (*id.*), and Mr. Perrelli was

1 appointed on May 18, 2020 (ECF No. 564). The parties began work with Mr. Perrelli and, as noted in
2 case management statements starting in August 2020, the parties continued to “cooperate with his
3 recommendations and directives” (ECF No. 904) up to and since the settlement with JLI was
4 announced (*see e.g.*, ECF No. 3677).

5 118. The Class Settlement now before the Court is the result of extensive discussions
6 conducted under Mr. Perrelli’s supervision. In those settlement negotiations, I served as counsel for the
7 proposed Settlement Class, with the other Co-Lead Counsel representing the interests of personal injury
8 and government entity plaintiffs.

9 III. LODESTAR CALCULATIONS

10 119. Class Counsel, the Class Committee, and MDL Lawyers have prosecuted this litigation
11 solely on a contingent-fee basis and have at all times been at risk that they would not receive any
12 compensation for prosecuting claims against the Defendants. While Class Counsel devoted their time
13 and resources to this matter, they have foregone the option of other opportunities for which they may
14 have been compensated. In connection with the Settlement or otherwise, the parties have reached no
15 agreements regarding the amounts of attorneys’ fees, expenses, and service awards to be paid.

16 120. Through December 6, 2022 (the date of the JLIbClass Settlement Agreement), all
17 Plaintiffs’ counsel had spent 363,344.10 hours prosecuting this case on behalf of the Class and other
18 plaintiffs in the MDL, with a resulting lodestar of \$199,336,544.05.

19 121. The lodestar for Plaintiffs’ counsel is the result of a multi-step auditing process. First,
20 the time submissions were reviewed, generally by staff at Co-Lead and Liaison Counsel Lieff Cabraser
21 Heimann & Bernstein, LLP (“LCHB”). That initial screening sought to identify objective deficiencies
22 in the time submissions, *i.e.*, lack of detail, block billing, etc. Second, detailed time reports were
23 provided to Common Benefit Special Master Andler on a quarterly basis. Judge Andler then reviewed
24 the time submission to determine whether the time submitted was for the common good. For each
25 submission, Judge Andler found that “the tasks, hours and expenses incurred were appropriate, fair and
26 reasonable and for the common benefit.” Those reports, along with a cover letter providing additional
27 information, were provided to the Court on a regular basis and are attached as **Exhibit 1**.

122. As the above overview of the litigation should make clear, the vast majority of work performed in the litigation by all counsel provided substantial benefits to the Class, and the time expended by Class Counsel and the Class Committee also benefitted non-class plaintiffs. The work performed by all Plaintiffs' counsel (again, through December 6, 2022) can be divided into the following categories:¹³

Category	Code	Total Lodestar	Total Hours
Investigation/Factual Research	1	\$ 2,695,768.50	4,989.50
Attorney Meetings/Strategy	2	\$ 10,632,429.30	14,821.10
Leadership Case Management Duties (Co-Leads/PSC Only)	3	\$ 7,832,922.45	12,003.80
Case Management (Reports/Filings)	3a	\$ 181,639.40	371.80
Case Management (Administration)	3b	\$ 1,156,566.50	2,624.70
Court Appearances	4	\$ 1,033,647.10	1,256.50
Court Appearances (Preparation for Argument/Presentation)	4a	\$ 1,272,830.10	1,859.70
Court Appearances (Argument/Presentation)	4b	\$ 296,045.30	368.00
Court Appearances (Attendance at Direction of Court/Leadership)	4c	\$ 299,477.20	464.40
Pleadings (Complaint/Answer)	5	\$ 6,253,070.90	9,938.00
Discovery (Defendants and Third Parties)	6	\$ 3,920,276.80	5,634.60
Discovery (Written Discovery – Propounding)	6a	\$ 287,071.70	582.00
Discovery (Dispute – Analysis/Strategy)	6b	\$ 988,707.30	1,467.70
Discovery (Dispute – Negotiation)	6c	\$ 163,383.00	251.70
Discovery (Dispute – Lead Negotiation)	6d	\$ 196,482.10	253.90
Discovery (Third-Party)	6e	\$ 124,349.20	233.70
Discovery (Third-Party – Lead (Negotiation/Compliance))	6f	\$ 39,047.00	52.90
Discovery (Plaintiff Discovery - Responsive)	7	\$ 7,015,757.55	15,970.90
Document Review	8	\$ 45,627,335.80	107,973.20
Legal Research/Memoranda	9	\$ 5,605,204.10	9,318.40
Scientific Research	10	\$ 1,055,096.80	1,443.80
Motions/Briefs	11	\$ 3,898,829.50	5,798.60
Motions/Briefs (Lead Author)	11a	\$ 2,343,814.10	3,582.40

¹³ For many categories, much of the time is divided into sub-categories (*i.e.*, codes 6(a) – 6(f)). Because substantial work was performed prior to the creation of the sub-categories, for certain categories a significant amount of time appears in the broader, catch-all category (*i.e.*, code 6).

1	Motions/Briefs (Other)	11b	\$ 7,583,755.10	11,830.30
	Fact Depositions	12	\$ 11,414,266.60	18,620.10
2	Fact Depositions (Notice/Scheduling)	12a	\$ 522,556.00	996.70
3	Fact Depositions (Preparation)	12b	\$ 16,814,982.50	30,341.80
4	Fact Depositions (Questioning)	12c	\$ 1,149,140.50	1,344.00
	Fact Depositions (Defending)	12d	\$ 416,772.10	634.90
5	Fact Depositions (Attending at the Direction of Leadership)	12e	\$ 2,087,308.50	3,187.30
6	Class Certification/Notice	13	\$ 1,289,627.70	2,159.50
7	Experts/Consultants	14	\$ 5,416,648.40	9,602.40
8	Experts/Consultants (Administrative)	14a	\$ 1,491,026.60	2,909.30
9	Experts/Consultants (Lead Deposition Preparation)	14b	\$ 1,231,655.70	1,654.70
10	Experts/Consultants (Deposition Preparation)	14c	\$ 2,980,464.40	4,905.50
	Experts/Consultants (Defending Deposition)	14d	\$ 357,184.50	488.40
11	Experts/Consultants (Taking Deposition)	14e	\$ 211,383.00	298.20
12	Experts/Consultants (Attending Deposition at the Direction of Leadership)	14f	\$ 648,958.60	1,075.70
13	Experts/Consultants (Preparation of Reports)	14g	\$ 6,221,724.20	10,277.90
14	Settlement	15	\$ 151,024.50	175.80
15	Settlement/Mediation	15a	\$ 1,716,358.40	2,706.20
16	Settlement Administration	15b	\$ 1,681,265.90	2,052.60
17	Bellwether Selection	16	\$ 11,562,340.00	21,094.40
18	Trial Preparation (Prior to Pretrial Conference)	17	\$ 15,071,901.60	23,522.60
19	Trial	18	\$ 1,221,739.90	2,078.40
20	Bellwether Trial (Lead Counsel)	18a	\$ 69,430.00	95.20
21	Bellwether Trial (Attend at the Direction of Lead Counsel)	18c	\$ 6,328.50	12.70
22	Bellwether Trial (Jury Selection)	18e	\$ 1,717.50	2.10
23	Bellwether Trial (Administrative)	18f	\$ 2,587,038.10	5,151.60
24	Bellwether Trial (Lead Negotiations)	18g	\$ 3,481.50	4.50
25	Bellwether Trial (Witness Preparation)	18h	\$ 643,710.20	1,041.30
26	Appeal	19	\$ 107,885.00	140.00
27	Client Communications	20	\$ 662,735.70	1,273.00
28	Miscellaneous	21	\$ 851,204.95	2,016.90
	Internal Presentation - Strategy/Evidence/Analysis (Lead – Presentation)	22a	\$ 60,130.70	71.50
	Internal Presentation - Strategy/Evidence/Analysis (Preparation)	22b	\$ 181,045.50	317.30

1 123. That the categories with the most hours are document review, fact depositions, and
2 experts is not surprising given the volume of documents produced and witnesses deposed, and number
3 of issues for which expert testimony was needed.

4 124. Class Counsel acknowledges that a significant portion of the reported time was spent on
5 matters that predominantly benefitted personal injury or government entity plaintiffs more directly than
6 the Class Plaintiffs. Other portions of the time most directly benefitted Class Plaintiffs, as discussed
7 above. Given the interrelated nature of the various plaintiff groups, in my view there is no reliable,
8 sufficiently precise method to isolate the hours expended for the benefit of the Class specifically, or for
9 allocating the hours spent on particular tasks to each plaintiff group based on the extent to which that
10 task benefitted the various groups. Having analyzed the time records and data closely, my Co-Lead
11 Counsel and I have concluded that any attempt to do so would be unreliable and subjective, and would
12 lead to more questions than answers. Given the interrelated nature of the claims and overlapping work
13 that needed to be performed for the successful prosecution of those claims, in general the work
14 performed in this litigation was for the common benefit of each plaintiff group. The overall progress of
15 the litigation—including preparations for trial—produced the necessary pressure that resulted in a
16 global settlement of all claims against JLI and the Released Parties. With that said, analyzing the time
17 spent by reference to a variety of available metrics confirms that the requested fee award of
18 \$76,500,000 is proportional to, and supported by the time spent to achieve that result.

19 125. Various conservative metrics for evaluating the time spent in this litigation are provided
20 below. Each metric is based on time incurred from the inception of the *Colgate* matter through
21 December 6, 2022, the date of the JLI Class Settlement Agreement.

22 126. *Total Lodestar*: \$199,336,544.05 (.38 multiplier). The majority of the time spent by the
23 MDL Lawyers furthered the common interests of all plaintiffs, including the Class. The requested fee
24 from the Class Settlement Fund would be a .38 multiplier on that time. One way to evaluate this time is
25 to divide it by three, in recognition of the fact that there are three primary plaintiff groups. This is an
26 approach taken by Professor Robert Klonoff, who courts have frequently relied on when assessing fee
27
28

1 awards. Professor Klonoff's declaration in support of the requested fee award is attached as **Exhibit 2**.
 2 Under this approach, the requested fee would still amount to a modest 1.15 multiplier.¹⁴

3 127. *Lodestar for Class Committee and Other "Class-Centric" Firms*: \$26,328,149.75 (2.91
 4 multiplier). A small handful of firms—Girard Sharp, four PSC firms, and one additional firm—
 5 dedicated the majority of their efforts in this case to furthering the interests of the Class by performing
 6 common benefit work essential to the successful prosecution of the Class claims (and the overlapping
 7 non-class claims), as well as work unique to the Class claims (*i.e.*, class certification). All or nearly all
 8 of the time spent by these Class-centric firms substantially and directly benefitted the Class.
 9 Considering *only* this Class-centric time, without taking into account any of the more than \$100 million
 10 in common benefit time spent by other firms that undoubtedly redounded to the benefit of the Class,
 11 would result in a 2.91 multiplier.

12 128. *Lodestar in Discrete Common-Benefit Categories*: \$107,351,217.50 (.71 multiplier). For
 13 certain lodestar categories (Factual Investigation, Discovery of Defendants, Document Review,
 14 Scientific Research, Fact Depositions, Class Certification, and Experts), the proportion of time that may
 15 not have benefitted the Class (*i.e.*, time that is only relevant to other plaintiff groups) comprises only a
 16 fraction of the total time billed. Work related to class certification, regardless of the firm that incurred
 17 the time, was for the common benefit of the Class. Factual investigation, discovery of Defendants,
 18 document review, and fact depositions provided evidence that was generally applicable to all of the
 19 plaintiffs' claims. The Class likewise benefitted from scientific research related to JUUL Products, as
 20 well as work with experts prior to December 10, 2021 (the completion of "general"—as opposed to
 21 case-specific—expert discovery).

22 129. Plaintiffs' counsels' lodestar is also based on billing rates commonly utilized in this
 23 District. The following summarizes the range of billing rates for each type of timekeeper:

- 24 • For over 97% of partner hours, rates range from \$275 – \$1,200.
- 25 • For over 96.5% of senior counsel hours, rates range from \$475 – \$1,000.
- 26 • For over 93.5% of associate hours, rates range from \$175 – \$800.

27
 28 ¹⁴ As a further step, Professor Klonoff reduces the lodestar by another 15% because the JLI Settlement is 85% of the combined value of the JLI and Altria Settlements. Doing so results in a 1.36 multiplier.

- 1 • For over 92.5% of contract or staff attorney hours, rates range from \$100 – \$500.
- 2 • For over 88% of paralegal hours, rates range from \$75 – \$425.

3 Capping the hourly rates that exceed the above ranges (*i.e.*, capping all partner rates at \$1,200 and all
4 paralegal rates at \$425) has a minimal effect on the lodestar, reducing it by 1.19% (or \$2,350,225.50).

5 130. The billing rates are also similar to the rates that have previously been approved for
6 MDL Lawyers. Below are examples of cases where courts have awarded fees based on the then-current
7 rates of Co-Lead Counsel and the Class Committee:

- 8 • Girard Sharp: *In re MacBook Keyboard Litig.*, 2023 WL 3688452, at *15 (N.D. Cal.
9 May 25, 2023); *In re Capacitors Antitrust Litig.*, 2020 WL 6813220, at *4 (N.D. Cal.
10 Sept. 15, 2020), *report and recommendation adopted*, 2020 WL 6544472 (N.D. Cal.
11 Nov. 7, 2020); *In re Nexus 6P Products Liab. Litig.*, No. 17-cv-02185-BLF, ECF
12 No. 225 (N.D. Cal. Nov. 12, 2019); *Weeks v. Google LLC*, No. 18-cv-00801, ECF
13 No. 184 (N.D. Cal. Aug. 30, 2019); *In re Lidoderm Antitrust Litig.*, 2018 WL
14 4620695, at *2 (N.D. Cal. Sept. 20, 2018).
- 15 • LCHB: *Gutierrez v. Amplify Energy Corp.*, No. 21-01628, ECF No. 726 at 11-13
16 (C.D. Cal. April 24, 2023); *Cottle v. Plaid Inc.*, 2022 WL 2829882, at *11 (N.D.
17 Cal., July 20, 2022); *Pulmonary Assocs. of Charleston PLLC v. Greenway Health,*
18 *LLC*, No. 19-167, ECF No. 137 at 5-8 (N.D. Ga., Dec. 2, 2021).
- 19 • Keller Rohrback: *Rollins v. Dignity Health.*, 2022 WL 20184568, at *6 (N.D. Cal.
20 July 15, 2022); *Southern Cal. Gas Leak Cases*, Coord. Proc. No. 4861 (Cal. Super.
21 Ct. Apr. 29, 2022); *Ryder v. Wells Fargo Bank, N.A.*, 2022 WL 223570, at *3 (S.D.
22 Ohio Jan. 25, 2022); *Stringer v. Nissan N. Am., Inc.*, No. 21-cv-00099, ECF No. 126
23 (M.D. Tenn. Mar. 23, 2022); *Beach v. JPMorgan Chase Bank*, No. 17-cv-563, ECF
24 No. 232 (S.D.N.Y. October 7, 2020); *Holcomb v. Hospital Sisters Health Sys.*, No.
25 16-441 (C.D. Ill. Feb. 25, 2019).
- 26 • Weitz & Luxunberg: *Copley v. Bactolac Pharm., Inc.*, 2023 WL 2470683, at *12
27 (E.D.N.Y. Mar. 13, 2023); *Baker v. Saint-Gobain Performance Plastics Corp.*, 2022
28 WL 1025185, at *8-9 (N.D.N.Y. Feb. 4, 2022).
- Berger & Montague: *In re Domestic Drywall Antitrust Litig.*, 2018 WL 3439454,
*20 (E.D. Pa. July 17, 2018); *Devlin v. Ferrandino & Son, Inc.*, 2016 WL 7178338,
*10 (E.D. Pa. Dec. 9, 2016); *Howell v. Checkr, Inc.*, No. 3:17-cv-04305-SK, ECF
No. 82 (N.D. Cal. Dec. 13, 2018); *Douglas v. DHI Group, Inc.*, No. 2018-1-CV-
331732, Order (Santa Clara Cnty., Cal. Super. Ct. Aug. 6, 2019); *Lee v. The Hertz*
Corp., No. CGC-15-547520, Order (San Fran. Cnty., Cal Super. Ct. Aug. 30, 2019).
- Gutride Safier: *Taylor v. Shutterfly, Inc.*, 2021 U.S. Dist. LEXIS 237069, at *25
(N.D. Cal. Dec. 7, 2021); *In re The Hertz Corporation, et al.*, Case No. 20-bk-
11247-MFW, ECF No. 178 (Bankr. Del.); *McArdle v. AT&T Mobility LLC, et al.*,

Case No. CV-09-01117, ECF No. 409 (N.D. Cal.); *Carlotti v. Asus Computer International, Inc.*, Case No. 18-cv-03369-DMR, ECF No. 86 (N.D. Cal.); *Fitzhenry-Russell v. The Coca-Cola Company*, Case No. 5:17-cv-00603-EJD, ECF No. 95 (N.D. Cal.); *In re Arctic Sentinel, Inc., et al.*, Case No. 15-12465, ECF No. 1331 (Bankr. Del.); *Fitzhenry-Russell et al. v. Dr Pepper Snapple Group, Inc. et al.* 5:17-cv-00564, ECF No. 350 (N.D. Cal.); *Pettit et al. v. Procter & Gamble Co.*, Case No. 3:15-cv-02150-RS, ECF No. 135 (N.D. Cal.); *Koller et al. v. Med Foods, Inc., et al.*, Case No. 3:14-CV-2400-RS, ECF No. 169 (N.D. Cal.).

- Tycko & Zavarei: *Mitchell v. Intero Real Estate Services*, No. 5:18-cv-05623-BLF (N.D. Cal. Oct. 28, 2022), ECF No. 305; *Kumar v. Salov North America Corp.*, 2017 WL 2902898 (N.D. Cal. July 7, 2017); *Stathakos v. Columbia Sportswear Co.*, 2018 WL 1710075, at *6 (N.D. Cal. Apr. 9, 2018); *Meta v. Target Corp., et al.*, No. 14-cv-0832 (N.D. Ohio Aug. 7, 2018), ECF No. 179; *In re Think Finance, LLC, et al.*, No. 17-bk-33964 (Bankr. N.D. Tex.); *Brown v. Transurban USA, Inc.*, 2016 WL 6909683 (E.D. Va. Sept. 29, 2016); *Small v. BOKF, N.A.*, No. 1:13-cv-01125-REB-MJW (D. Colo.); *Soule v. Hilton Worldwide, Inc.*, 2015 WL 12827769 (D. Haw. Aug. 25, 2015); *Beck v. Test Masters Educ. Servs., Inc.*, 73 F. Supp. 3d 12 (D.D.C. 2014).

IV. LITIGATION EXPENSES

131. Class Counsel has reviewed the litigation costs incurred and believe that payment of up to \$4,100,000 in costs from the Class Settlement Fund is fair and reasonable. Costs related to experts who provided opinions in connection with class certification (and who later prepared merits reports for the class)—Dr. Singer, Professor Chandler, Dr. Pratkanis, and Dr. Emery—totaled approximately \$2,050,000. Costs related to document hosting exceeded \$1,450,000. *Id.* And costs associated with deposition transcripts and related materials exceeded \$800,000. *Id.* The total for just these costs—which comprise only a portion of the costs the class would incur had it litigated alone—exceeds the requested \$4,100,000 in expense payments.

132. Class Counsel also conducted a high-level review of the litigation expenses through December 6, 2023, and conducted an analysis that, for each expense (or group of expenses), allocated 100%, 33.3% or 0% of the cost to the Class, depending on the extent to which the expense benefitted the class. For example, all the expert fees paid to Dr. Singer—whose only role was to provide testimony in support of the Class claims—were allocated 100% to the Class. Dr. Alan Shihadeh, in contrast, provided expert opinions in support of all the plaintiffs' claims, including but not limited to the Class's claims; accordingly, one-third of Dr. Shihadeh's expert fees were allocated to the Class. No

1 expert fees related to expert work specific to the injuries of a particular personal injury or government
2 entity plaintiff were allocated to the Class. The result of this analysis was a cost allocation to the Class
3 of over \$5 million. That amount is also consistent with the amount that results from applying a 2% cost
4 assessment to the Class (\$5.1 million), which is the amount of assessments paid by other plaintiffs in
5 the litigation. *See* ECF 586 at 11.

6 133. Class Counsel has conferred with other Co-Lead Counsel and determined that, in light of
7 their expectation that the 2% cost assessment from the non-class plaintiff groups will provide a
8 significant amount of funds from which to pay costs, it is not necessary to contribute \$5 million or
9 more from the Class Settlement Fund to the overall litigation expenses. Instead, and although Class
10 Counsel has notified Class Members that they may seek up to \$6 million in Class-related costs, Class
11 Counsel requests that the Court authorize the payment of up to \$4,100,000 from the Class Settlement
12 Fund for the payment of litigation costs.

13 134. This amount is reasonable. The majority of costs incurred in the litigation (which will
14 exceed \$25 million) would have been incurred even if the litigation included only Class claims, and not
15 personal injury or government entity claims. It could therefore be argued that well in excess of \$10
16 million in expenses were incurred for the common benefit of the Class, and in most class actions would
17 be payable from the class settlement fund. The requested expense reimbursement from the Class
18 Settlement Fund is therefore significantly lower than it otherwise would be absent the involvement of
19 other plaintiff groups. In other words, the Class substantially benefits from the involvement of other
20 plaintiff groups by spreading litigation costs among the various types of plaintiffs.

21 135. On June 9, 2023, plaintiffs filed a motion to appoint a Fee Committee and proposed a
22 schedule for briefing and a hearing on the Fee Committee's recommendations on allocation of fees and
23 expenses. ECF No. 4048. As part of the associated ongoing work, Co-Lead Counsel are analyzing the
24 apportionment of expenses paid in the MDL. In the forthcoming motion to request that the Court
25 approve the Fee Committee's recommendations for expense payments from the common benefit
26 expense fund, Class Counsel anticipate presenting a specific proportion of those payments that it
27 proposes be drawn from the Class Settlement Fund not to exceed \$4.1 million. Any amounts not
28

1 included in the \$4,100,000 amount not allocated for the payment of common benefit expenses will
2 remain a part of the class Settlement Fund.

3 **V. SETTLEMENT ADMINISTRATION COSTS**

4 136. Epiq has submitted invoices for its expenses incurred as of May 2023, totaling
5 \$1,558,841.92. The vast majority of that amount is for processing claims and allocating the Class
6 Settlement proceeds among Eligible Claimants.

7 137. The remaining costs include providing support for and contact with Class Members,
8 preparing and distributing checks to Claimants, and handling the various tax reporting obligations
9 required by law. How much these remaining activities will cost will depend primarily on the volume
10 and complexity of the Claims received. The July 14, 2023, deadline for Class Members to submit
11 Claims is still three weeks out, and Epiq continues to receive Claims at a rapid clip. As explained in the
12 accompanying declaration of Cameron Azari (attached as **Exhibit 3**), the notice has apparently been
13 effective, as the number of Claims appears to be very high and continues to climb. When Epiq
14 originally estimated its costs for this matter, it reasonably assumed that it would receive around two
15 million Claims, but based on current data the total number of Claims submitted by the deadline will
16 exceed three million.

17 138. Given that the Claim period is still open and the ultimate figures are not yet settled, Epiq
18 has reported that at this time, it is not able to provide a reliable estimate of the additional costs it
19 expects to incur to complete the processing of Claims and distribution of money to Eligible Claimants.
20 The main areas of cost uncertainty are (1) determining the final number of Claims that will be
21 submitted by the July 14 deadline, particularly given the robust Claims-filing rate to date, and (2)
22 assessing the cost associated with the significant effort that will be undertaken once the Claims period
23 is closed to determine the potential number of fraudulent Claims and appropriate next steps. The total
24 number of Claims, and the extent to which fraudulent Claims are filed alongside legitimate Claims, will
25 have a significant impact on the total costs to complete Claims administration.

26 139. Class Counsel continues to work with Epiq on methods for reducing costs and reviews
27 billing statements on a weekly basis. Epiq and Class Counsel both still anticipate that, notwithstanding
28 the very high Claims volume, Epiq will be able to complete the Claims administration work for less

1 than the \$7 million proposed in the class notice. Class Counsel will be prepared to update the Court on
2 the Claims process before the Final Approval Hearing.

3 **VI. SERVICE AWARDS**

4 140. As noted above, class representatives have actively participated in this litigation. Their
5 participation ranges from responding to limited discovery and doing an extensive document collection,
6 to serving as a Class Plaintiff, responding to expansive discovery requests, collecting and producing
7 documents, being deposed, producing medical and educational records, and having friends and family
8 members deposed. Based on their varying levels of participation, Class Counsel proposes that class
9 representatives receive service awards ranging from \$5,000 to \$33,000. The awards proposed for each
10 representative, and the bases for those awards, are included in **Appendix A**. No decisions were made
11 regarding requested service awards until well after the execution and filing of the Class Settlement
12 Agreement.

13 141. Based on my experience with the duties of class representatives generally and the efforts
14 undertaken by class representatives in this case, I believe the requested service awards are fair and
15 reasonable. Because the consumer claims in this litigation proceeded on a state-by-state basis aside
16 from the nationwide RICO claim, having willing and able class representatives who made purchases in
17 jurisdictions throughout the country was critical to pressing the Class's liability claims against JLI in
18 particular. In some cases, there is no practical difference between having one class representative or
19 having 86 class representatives. This is not one of those cases. That the Court dismissed claims as to
20 those states for whom the Class did not have a class representative illustrates that point. Each of the
21 class representatives thus fulfilled an important role and fulfilled their discovery obligations.

22 142. In addition, the burdens in this case were more significant than in other typical consumer
23 products litigations. Prior to being included in the consolidated complaint, the class representatives
24 discussed their claims extensively with counsel (including Class Counsel, the Class Committee, and
25 other MDL Lawyers), completed surveys regarding the JUUL advertising they had seen, and provided
26 feedback on and ultimately approved the allegations pertaining to their purchases of JUUL.

27 143. As part of the Court-ordered discovery, class representatives were subject to a forensic
28 document collection which, as discussed above, involved the intrusive collection of *all* their social

1 media and cell phone records, which for many people are sensitive and closely-guarded. Each class
2 representative also filled out plaintiff fact sheets not only about their prior JUUL usage, but about their
3 prior history with smoking and drugs. Class representatives for whom higher awards are proposed sat
4 for deposition which involved questioning about their JUUL purchases, but also about their medical
5 issues, family history, home life, and drug use. Again, this discovery is significantly more intrusive
6 than in a typical consumer products case. Although some plaintiffs dismissed themselves from the
7 litigation in light of this type of discovery, the class representatives did not. Despite anxiety over the
8 scope of discovery, the class representatives pressed on, demonstrating their commitment to the
9 litigation and the claims at issue.

10 144. The five class representatives on whose behalf Class Plaintiffs seek service awards of
11 \$25,000 or more served as class bellwether plaintiffs and, therefore, in addition to the responsibilities
12 described above, they each also: responded to additional interrogatories, including on sensitive topics
13 such as past drug use; produced documents; worked with counsel to authorize the production of their
14 medical records from their medical providers; participated in the class certification process by
15 reviewing the adequacy arguments made against them; and conferred with counsel regarding their
16 ability and willingness to go to trial. In addition, Class Plaintiffs Colgate and DiGiacinto—for whom
17 the highest awards are sought—also had discovery taken of their family and friends, which is “not the
18 norm in a putative consumer class action,” as Judge Corley recognized. ECF 2173. This litigation also
19 gained national attention, which further increases the burdens and stresses of serving as a class
20 representative.

21 145. While Class Counsel appreciates that many of the proposed awards are at the higher end
22 of the spectrum of what courts typically award, in my view the awards are justified given the
23 circumstances of this litigation and important role their participation served.

24
25 The undersigned declare under penalty of perjury under the laws of the United States of America
26 that the foregoing is true and correct. Executed this 23rd day of June 2023.

27 /s/ Dena C. Sharp
28 Dena C. Sharp

Appendix A

Plaintiff Name	Basis For Award	Proposed Award
Colgate, Bradley	Completed PFS; Responded to All Interrogatories; Completed ESI Collection Interview; Completed ESI Forensic Collection; Produced Documents; Was the subject of Motion Practice; Produced Medical Records; Sat for Deposition; Was a Bellwether Plaintiff; Joined Litigation in Early Stages	\$33,000.00
DiGiacinto, Joseph on behalf of his son C.D.	Completed PFS; Responded to All Interrogatories; Completed ESI Collection Interview; Completed ESI Forensic Collection; Produced Documents; Was the subject of Motion Practice; Produced Medical Records; Sat for Deposition; Was a Bellwether Plaintiff; Joined Litigation in Early Stages	\$31,000.00
Nelson, Jill on behalf of her daughter, L.B.	Completed PFS; Responded to All Interrogatories; Completed ESI Collection Interview; Completed ESI Forensic Collection; Produced Documents; Produced Medical Records; Sat for Deposition; Was a Bellwether Plaintiff; Joined Litigation in Early Stages	\$28,000.00
Gregg, Lauren	Completed PFS; Responded to All Interrogatories; Completed ESI Collection Interview; Completed ESI Forensic Collection; Produced Documents; Produced Medical Records; Sat for Deposition; Was a Bellwether Plaintiff	\$25,000.00
Krauel, Tyler	Completed PFS; Responded to All Interrogatories; Completed ESI Collection Interview; Completed ESI Forensic Collection; Produced Documents; Produced Medical Records; Sat for Deposition; Was a Bellwether Plaintiff	\$25,000.00
Dramis, Nicole on behalf of her son, J.D.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition; Joined Litigation in Early Stages	\$13,000.00

1	Viscomi, Michael	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition; Joined Litigation in Early Stages	\$13,000.00
2			
3			
4	Ali, Shurjo	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
5			
6	Dentler, Katherine	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
7			
8	Eubanks, Joan	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
9			
10			
11	Fish, Clark	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
12			
13	Healey, Dylan	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
14			
15	Heitmann, Jordan	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
16			
17			
18	Hollis, John	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
19			
20	Holniker, Coleman	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
21			
22	Ingram, Jenika	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
23			
24			
25	Rest, Kristoff	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
26			
27	Tippe, Charles	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
28			

1	Vogel, Nicholas on behalf of his son, E.V.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
2			
3	Wilhelm, Janece	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Sat for Deposition	\$11,000.00
4			
5	Benham, Tommy	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Joined Litigation in Early Stages	\$10,000.00
6			
7			
8	Hellman, Madison	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Joined Litigation in Early Stages	\$10,000.00
9			
10	Lagun, Kacie Ann	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Joined Litigation in Early Stages	\$10,000.00
11			
12	Comer, Anjie on behalf of her son, Q.C.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Joined Litigation in Early Stages	\$9,000.00
13			
14			
15	Kugler, Tracie on behalf of her son, Z.K.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Joined Litigation in Early Stages	\$9,000.00
16			
17	Minas, Ron	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Joined Litigation in Early Stages	\$9,000.00
18			
19	Roberts, Jack Thomas, administrator of the estate of Jack Roberts (deceased)	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection; Joined Litigation in Early Stages	\$9,000.00
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21			
22	Langan, David	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Joined Litigation in Early Stages	\$8,600.00
23			
24	Baker, Mary on behalf of her son, B.C.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Joined Litigation in Early Stages	\$7,600.00
25			
26	Chandler, Kisha on behalf of her son, D.C.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Joined Litigation in Early Stages	\$7,600.00
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1	Aceti, Shayla	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
2			
3	Baker, Spyncer	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
4			
5	Boyd, Mindy on behalf of her daughter, E.B.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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8	Casas, Alex	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
9			
10	Claytor, Ronald	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
11			
12	Deaton, Mary on behalf of her granddaughter, M.E.D.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
13			
14			
15	Dyer, Robert on behalf of his son, B.D.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
16			
17	Evans, Patience	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
18			
19	Fox, Larry	Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
20			
21	Gant, Isaac	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
22			
23	Goldston, Carlee	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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25			
26	Ippoliti, Chris	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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1	Jenkins, Adam on behalf of his daughter, D.L.J.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
2			
3	Jenkins, Adam on behalf of his son, M.R.J.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
4			
5	Kelly, Janis on behalf of her son, C.J.W.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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8	Kinnard, Shannon	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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10	Lines, Randi	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
11			
12	Lore, Thane	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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15	Matarazzo, Noah	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
16			
17	Mendoza, Emilio	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
18			
19	Moore, D'Angelo	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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21			
22	Moses, Shirley on behalf of her daughter, K.S.C.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
23			
24	Nelson, William J.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
25			
26	Parker, Ann on behalf of daughter, S.P.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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1	Perry, Vickie on behalf of her daughter, L.P.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
2			
3	Pierce, Alexander	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
4			
5	Pierre, Jesscia	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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7			
8	Puente, Erin	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
9			
10	Richey, Charlene on behalf of her son, T.Y.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
11			
12	Saldana, Andrea on behalf of her daughter Le.S.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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14			
15	Smith, Derrick	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
16			
17	Tarrats, Daniel	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
18			
19	Truong, Johnson	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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21			
22	Viti, Tanya [Tanya Trevett] on behalf of her daughter, O.V.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
23			
24	Welch, Natasha, on behalf of her son J.W.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
25			
26	Wilhelm, Janece on behalf of her son, D.L.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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1	Williams-Walker, Tonya on behalf of her son, M.W.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
2			
3	Worden, Jeremy	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
4			
5	Yut, Jerry	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
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7			
8	Ziegenhagen, Wolfgang on behalf of his son, H.Z.	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview; Completed ESI Forensic Collection	\$7,000.00
9			
10	Deeter, Michael James	Completed PFS; Responded to Interrogatory No. 9; Joined Litigation in Early Stages	\$7,000.00
11			
12	Dollinger, Rachelle on behalf of her son, K.S.	Completed PFS; Responded to Interrogatory No. 9; Joined Litigation in Early Stages	\$7,000.00
13			
14	Manning, Jeannine on behalf of her son, M.C.	Completed PFS; Responded to Interrogatory No. 9; Joined Litigation in Early Stages	\$7,000.00
15			
16	Orders, Atoiya on behalf of her son, D.O.	Completed PFS; Responded to Interrogatory No. 9; Joined Litigation in Early Stages	\$7,000.00
17			
18	Selfridge, Dylan	Completed PFS; Responded to Interrogatory No. 9; Joined Litigation in Early Stages	\$7,000.00
19			
20	Weibel, Joe on behalf of his son, S.W.	Completed PFS; Responded to Interrogatory No. 9; Joined Litigation in Early Stages	\$7,000.00
21			
22	Altizer, Addison	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview	\$5,600.00
23			
24	McFaull, John	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview	\$5,600.00
25			
26	Strattard, Kristy	Completed PFS; Responded to Interrogatory No. 9; Completed ESI Collection Interview	\$5,600.00
27			
28	Carcone, Thomas on behalf of his son, N.C.	Completed PFS; Responded to Interrogatory No. 9	\$5,000.00
	Cobb, Tyler	Completed PFS; Responded to Interrogatory No. 9	\$5,000.00
	Franklin, Janine on behalf of her daughter, J.F.	Completed PFS; Responded to Interrogatory No. 9	\$5,000.00

1	Gibson, Bruce on behalf of his son, K.G.	Completed PFS; Responded to Interrogatory No. 9	\$5,000.00
2	Murphy, Matthew	Completed PFS; Responded to Interrogatory No. 9	\$5,000.00
3	Pulce, Loretia on behalf of her daughter, K.P.	Completed PFS; Responded to Interrogatory No. 9	\$5,000.00
4	Smith, Savannah	Completed PFS; Responded to Interrogatory No. 9	\$5,000.00
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CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2023, I electronically filed the foregoing document using the CM/ECF system, which will send notification of such filing to all counsel of record registered in the CM/ECF system.

/s/ Dena C. Sharp

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