

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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JOSHUA RIAUBIA, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

HYUNDAI MOTOR AMERICA,

Defendant.

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CASE NO.: 2:16-cv-05150-CDJ

**DECLARATION OF JAMES C. SHAH**

I, James C. Shah, hereby state as follows:

1. I am a partner at the law firm of Shepherd, Finkelman, Miller & Shah, LLP (“SFMS”). I am admitted to practice in California, New Jersey, New York, Pennsylvania and Wisconsin, as well as multiple federal district and circuit courts. I have personal knowledge of the matters discussed herein, and, if called as a witness, could testify competently thereto. SFMS was appointed as Lead Class Counsel along with Axler Goldich, LLC, and Robert P. Cocco, P.C. (collectively, “Class Counsel”) by this Court in its August 7, 2019 Order (ECF 48, ¶ 3) preliminarily approving the proposed settlement (“Settlement”).<sup>1</sup>

2. Since its inception, I have actively participated in all aspects of this litigation, including, but not limited to: (1) case investigation; (2) drafting of the pleadings; (3) discovery; (4) case strategy; (5) court appearances; (6) communications with Plaintiff and Class Members; (7) communications with defense counsel; and (8) negotiation of the Settlement. Thus, I am

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<sup>1</sup> Unless otherwise noted, all capitalized terms herein shall have the same meaning as in the Settlement Agreement (“Settlement Agreement”) (ECF 42-3).

fully familiar with the proceedings. If called upon, I am competent to testify that the following facts are true and correct to the best of my knowledge, information, and belief.

3. I am submitting this declaration in support of the Motion for an Award of Attorneys' Fees, Reimbursement of Expenses and Service Award.

4. I believe that Plaintiff achieved an excellent result in the Settlement. A broad and complex range of both legal and factual issues was presented during the course of prosecuting this litigation. We analyzed these issues and concluded that, while the litigation possessed merit, there were significant risks involved in proving Defendant's liability and ultimately prevailing in the litigation.

5. As set forth below, through the diligent prosecution of this case by Plaintiff, the Parties reached a Settlement with Defendant, Hyundai Motor America ("HMA" or "Defendant"). Class Counsel respectfully submit that the Settlement is fair, reasonable, adequate, in the best interests of all Class Members<sup>2</sup>and, therefore, should be approved by the Court.

6. This declaration generally summarizes the work performed by SFMS, for Plaintiff and the Class in this litigation. As demonstrated below, Class Counsel has worked diligently to

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<sup>2</sup> The proposed Settlement resolves all claims against HMA on behalf of a nationwide class of all purchasers and lessees of the Class Vehicles. Specifically, the Settlement Class is defined as: "All persons or entities in the fifty United States and the District of Columbia who currently own or lease, or previously owned or leased, a model year 2015 to 2017 U.S. specification Hyundai Sonata vehicle equipped with the Smart Trunk feature purchased in the fifty United States and the District of Columbia." Excluded from the Settlement Class are: "Defendant, as well as Defendant's affiliates, employees, officers, and directors, attorneys, agents, insurers, and dealers; third-party providers of extended warranty/service contracts; independent repair/service facilities; the attorneys representing Defendant in this case; the judges and mediator to whom this case is assigned and their immediate family members; all persons and entities who request exclusion from (opt-out of) the Settlement, who previously released any claims encompassed in this Settlement, or whose vehicle was permanently transported outside the United States after sale; and all persons or entities claiming personal injury or property damage other than to a Class Vehicle or claiming subrogation of such claims."

perform and coordinate all manner of tasks related to this matter at each phase of the litigation, including initial case investigation, filing of the initial Complaint, motion practice, discovery, settlement negotiations, motions for settlement approval and assistance with settlement administration for the Class Members.

7. Class Counsel have dedicated significant time and resources to litigating this case on behalf of the Settlement Class. The firms' legal services were performed on a wholly contingent fee basis; therefore, Class Counsel have assumed the risk of non-payment in litigating and prosecuting this action and have, at all times, ensured that sufficient resources were made available to protect the interests of the Class.

8. Among other things, to achieve the Settlement, Class Counsel: (a) conducted an extensive pre-suit factual and legal investigation that laid the groundwork for the Complaint; (b) drafted the Complaint and worked with the Plaintiff and Class Members to develop the asserted factual and legal claims; (c) researched and drafted oppositions to the Motion to Dismiss filed by Defendant; (d) conducted Rule 26(f) conferences, exchanged initial disclosures with defense counsel and filed a joint discovery plan with the Court; (e) negotiated a confidentiality agreement, inspection protocol, and an ESI protocol; (f) reviewed and analyzed Plaintiff's documents; (g) reviewed and analyzed documents produced by Defendant; (h) consulted with an expert and analyzed the information underlying the claims made about the Vehicles at issue; (i) participated in lengthy arm's-length Settlement negotiation conferences and telephone conferences with defense counsel and a respected mediator; (j) drafted and negotiated the Settlement Agreement with defense counsel, as well as the ancillary Notice documents and Notice plan and proposed orders; (k) worked with the Settlement Administrator in connection with the effectuation of the Settlement; (l) drafted the briefing for preliminary approval of the

Settlement; (m) fielded telephone calls and other inquiries from Settlement Class Members concerning the Settlement; and (n) monitored (and will continue to monitor) the Claims Administrator to assure that the Notice Plan and claims administration process are being implemented properly. During the litigation, each attorney and paralegal working on this case was careful to minimize or avoid the unnecessary duplication of any work they performed.

### **SETTLEMENT BENEFITS**

9. As set forth herein, Plaintiff's diligent prosecution of this case led to a significant settlement with Defendant. The Settlement Agreement outlines separate areas of relief to the Class Members. (Settlement Agreement, ECF 42-3 at § III.)

- a. Class Members who have a documented complaint,<sup>3</sup> repair, or warranty claim pertaining to the Smart Trunk not opening to expectation, prior to the Class Notice, may submit one claim for payment of \$50 cash in the form of a debit card or a \$100 HMA dealer credit, regardless of whether the Class member has any out-of-pocket loss.
- b. Class Members who believe that their Smart Trunk is not opening 7.5 inches or more may make an appointment with an authorized HMA dealer for an inspection of eligible Class Vehicle(s).<sup>4</sup> Following the TSB that was created as a result of this Settlement and provided to all HMA dealers, if an authorized dealer determines that any Smart Trunk on a Class Vehicle opens less than 7.5 inches, replacement of the torsion bars will then be performed by the authorized dealer. All costs associated with the repair will be covered; the inspection and any necessary repair or replacement will be provided to the Class Member free of charge by the authorized dealer pursuant to TSB Number 19-BD-222. After the installation of the

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<sup>3</sup> In order to receive either the \$50 debit card or \$100 HMA dealer credit, Class Members must submit a Claim Form to the Claims Administrator that is post-marked during the Claims Submission Period and include: (a) documentation that identifies the Class Vehicle VIN; and (b) a repair order, invoice, or other documentation that identifies a documented complaint made to a Hyundai dealer, to HMA directly, or made on a publicly available complaint forum regarding the Smart Trunk not opening to expectation that includes a description of the complaint along with information regarding repair or lack thereof, and payment for repair, if applicable.

<sup>4</sup> "Class Vehicles" means model year 2015 through 2017 U.S. specification Hyundai Sonata vehicles equipped with the Smart Trunk feature, imported and distributed for sale or lease in the 50 United States and the District of Columbia. The Settlement does not include all of the vehicles originally identified in the Complaint. Based on the information learned in discovery, the Settlement, and release, only apply to the Class Vehicles.

replacement torsion bars, the Class Member is also entitled to submit one claim for payment of a \$70 HMA dealer credit. The Agreement also provides additional relief to Class Members whose torsion bars *still* fail to open 7.5 inches or more *after* replacement torsion bars were installed. After the second installation of replacement torsion bars, the Class Member may submit one additional claim for a \$100 debit card or a \$200 HMA dealer credit. The inspection and any necessary repair or replacement of the Smart Trunk torsion bars is available for Class Vehicles within 6½ years of service or less than 78,000 miles, whichever comes first.

- c. All Class Vehicle(s) under warranty will receive a warranty extension for the Smart Trunk torsion bars from five (5) years or 60,000 miles to six and one-half (6½) years or 78,000 miles. Class Vehicles that are outside the warranty as of the date of the Final Approval Order will receive a warranty extension specific to the Smart Trunk Torsion Bars for a period of eighteen (18) months or 18,000 miles. The warranty extension is subject to the terms and conditions of the original warranty, as are the replacement parts, and is transferrable in connection with any transfer of ownership of the Class Vehicle.
- d. In addition to the warranty extension and service campaign, any Class Member who has incurred an out-of-pocket expense for repair will be entitled to submit one claim for reimbursement of those repair expenses if the Class Member submits proof of payment of repairs involving the Smart Truck.
- e. HMA will ensure that its advertising conforms to the design expectations for the Smart Trunk feature and does not show the trunks fully opening.
- f. Any Class Member that wishes to contest the reimbursement decision has the right to participate in a Better Business Bureau alternative dispute resolution process, for which all fees and expenses (other than attorneys' fees) will be borne by HMA.

## **OVERVIEW OF THE LITIGATION**

10. Class Counsel have performed a great deal of work investigating the facts underlying this litigation and have otherwise prosecuted the case and negotiated the Settlement Agreement.

11. As part of the pre-suit investigation, Class Counsel reviewed representations regarding the Smart Trunk, complaints made by Plaintiff and others, and investigated the

potential claims that we believed could be asserted in connection with sale and warranting of the Vehicles.

12. I assisted with the development of the legal theories asserted by Plaintiff.

13. On September 28, 2016, Plaintiff filed this action against Defendant. (ECF 1.)

The Complaint states claims for violations of California consumer protection statutes, violations of the federal Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, *et seq.*, and breach of express and implied warranties on behalf of a nationwide class, as well as alternative claims for violations of express and implied warranty and unjust enrichment under Pennsylvania law on behalf of a Pennsylvania class.

14. The Complaint alleges that the Smart Trunk, first made available on model-year 2015 vehicles, is a proximity-activated trunk lid that, due to a common and inherent defect, fails to operate as advertised. HMA designed the Smart Trunk to automatically open by standing directly behind the Vehicle with a proximity key in one's hand, pocket, or purse. For the trunk to open automatically, the user must stand 20-40 inches behind the Vehicle for at least three seconds. After the three-second countdown, the trunk latch is automatically released, which is supposed to allow tensioned metal bars ("torsion bars") in the trunk to automatically open the trunk lid wide enough for consumers to place items in without using their hands. HMA's nationwide marketing campaign uniformly advertised the Smart Trunk as a "hands-free" feature that automatically opens the trunk lid wide enough to easily fit bulky items such as shopping bags, duffel bags, and sports apparel. This campaign included advertisements, images, and videos on the internet, in social media, in magazines, and on television. Plaintiff alleges that these representations were inaccurate because the Class Vehicles share a common defect in that the Smart Trunk merely unlatches, failing to open more than a crack, which requires consumers

to manually push open the trunk lid, and thus fails to provide the “hands-free” convenience advertised. (ECF 1, ¶¶ 14-18, 20-33, 41, 71, 73-80.)

15. According to the Complaint, HMA advertises that the Class Vehicles carry “America’s Best Warranty,” which gives consumers “more than peace of mind, it’s a commitment from HMA to maintain a high degree of quality, dependability, and reliability.” The New Vehicle Limited Warranty covers the Smart Trunk defect at issue here, but Plaintiff alleges that Defendant has failed to provide him and Class Members with conforming, non-defective Smart Trunks, notwithstanding multiple attempts at repair. (ECF 1, ¶¶ 82-127.)

16. Plaintiffs’ alleged damages included, *inter alia*, the need for an adequate repair of the Smart Trunk and out-of-pocket costs, as well as statutory damages.

17. Prior to initiating the action, Class Counsel spent considerable time investigating the issues with Plaintiff and a number of other potential Settlement Class Members, reviewed dozens of complaints from Class Vehicle owners and investigated the scope of the problems with the Class Vehicles.

18. In addition, Class Counsel researched the various laws potentially applicable to the claims, including applicable state law.

19. Defendant filed a Motion to Dismiss the Complaint on December 23, 2016 (ECF 10), to which Plaintiff responded. (ECF 16.)

20. In January 2017, the Parties met and discussed a Proposed Joint Discovery Plan. On February 20, 2017, Plaintiff served HMA with his Initial Disclosures and, on March 20, 2017, HMA served its Initial Disclosures on Plaintiff.

21. On May 16, 2017, Plaintiff filed the Report of the Parties’ Rule 26(f) Conference. (ECF 21.)

22. Plaintiff also propounded discovery requests, which were responded to in June 2017. Plaintiff reviewed of more than 20,000 pages of documents produced by HMA in September 2017, including: engineering testing; engineering data; Vehicle and component specifications; warranty complaints and repairs; information as to the difference between the Sonata Smart Trunk components and the components in Hyundai's other models; root cause and countermeasure data; and Quality Information Reports regarding the Smart Trunk, as well as ads and brochures. Further, pursuant to an agreed protocol, Plaintiff's Vehicle was inspected by Defendant and Plaintiff's expert also reviewed HMA's materials and the Vehicle.

23. The Court entered an Opinion on August 22, 2017, denying Defendant's Motion to Dismiss in all respects. (ECF 22.)

24. A protective order was entered on August 28, 2017. (ECF 24.) The Parties also extensively negotiated and entered into an ESI protocol and a protocol for an inspection of Plaintiff's Vehicle, which was performed by Defendant.

25. HMA propounded discovery requests on Plaintiff and filed its Answer to the Complaint on October 6, 2017. (ECF 29.) The Court entered an Order scheduling a Rule 16 Conference on October 12, 2017. (ECF 30.)

26. Thereafter, the Parties commenced a dialogue to determine whether a framework could be developed to resolve the matter.

27. Ultimately, the Parties agreed to seek to stay the litigation (*see* ECF 31-36), and to utilize the services of David Geronemus, a well-respected neutral with JAMS, in a mediation process. The Parties participated in two in-person mediation sessions between December 2017 and May 2018. Both during and after that time frame, the Parties also exchanged additional information and engaged in extensive telephonic negotiations, including with Mr. Geronemus.

The Parties engaged in additional confirmatory discovery, including receiving information from engineers at HMA's parent company, Hyundai Motor Company, and additional information about countermeasures and failure rates, which is reflected in Hyundai Technical Service Bulletin Number 19-BD-222, Trunk Lid Torsion Bar Inspection and Repair.

28. Plaintiff also received additional information during this time from engineers working at Hyundai Motor Company showing that, although various Hyundai vehicle models sold in the United States are equipped with a Smart Trunk feature,<sup>5</sup> the Smart Trunk on the 2015-2017 Sonata is distinguishable from the other Smart Trunk models for several reasons, including: (a) the weight of the trunk lid and LED tail lamps on the Sonata are heavier than the trunk lid on the Azera and Elantra, which contributed to the torsion bar defect in the Sonata; (b) the Genesis has a power trunk that does not use torsion bars; (c) the 2015-2017 Sonatas use different parts and components than the other vehicle models equipped with the Smart Trunk; and (d) the trunk lid garnish, rear view camera, license plate, and license plate lamps on the Hyundai 2018 Sonata are designed differently from the 2015-2017 Sonata models. As a result, the Settlement Class consists of purchasers of model-year 2015, 2016, and 2017 Hyundai Sonata U.S. specification vehicles equipped with the Smart Trunk feature, and the release applies only to these vehicles, and not to any other Hyundai models.

29. HMA has always denied and continues to deny that the Class Vehicles are defective or that it violated any laws, and disputes all of Plaintiff's material allegations.

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<sup>5</sup> Vehicles that include a Smart Trunk feature include: the 2015 Sonata (Sport, Limited, and Sport 2.0T); 2015-2016 Azera (all trims); 2015-2016 Genesis (all trims); 2016 Sonata (Limited, Sport 2.0T, and Limited 2.0T); 2017 Elantra (Eco and Limited); the 2017 Sonata (Limited, Sport 2.0T, and Limited 2.0T); and 2018 (LF) Sonata.

30. Class Counsel have performed a great deal of work investigating the facts underlying the litigation, engaging in motion practice, discovery, mediation, negotiation, and preparation of settlement documents and are experienced class action litigators familiar with the legal and factual issues involved.

31. The Settlement Agreement represents the culmination of extensive and intensive arm's-length negotiations over the course of many months. The settlement negotiations were contested and conducted in the utmost good faith.

32. Plaintiff was represented in the settlement negotiations by a team of attorneys who have had considerable experience in complex, auto-defect class actions, and who are therefore well-versed in the issues.

33. Defendant was similarly represented by counsel with extensive experience defending auto-defect class actions and complex litigation matters.

34. At all times, the months'-long negotiations and extensive efforts, which ultimately resulted in the Settlement presented to this Court, were adversarial, non-collusive, and conducted at arm's length.

35. Class Counsel worked with the Settlement Administrator to prepare the Notice documents and facilitate the Notice.

36. Class Counsel prepared and presented to the Court the Motion for Entry of a Preliminary Approval Order, which was entered on August 7, 2019.

37. Over 300,000 Notices were mailed directly to Class Members and the Settlement website, <https://www.sonatasmarttrunksettlement.com>, contains electronic versions of the Claim Form that can be submitted online, important Court documents, and answers to frequently asked questions.

38. Class Counsel have spoken with Settlement Class Members to answer their questions and will continue to do so. The comments from Class Members in response to the Settlement have been universally positive.

39. If not for the Settlement, the case would have continued to have been vigorously contested. The expense of continuing litigation through trial would be substantial. Discovery had begun and although the Parties produced documents, meet and confers regarding the production were underway and motion practice would almost certainly have ensued. Expert discovery was also in early stages when the Settlement was reached. Heavy pre-trial litigation, including class certification, summary judgment and motion practice, was imminent. If the claims survived summary judgment, significant amounts of time would have been expended in preparing for trial. If Plaintiff achieved a victory at trial, post-trial motions and appeals would likely have delayed any recovery for years.

40. Although Plaintiff has thoroughly investigated the factual and legal bases for the claims, he faced a number of difficult challenges if the litigation were to continue, including: (a) the risk that he would not be able to certify the Class; (b) the risk from Defendant's inevitable and likely vigorous challenges to predominance, such as the arguments that there were variety in the reasons for a Smart Trunk not working as represented, the existence of Smart Trunks that did work, and various representations seen by Class Members; (c) the risks based on Defendant's probable argument that damages were not susceptible to class-wide proof, which argument could have lead to an expensive battle of experts; (d) the risks of summary judgment against Plaintiff's claims; and (e) risks from other defenses. All of these issues would have required analysis and would have been subject to briefing and expert opinions.

**THE REQUESTED FEE SHOULD BE APPROVED**

41. Class Counsel seek, and Defendant does not oppose, a total award of attorneys' fees and expenses of \$828,876.00. As set forth in detail in Exhibits 1 through 4 below, Class Counsel have accumulated a lodestar totaling \$806,263.00 and incurred total expenses of \$30,186.55. The total lodestar plus expenses is \$836,449.55, which is slightly above the requested fee and expense award.

42. The amount of fee requested is consistent with Plaintiff's fee agreements with Class Counsel. Thus, Class Counsel's interests are aligned with the interests of the Settlement Class to obtain the best settlement possible.

43. Like the Settlement itself, the Parties negotiated the fee amount under the auspices and with the assistance of Mr. Geronemus. Further, attorneys' fees were not negotiated or discussed until after agreement was reached between the Parties on all other terms of the Settlement. Defendant has agreed to pay Class Counsel's fees from its own resources, such that the fee will not impact the benefits afforded to the Class Members.

44. Had the litigation not settled, the Class faced numerous risks to obtaining judgment or any relief. The risks which could have lead to non-payment included the merits of the claims, the challenge of attaining and maintaining class certification, and the risk of a defense verdict at trial or a reversal of a favorable outcome on appeal.

45. Class Counsel undertook this action on an entirely contingent fee basis, assuming a substantial risk that the litigation would yield no, or very little, recovery and leave them uncompensated for their time as well as for their out-of-pocket expenses.

46. As a total award for attorneys' fees and costs, Class Counsel is requesting that this Court award them \$828,876.00. In light of the results achieved for the Settlement Class, the

efforts of Class Counsel, and the risk of non-recovery, the requested fee, which also included expenses, is very reasonable.

47. SFMS maintained detailed time records regarding the work performed in connection with the prosecution of the litigation. Attached hereto as Exhibits “1” and “2” are time and expense summary charts relating to the litigation. These charts were compiled by SFMS based upon the records created by the Firm during the pendency of this litigation.

48. The total number of hours spent by the attorneys, paralegals and law clerks working on behalf of SFMS in the litigation is 686.20. As reflected in Exhibit “1,” through October 22, 2019, SFMS has accumulated a lodestar totaling \$435,767.00. This does not include the hours necessary for briefing of Plaintiff’s request for final approval of the Settlement or this request for attorneys’ fees and expenses. Nor does it include the additional time that Class Counsel will incur speaking to Class Members about the Settlement and working with the Settlement Class and Administrator. We conservatively estimate that SFMS will spend at least 50 additional hours on these necessary activities.

49. SFMS’s hourly rates range from \$50 for law clerks, \$200 for certain paralegal work, to up \$850 for senior, experienced litigation counsel. Based on my knowledge and experience, the hourly rates charged by SFMS are the usual and customary rates which SFMS utilizes in non-contingent matters and are well within the range of market rates charged by attorneys of equivalent experience, skill, and expertise in state and local courts in this area. Specifically, SFMS’s rates were recently approved in *In re Comcast Corp. Set-Top Cable Television Box Antitrust Litig.*, No. CV 09-MD-2034, 2019 WL 4645331 (E.D. Pa. Sept. 24, 2019) (approving fee request with hourly rates up to \$950 for experienced class counsel). Further, then-current rates of SFMS were also approved in 2016 by Judge Bernstein in the

Philadelphia Court of Common Pleas in *Heba v. Comcast Corp.*, Case No. 000471 (C.C.P. Phila.) (¶ 13 of Final Approval Order dated April 6, 2016) (finding in final approval order that Plaintiffs' Counsels' fees and then-current hourly rates of up to \$750.00 for partners were reasonable). *See also In re: Caterpillar, Inc. C13 and C15 Engine Products Liability Litig.*, MDL No. 2540 (D.N.J.) [Dkt. No. 54] (same); *Q+Food v. Mitsubishi Fuso Truck of America, Inc.*, 3:14-cv-06046 (D.N.J., March 27, 2017) [Dkt 70].

50. SFMS's hourly rates also have routinely been approved by courts throughout the United States. *See, e.g., Bowerman v. Field Asset Services, Inc.*, No. 13-cv-00057-WHO (N.D. Cal., Nov. 14, 2018) [ECF 464] (awarding hourly rate of \$775 for partners and \$300 for associates); *Q+Food v. Mitsubishi Fuso Truck of America, Inc.*, 3:14-cv-06046 (D.N.J., March 27, 2017) [Dkt 70]; *Henderson v. Volvo Cars of North America, LLC*, 2013 WL 1192479 (D.N.J. March 22, 2013); *Trewin v. Church and Dwight, Inc.*, Case No. 3:12-cv-01475-MAS-DEA (D.N.J. 2015) [Dkt. 68]; *In re: Ford Motor Co. Spark Plug and 3-Valve Engine Products Liability Litigation*, Case No. 1:12-md-02316-BYP (N.D. Oh. 2016) [Dkt. 122]; *Corson v. Toyota Motor Sales U.S.A., Inc.*, Case No. 1:12-cv-8499-JGB (C.D. Ca. 2016) [Dkt. 107]; *Allison Gay v. Tom's of Maine, Inc.*, Case No. 0:14-cv-60604-KMM (S.D. Fl. 2016) [Dkt. 43]; *Golden Star, Inc. v. Mass Mut. Life Ins. Co.*, Case No. 3:11-30235-MGM (D. Mass. 2015) [Dkt. 55]; and *Butler National Corp. v. The Union Central Life Insurance Co.*, Case No. 1-1:12-cv-00177-SJD-KLL (S.D. Oh. 2014) [Dkt. 55].

51. Additional information about SFMS can be found at [www.sfmslaw.com](http://www.sfmslaw.com) and in the firm resume. (ECF 42- 4.)

52. My partners and I, along with my firm's legal staff, made a concerted effort to perform all work in a thorough and efficient manner. Further, the amount of time we billed is

reasonable for the additional reason that more senior counsel in small firms must not only coordinate all of the work in a case to ensure it is geared to effective advocacy at trial, but must also bear the laboring oar on many aspects of the litigation.

53. SFMS, to date, has also expended a total of \$17,415.04 in unreimbursed expenses in connection with the prosecution of the litigation. These expenses, as reflected on Exhibit “2,” primarily consist of mediation and expert witness fees, as well as other expenses, including copying costs, postage and facsimile charges, transportation and travel expenses, telephone charges, and computer and research charges.

54. These expenses are reflected in the books and records of SFMS and have been prepared from expense vouchers, receipts, statements and other records and are a true and accurate summary of the expenses incurred in the Litigation. The expenses for which reimbursement is sought all were necessarily incurred and are reasonable in amount.

55. Attached hereto are Exhibit 3, the Declaration of Axler Goldich, LLC, and Exhibit 4, the Declaration of Robert P. Cocco, P.C. These declarations and accompanying charts were completed by the firms based upon the records they created during the pendency of this litigation as described above.

56. The total hours expended by all Class Counsel during the years that this litigation has been pending is 1,405.40.

57. As reflected in Exhibits 1 through 4, Class Counsel have accumulated a lodestar totaling \$806,263.00 and incurred total expenses of \$30,186.55. If the total award is reduced by the amount of expenses, the amount actually allocated to the “attorneys’ fee” portion of the requested award is \$798,689.45, which is \$7573.55 below Class Counsel’s lodestar.

58. Class Counsel also requests that the Court approve a \$5,000 service award for Plaintiff. Plaintiff's extensive participation was essential to obtaining the recovery on behalf of the Settlement Class and included working with Class Counsel to investigate the case, reviewing and commenting on the Complaint, and providing documents and his Vehicle for inspection. Plaintiff, acting as the class representative, was advised of the proceedings throughout the litigation and Settlement and reviewed and approved the proposed Settlement Agreement. Moreover, the amount requested here is in keeping with service awards approved by courts in this District.

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

Dated: November 4, 2019

*/s/ James C. Shah*

James C. Shah

# **Exhibit 1**

*In re: Riaubia v. Hyundai Motor America*, Civil Action No. 2:16-cv-5150-CDJ

Shepherd, Finkelman, Miller & Shah, LLP

Attorney Time Summary

<b>Namer</b>	<b>Position</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Ashley Landis	Law Clerk	24.86	\$75.00	\$1,860.00
Betsy Ferling-Hitriz	Legal Assistant	5.7	\$200.00	\$1,140.00
Christine Mon	Legal Assistant	15.9	\$200.00	\$3,180.00
Emily Finestone	Associate	49.7	\$350.00	\$17,395.00
Jaclyn Reinhart	Associate	5.4	\$350.00	\$1,890.00
John Roberts	Associate	5.2	\$275.00	\$1,430.00
James Shah	Partner	176.4	\$825.00	\$145,530.00
Luke Opyd	Law Clerk	24	\$50.00	\$1,200.00
Michael Ols	Law Clerk	56.7	\$185.00	\$10,489.50
Michael Ols	Associate	21.7	\$325.00	\$7,052.50
Natalie Finkelman	Partner	283.9	\$850.00	\$241,240.00
Sue Moss	Legal Assistant	16.8	\$200.00	\$3,360.00
<b>GRAND TOTAL</b>		686.20		\$435,767.00

# **Exhibit 2**

*In re: Riaubia v. Hyundai Motor America*, Civil Action No. 2:16-cv-5150-CDJ

Shepherd, Finkelman, Miller & Shah, LLP

Expenses Summary

<b>Description</b>	<b>Amount</b>
Computer Research	\$350.29
Copies	\$1,264.50
Experts	\$4,915.35
Mediation Fees	\$10,000.00
Postage/Overnight Deliveries	\$153.62
Travel	\$731.28
<b>TOTAL</b>	<b>\$17,415.04</b>

# **Exhibit 3**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

Q+ FOOD, LLC; LAWRENCE BARTON d/b/a  
LEGEND MEATS, LLC; ENCORE PIANO &  
ORGAN MOVING, LLC; ALL AMERICAN  
MOVING AND STORAGE DELIVERY, LLC;  
and WEST LUMBER & BUILDING SUPPLY  
CORP; individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

MITSUBISHI FUSO TRUCK OF AMERICA,  
INC.,

Defendant.

Civ. No. 14-cv-06046-MAS-DEA

*Document electronically filed.*

**DECLARATION OF MARC A. GOLDICH**

I, Marc A. Goldich, declare as follows:

1. I am a partner at the law firm of Axler Goldich LLC (the "Firm" or "Axler Goldich"). I am admitted to practice in Pennsylvania, New Jersey, and multiple circuit and federal courts.

2. Axler Goldich has actively participated in the Litigation, including, but not limited to: (1) case investigation; (2) retention of and communication with class representative plaintiffs; (3) informal discovery and exchange of information; (4) drafting of pleadings; (5) legal research; (6) drafting of motions and briefs; (7) participating in Litigation strategy decisions; (8) participating in settlement negotiations; and (9) communicating with class members throughout the course of the Litigation. Thus, I am fully familiar with the proceedings. If called upon, I am competent to testify that the following facts are true and correct to the best of my knowledge, information, and belief.

3. I submit this declaration in support of Class Counsel's Motion for an Award of Attorneys' Fees and Costs and for Class Representative Service Awards.

4. Axler Goldich has dedicated significant time and resources to investigating and resolving this Litigation on behalf of the class. The Firm's legal services were performed on a wholly contingent fee basis.

5. The Firm maintained detailed time records regarding the work performed in connection with the prosecution of the Litigation. Attached hereto as Exhibit "1" is a time and expense summary chart relating to the Litigation. This chart was completed by the Firm based upon the records created by the Firm during the pendency of this Litigation.

6. The total number of hours spent by the attorneys, paralegals and law clerks working on behalf of Axler Goldich in the Litigation is 530.00. As reflected in Exhibit "1," through December 31, 2016, Axler Goldich has accumulated a lodestar totaling \$300,810.00.

7. The Firm's hourly rates range, from \$150 for certain paralegal work, to up \$750 for senior, experienced litigation counsel. Based on my knowledge and experience, the hourly rates charged by Axler Goldich are well within the range of market rates charged by attorneys of equivalent experience, skill, and expertise. These and similar rates for certain firm attorneys have been approved by courts in other class action cases, including: *Murray v. Accor North America, Inc.*, No. 15-4907 (E.D. Pa. Dec. 20, 2016) (Dkt. 36) (approving hourly rate of \$600 for Mr. Axler and \$550 for Mr. Goldich); *Smith v. Levine Leichtman*, No. 10-10 (N.D. Cal. Mar. 26, 2014) (Dkt. 325) (approving hourly rate of \$500 for Mr. Axler); *Sonoda v. Amerisave Mortgage Corp.*, No. 11-1803-EMC (N.D. Cal. Mar. 4, 2013) (Dkt. 111) (approving hourly rate of \$500 for Mr. Axler); *Whitehead-Bey v. Advantage Assets II, Inc.*, No. 11-5199 (E.D. Pa. July 16, 2012)

(Doc. 33) (approving hourly rate of \$500 for Mr. Axler); *Craddock v. Hayt, Hayt, & Landau, LLC*, No. 09-595 (D.N.J. July 6, 2011) (Doc. 35) (approving hourly rate of \$500 for Mr. Axler).

8. The Firm, to date, has also expended a total of \$3525.81 in unreimbursed expenses in connection with the prosecution of the Litigation. These expenses, as reflected on Exhibit "2" consist of transportation and travel expenses and computer and research charges.

9. These expenses are reflected in the books and records of Axler Goldich and have been prepared from expense vouchers, receipts, statements and other records and are a true and accurate summary of the expenses incurred in the Litigation. The expenses for which reimbursement is sought all were necessarily incurred and are reasonable in amount.

10. Attached as Exhibit "3" is the firm biography of Axler Goldich LLC, which further supports the Motion for an Award of Attorney's Fees and Expenses.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed on this 11th day of January, 2017, in Philadelphia, Pennsylvania.

Dated: January 11, 2017

  
\_\_\_\_\_  
Marc A. Goldich

**EXHIBIT 1**

Time Expense Summary  
 Q+ Foods, LLC et al. v. Mitsubishi Fuso Truck of America, Inc.

ATTORNEYS (*P, A, C)	TOTAL HOURS	HOURLY RATE	CUMULATIVE LODESTAR
Marc Goldich (P)	345.00	\$600.00	\$207,000.00
Noah Axler (P)	106.70	\$600.00	\$64,020.00
Matthew Strout (A)	64.30	\$300.00	\$19,290.00
David Jacoby (C)	14.00	\$750	\$10,500.00
<b>Attorney Totals:</b>	530.00		\$300,810.00
NON-ATTORNEYS	TOTAL HOURS	HOURLY RATE	CUMULATIVE LODESTAR
<b>Non-Attorney Totals:</b>	0.00	N/A	0.00
<b>TOTALS:</b>	530.00		\$300,810.00

**\*Status:**

P= Partner;  
 A = Associate;  
 C = Counsel

**EXHIBIT 2**

**Q+Food LLC, et al. v. Mitsubishi Fuso Truck of America, Inc.**

**EXPENSE REPORT**

**AXLER GOLDICH**

1520 Locust Street, Suite 301  
Philadelphia, PA 19102

<b>Description</b>	<b>Cumulative Total</b>
Travel and Meal Expenses	\$2642.09
Lodging	\$655.03
Legal Research	\$228.69
<b>TOTAL EXPENSES</b>	<b>\$3525.81</b>

**EXHIBIT 3**

# AXLER | GOLDICH<sup>LLC</sup>

## ATTORNEYS AT LAW

1520 Locust Street, Suite 301  
Philadelphia, PA 19102  
(t) 267.534.7400  
(f) 267.534.7407  
[www.axlergoldich.com](http://www.axlergoldich.com)

Axler Goldich LLC, based in Philadelphia, is a class action and consumer litigation firm whose lawyers have recovered millions of dollars for consumers, injured individuals and their families. The firm has the ability to devote skilled lawyers and the resources necessary to the successful prosecution of complex class-action and individual litigation. By concentrating exclusively on representing those harmed by the misconduct and negligence of corporations, the firm avoids the conflicts of interest, both actual and philosophical, that can arise from multi-faceted representation, and is able to offer the kind of hard-hitting approach that complex plaintiffs' litigation demands.

Marc A. Goldich and Noah Axler, co-managing partners of the firm, have served or are currently serving as lead counsel, co-lead counsel, or in other leadership positions in a wide variety of class-action cases. See, e.g., *Livi, et al. v. Hyatt Hotels Corp.*, 2:15-cv-05371 (E.D. Pa.); *In re Pacquiao-Mayweather Boxing Match Pay-Per-View Litigation*, MDL No. 2:15-md-02639-RGK, (C.D.Cal.); *Murray, et al. v. Accor North America, Inc., et al.*, 2:15-cv-04907 (E.D. Pa.); *King v. General Information Services Inc.*, No. 10-06850 (E.D. Pa.); *Smith v. Levine Leichtman Capital Partners, Inc.*, No. 10-10 (N.D. Cal.); *Sonoda v. Amerisave Mortgage Corp.*, No. 11-1803 (N.D. Cal.); *Brown v. Access Midstream Partners, L.P.*, 2015 WL 1471598 (M.D. Pa. Mar. 31, 2015); *Little v. LGE*, No. 13-1214 (W.D. Ky.); *Rothstein v. AAA*, No. 15-cv-09391-LAK-RLE (S.D.N.Y.); *Riaubia v. Hyundai Motor Company*, No. 2:16-cv-05150-CDJ (E.D. Pa.); *In re Seagate Technologies, LLC*, No. 5:16-cv-00523 (N.D.Cal.).

Prior to founding Axler Goldich, Mr. Goldich was at a prominent plaintiffs' firm with a practice focused on consumer protection class action, products liability, qui tam/whistleblower, pharmaceutical litigation and mass tort litigation. Mr. Goldich also previously maintained a commercial litigation practice for more than a decade at Reed Smith LLP, representing Fortune 500 companies and corporate clients from various industries in complex commercial litigation and consumer class-action cases.

Prior to founding Axler Goldich, Mr. Axler was a partner at Donovan Axler LLC, a nationally recognized plaintiffs' class-action litigation firm, where he litigated numerous class-action cases, including consumer, antitrust, employment and environmental actions, and was repeatedly appointed lead counsel or co-lead counsel to represent plaintiff classes in state and federal courts throughout the country.

David Jacoby, of counsel to Axler Goldich, is also highly regarded and experienced in individual and class-action cases. Mr. Jacoby has more than 40 years of experience representing consumers and aggrieved plaintiffs. He was named a finalist for Trial Attorney of the Year by Lawyers for Public Justice, has tried numerous multimillion-dollar

cases to verdict, served as liaison and trial counsel in the *In re Diet Drugs* state class-action litigation, liaison in the *In re Propulsid* class-action litigation and recently participated as trial counsel in the *In re Risperdal* trials in the Court of Common Pleas, Philadelphia County, Philadelphia.

## MARC A. GOLDICH

Mr. Goldich co-manages the firm's practice with a focus on class action, consumer protection, products liability, qui tam/whistleblower and mass tort litigation. Mr. Goldich's practice is largely focused on representing consumers and families in class-action cases against corporate defendants such as automobile manufacturers, pharmaceutical manufacturers, financial institutions, and national and international corporations in a variety of industries.

Prior to founding Axler Goldich LLC, Mr. Goldich was at a prominent plaintiffs' firm with a practice focused on consumer protection class action, products liability, qui tam/whistleblower, pharmaceutical litigation and mass tort litigation. Mr. Goldich also previously maintained a commercial litigation practice for more than a decade at Reed Smith LLP, representing fortune 500 companies and corporate clients from various industries in complex commercial litigation, serving in lead roles on trial teams in consumer class-action cases involving consumer protection, breach of contract and fraud. See, e.g., *White, et al. v. The PNC Financial Services Group, Inc., et al.*, Civil Action No. 2:11-cv-07928-L (E.D. Pa.); *Judith Cunningham, et al. v. M & T Bank Corp., et al.*, Civil Action No. 1:12-CV-123 (M.D. Pa.); *Commonwealth of Pennsylvania v. Vahan Karian and Pure Weight Loss, Inc.*, Commonwealth Court of Pennsylvania; No. 36 M.D. 2008; *Ferrare v. IDT Energy, Inc.*, No. 14-4658 (E.D. Pa.). Mr. Goldich's practice also included leadership roles in other high stakes, complex commercial litigation, see, e.g., *WellSpan Health, et al. v. Quantum Imaging & Therapeutic Associates, Inc., et al.*, York Co. Court of Common Pleas, Case No. 2007-SU-5039-Y01. Mr. Goldich also represented Fortune 500 companies and their employees in connection with regulatory proceedings. See, e.g., *In the Matter of National Century Financial Enterprises, Inc.*, United States Securities and Exchange Commission, No. C-03688; *Department of Enforcement v. Suzanne K. Courter-Jann*, FINRA Disciplinary Proceeding No. 2007011550101 (CRD No. 1282573).

Among many other matters, Mr. Goldich is currently serving on the leadership *In re Pacquiao-Mayweather Boxing Match Pay-Per-View MDL* litigation (MDL No. 2639, 2:15-mj-02639-RGK), is co-lead counsel in two wage-and-hour class-action cases pending in federal court, *Murray, et al. v. Accor North America, Inc., et al.*, No. 2:15-cv-04907-JD (E.D. Pa.), *Livi, et al. v. Hyatt Hotels Corp., et al.*, No. 2:15-cv-05371-CDJ (E.D. Pa.). He is co-counsel in the nationwide warranty class-action pending in Northern District of California, *In re Seagate Technologies, LLC*, No. 5:16-cv-00523 (N.D.Cal.) and in a warranty class action currently pending in the Eastern District of Pennsylvania, *Riaubia v. Hyundai Motor Company*, No. 2:16-cv-05150-CDJ (E.D. Pa.), and has served on the discovery committee for the *In re Xarelto* mass tort pending in Pennsylvania state court.

Mr. Goldich's work on behalf of clients has been regularly acknowledged by his peers, as he has been identified as one of only 38 "Lawyers on the Fast Track" in Pennsylvania by American Law Media and has been consistently named in Pennsylvania Super Lawyers magazine. His commitment to pro bono work was acknowledged in 2008 and 2010, as he was listed in the annual "Pro Bono Honor Roll" and named an "Unsung Hero" by The Legal Intelligencer for his work on behalf of indigent clients.

Furthermore, Mr. Goldich has also authored numerous publications, such as:

- *To Bundle or Not to Bundle: Public Company Strategies in Packaging Corrective Disclosures* in Press

Releases, ADLAW By Request, 18 July 2008;

- Charter Service: How The New Rule Impacts You, Mass Transit, 9 May 2008;
- The Federal Transit Administration Releases Its Final Rule on Charter Service, Reed Smith Client Alerts, 17 March 2008;
- Mortgage Lenders And Servicers Should Evaluate And Streamline Their Pre-Foreclosure Notice Procedures to Avoid Pitfalls, 67 Consumer Fin. L. Q. Rep. 178 (2013);
- FRCP Amendments Could Change Discovery As We know It, Law360 Expert Analysis Section, 4 June 2013;
- Differing Opinions From PA On FRCP Amendments, Law360 Expert Analysis Section, 19 Feb 2014

In accordance with his philanthropic interests Mr. Goldich is a member of the Board of Directors in several organizations including his service as Secretary of the Board of the Welcoming Center for New Pennsylvanians and on the Board of Directors of the Elmwood Park Zoo. Furthermore, he has an extensive history of volunteer work with organizations such as Children's Crisis Treatment Center, where he has served in numerous leadership capacities. He is also active in numerous bar associations and was appointed to the Federal Practice and Court Committees of both the Philadelphia and Pennsylvania Bar Associations, is an active member of the American Bar Association, and the Montgomery Bar Association. He is also a member of the World Affairs Council of Philadelphia and the Historical Society of the U.S.D.C., Eastern District of Pennsylvania.

## NOAH AXLER

Mr. Axler co-manages the firm's practice with a focus on class action, consumer protection, products liability, qui tam/whistleblower and mass tort litigation. Mr. Axler's practice is largely focused on representing consumers in class-action cases against corporate defendants such as automobile pharmaceutical manufacturers, financial institutions, and national and international corporations in a variety of industries.

Prior to founding Axler Goldich, Mr. Axler was a partner at Donovan Axler LLC, a nationally recognized plaintiffs' class action litigation firm, where he litigated numerous class-action cases, including consumer, antitrust, employment and environmental actions, and was appointed lead counsel or co-lead counsel to represent plaintiff classes in numerous class actions.

Some of Mr. Axler's representative class and collective action settlements include *Sonoda v. Amerisave Mortgage Corp.*, No. 11-1803 (N.D. Cal.) (alleging violations of Truth in Lending Act and California law against online mortgage broker, resulting in \$3.2 million settlement); *Smith v. Levine Leichtman Capital Partners, Inc., et al.*, No. 10-10 (N.D. Cal.) (alleging violation of RICO and debt collection laws against bad check recovery Company, resulting in \$3.25 million settlement); *Murray, et al. v. Accor North America, Inc., et al.*, 2:15-cv-04907 (E.D. Pa.) (alleging failure to pay overtime and resulting in 100% recovery of overtime wages).

A sample of Mr. Axler's reported decisions include: *Brown v. Access Midstream Partners, L.P.*, No. 3:14-591, 2015 WL 5829755 (M.D. Pa. Sept. 30, 2015) (defeating motions to dismiss as to all defendants in class action seeking underpayment of natural gas royalties, under RICO and state law); *Haber v. Bank of America, N.A.*, No. 14-0169,

2014 WL 2921659 (E.D. Pa. June 27, 2014) (defeating motion to dismiss on two of three counts in consumer class action, under Fair Debt Collection Practices Act ("FDCPA") and FCRA); *Little v. Louisville Gas and Electric Co.*, 33 F. Supp. 3d 791 (W.D. Ky. 2014) (defeating in part motion to dismiss in environmental class action, under Clean Air Act, RCRA, and Kentucky law); *Little v. Louisville Gas and Electric Co.*, --F.3d--, 2015 WL 6646984 (6th Cir. 2015) (affirming denial of motion to dismiss); *Newton v. Savit Collection Agency*, No. 09-4911, 2011 WL 6724034 (D.N.J. Dec. 21, 2011) (defeating summary judgment in consumer class action, under FDCPA); and *Sonoda v. Amerisave Mortgage Corp.*, No. 11-1803, 2011 WL 2653565 (N.D. Cal. Jul. 6, 2011) (defeating motion to transfer venue in consumer class action, under TILA and California law).

Mr. Axler is also the author of a number of publications on class-action and consumer litigation topics, including:

- Survey of State Class Action Law (ABA 2012-2015) (co-author of Pennsylvania chapter);
- Pennsylvania Consumer Law (Bisel 2012-2014) (author of usury chapter);
- The Explosion & Evolution of Class Action Law (PBI 2004) (co-author).

## DAVID JACOBY

Mr. Jacoby has devoted his entire professional career to helping those harmed by defective products. He is presently involved in numerous mass tort and class-action lawsuits. His experience in mass tort and class-action litigation began in the mid 1970s when he represented thousands of asbestos victims in state and federal courts around the country. He has tried numerous cases to verdict and his asbestos settlements exceeded \$100 million. He then represented numerous victims in TEL (Tetra-ethyl lead) litigation resulting in a multimillion-dollar settlement.

For instance, Mr. Jacoby was one of the trial counsel in the diet drug (Fen-Phen) litigation resulting ultimately in a nationwide settlement in excess of \$6 billion. He was appointed by the NJ Superior Court Judge Marina Corodemus as liaison counsel in that litigation. Subsequently he was appointed as liaison counsel between state and federal courts in the Propulsid litigation before Judge Eldon Fallon in New Orleans, Louisiana. Mr. Jacoby has represented numerous victims of silicone breast implants in MDL litigation. He was then appointed liaison counsel on the mass tort Vioxx litigation before Judge Carol Higbee in Atlantic City, New Jersey and represented hundreds of plaintiffs in this class action which ultimately resulted in a nationwide settlement of over \$6 billion. Recently, Mr. Jacoby participated in the Risperdal trials in the Court of Common Pleas, Philadelphia County, Philadelphia. He has frequently been cited in case law most including for his successful jury verdict and subsequent Supreme Court of New Jersey arguments effecting a major change in New Jersey law permitting a civil lawsuit by an employee against his employer for deliberate harm.

He has received numerous awards and distinctions over his career from the White Lung Association (Asbestos victims) and Lawyers for Public Justice where he was named one of five finalists for Trial Attorney of the Year. He is an AV Rated Attorney whom has received recognition as a Super Lawyer both in New Jersey and Pennsylvania. He has published material in a book on Asbestos regarding the legal aspects. Furthermore, he is frequently cited in other publications.

His background includes graduation from Rutgers College, New Brunswick, NJ, with honors and distinction (Henry Rutgers Scholar) and George Washington University Law School, Washington, D.C. (with honors and Order of the Coif). For 10 years, he was an adjunct professor of law at Rutgers Camden School of Law teaching Trial Advocacy.

He has argued class-action and mass tort cases before the New Jersey Supreme Court, numerous state and federal courts, and the 2nd, 3rd and 4th Federal Circuit Courts of Appeal. Mr. Jacoby has spoken at numerous seminars and conferences on varied subjects involving class-action and mass tort litigation. He is a member of the New Jersey Bar.

## MATTHEW STROUT

Matthew Strout was an associate at a prominent plaintiffs' firm where he maintained a busy mass tort, personal injury, and consumer class action practice. He also previously interned at two prosecutor's offices (Phila D.A. and Camden County Prosecutor's Office), two public interest firms (Sheller Center for Social Justice and the Pennsylvania Innocence Project) and two public policy organizations (American Civil Liberties Union and Pennsylvanians for Modern Courts).

Mr. Strout graduated summa cum laude from the University of Maine with a degree in Political Science (2010) and graduated cum laude from Temple University Beasley School of Law (2015) where he was a Ruben Public Interest Law Honor Society Fellow.

## AWARDS

Pennsylvania Super Lawyers Rising Star

Marc A. Goldich, 2013-2016

Lawyer on the Fast Track, American Lawyer Media / The Legal Intelligencer

Marc A. Goldich, 2013

Pro Bono Honor Roll, E.D.P.A.

Marc A. Goldich, 2010

Pro Bono Unsung Hero

Marc A. Goldich, 2008

Super Lawyer, Super Lawyers Magazine

Noah Axler, 2014-2016

Rising Star, Super Lawyers Magazine

Noah Axler, 2007, 2010-2011

Trial Attorney of the Year, White Lung Association (Asbestos victims)  
and Lawyers for Public Justice

David Jacoby

AV Rated Attorney, the highest possible peer review in legal ability and ethical standard.

David Jacoby

Super Lawyer in both New Jersey and Pennsylvania

David Jacoby

Published material in a book on Asbestos regarding legal aspects and frequently cited in other publications.

David Jacoby

# **Exhibit 4**

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSHUA RIAUBIA, individually and on behalf of all others similarly situated,	:	CASE NO.: 2:16-cv-05150-CDJ
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
HYUNDAI MOTOR AMERICA,	:	
	:	
Defendant.	:	
	:	
	:	
	:	

**DECLARATION OF ROBERT P. COCCO**

I, Robert P. Cocco, declare as follows:

1. I am president and owner of the law firm of ROBERT P. COCCO, P.C. (the “Firm”). I am admitted to practice in the Eastern and Middle Districts of the U.S. Pennsylvania Courts, as well as the Third circuit Court of Appeals.
2. ROBERT P. COCCO has actively participated in the Litigation, including, but not limited to: (1) case investigation; (2) retention of and communication with class representative plaintiffs; (3) informal discovery and exchange of information and consulting with experts; (4) review of drafted pleadings; (5) review of drafted motions and briefs; (6) participating in litigation strategy decisions. Thus, I am fully familiar with the proceedings. If called upon, I am competent to testify that the following facts are true and correct to the best of my knowledge, information, and belief.

3. I submit this declaration in support of the Motion for an Award of Attorneys' Fees and for Class Representative Service Awards.

4. ROBERT P. COCCO has dedicated significant time and resources to investigating and resolving this litigation on behalf of the class. The Firm's legal services were performed on a wholly contingent fee basis.

5. The Firm maintained detailed time records regarding the work performed in connection with the prosecution of the litigation. Attached hereto as Exhibit "1" is a time and expense summary chart relating to the litigation. This chart was completed by the Firm based upon the records created by the Firm during the pendency of this litigation.

6. The total number of hours spent by the attorney working on behalf of JOSHUA RIAUBIA in the litigation is 34.3 hours. As reflected in Exhibit "1," through January 24, 2019, ROBERT P. COCCO, P.C. has accumulated a lodestar totaling \$14,749.00.

7. The Firm's hourly rate is \$430.00. Based on my knowledge and experience, the hourly rates charged by ROBERT P. COCCO, P.C. are well within the range of market rates charged by attorneys of equivalent experience, skill, and expertise. The hourly rates are the same rates which the Firm utilizes in non-contingent matters and are rates that have routinely been approved by courts throughout the United States. *See, e.g.,* USAO Attorney's Fee Matrix 2015-2019.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed on this 1<sup>st</sup> day of November, 2019, in Philadelphia, PA.

/s/Robert P. Cocco  
ROBERT P. COCCO, P.C.

# **Exhibit 1**

**Robert P. Cocco, P.C.**

1500 Walnut Street, Suite 900  
Philadelphia, PA 19102  
(215) 351-0200

STATEMENT FOR LEGAL SERVICES RENDERED

Matter: RIAUBIA v. HYUNDAI MOTOR AMERICA, 2:16-cv-05150-CDJ

Date	Activity	Rate	Time	Total
4/11/2016	Intake Phone call with client	\$ 430.00	0.5	\$ 215.00
4/11/2016	Review client email and attachments of video, internet research, and service invoices	\$ 430.00	0.8	\$ 344.00
4/13/2016	Prepare fee agreement, forward to client	\$ 430.00	0.3	\$ 129.00
4/13/2016	Phone call with client	\$ 430.00	0.4	\$ 172.00
4/18/2016	Review email reEmail to and review response from client re follow up materials for review	\$ 430.00	0.2	\$ 86.00
4/25/2016	Review client voicemail re sales documentation, review file	\$ 430.00	0.2	\$ 86.00
4/25/2018	Call with co-counsel Axler re case issues	\$ 430.00	0.4	\$ 172.00
4/27/2016	Email to client re case issues and follow up on documentation	\$ 430.00	0.1	\$ 43.00
4/29/2016	Call with client	\$ 430.00	0.4	\$ 172.00
4/29/2016	Email to co-counsel Axler re case issues and review email reply	\$ 430.00	0.2	\$ 86.00
5/11/2019	Email re trunk features and literature	\$ 430.00	0.3	\$ 129.00
5/11/2016	Email reply w/ manual attachment, review attachment	\$ 430.00	0.3	\$ 129.00
5/12/2016	Email follow up to re vehicle window sticker and review reply	\$ 430.00	0.3	\$ 129.00
5/12/2016	Call with co-counsel Axler to discuss	\$ 430.00	0.3	\$ 129.00
5/12/2016	Forward client email re manual to co-counsel Axler	\$ 430.00	0.1	\$ 43.00
5/12/2016	Forward client email to co-counsel Axler	\$ 430.00	0.1	\$ 43.00
5/13/2016	Email to client and co-counsel Axler re conference call and review replies	\$ 430.00	0.3	\$ 129.00
5/13/2016	Email follow up to client and co-counsel Axler re conference call and review replies	\$ 430.00	0.2	\$ 86.00
5/16/2016	Email both re conference call for Wednesday 18th, review replies	\$ 430.00	0.2	\$ 86.00
5/18/2016	Conf. call with client and co-counsel Axler, review file ahead	\$ 430.00	0.9	\$ 387.00
5/19/2016	Review Email re fee agreement, class, with r&r info sheet	\$ 430.00	0.4	\$ 172.00
5/19/2016	Email	\$ 430.00	0.2	\$ 86.00
5/23/2016	Email client fee agreement, class	\$ 430.00	0.1	\$ 43.00
5/26/2016	Call with co-counsel to discuss issues	\$ 430.00	0.3	\$ 129.00
5/26/2016	Email client re vehicle retention concerns and and review reply	\$ 430.00	0.2	\$ 86.00
5/27/2016	Email co-counsel re changes to fee agr for client	\$ 430.00	0.1	\$ 43.00
5/27/2016	Review co-counsel email reply to client and review attachment fee agreement changes	\$ 430.00	0.3	\$ 129.00
5/27/2016	Forward email with revised fee agr via email to client	\$ 430.00	0.1	\$ 43.00
5/31/2016	Email client re fee agr status and review reply with signed fee agr attached	\$ 430.00	0.2	\$ 86.00
6/1/2016	Review email from co-counsel to client re fee agr receipt	\$ 430.00	0.1	\$ 43.00
6/2/2016	Review co-counsel email re Mag-Moss issues	\$ 430.00	0.3	\$ 129.00
6/3/2016	Email draft Mag-Moss ltr to client for review of facts	\$ 430.00	0.1	\$ 43.00
6/4/2016	Review email reply form client approving Mag-Moss ltr	\$ 430.00	0.1	\$ 43.00
8/4/2016	Review co-counsel email re complaint draft status	\$ 430.00	0.1	\$ 43.00
8/29/2016	Review email and complaint draft from co-counsel	\$ 430.00	0.6	\$ 258.00
8/31/2016	Review co-counsel email to client re complaint draft status	\$ 430.00	0.1	\$ 43.00
9/6/2016	Review email from co-counsel re complaint draft status	\$ 430.00	0.3	\$ 129.00
9/8/2016	Review email from client re complaint draft status	\$ 430.00	0.1	\$ 43.00
9/9/2016	Review client's complaint edits	\$ 430.00	0.7	\$ 301.00
9/9/2016	Review email from co-counsel re edited draft of client	\$ 430.00	0.1	\$ 43.00
9/14/2016	Review email with co-counsel draft of complaint edit to client	\$ 430.00	0.5	\$ 215.00
9/14/2016	Email all re phone conf. to discuss complaint edits	\$ 430.00	0.1	\$ 43.00
9/16/2016	Review email from client re phone with co-counsel and co-counsel response re additional info required for complaint pleading	\$ 430.00	0.1	\$ 43.00
9/16/2016	Review email from co-counsel re results of call with client	\$ 430.00	0.1	\$ 43.00
9/19/2016	Review email and 2nd complaint draft from co-counsel	\$ 430.00	0.2	\$ 86.00
9/19/2016	Review four (4) emails from client re email communications with Hyundai	\$ 430.00	0.4	\$ 172.00
9/19/2016	Review email with attachments from client re trunk lid invoices	\$ 430.00	0.3	\$ 129.00

9/20/2019	Review email and final complaint draft from co-counsel	\$ 430.00	0.5	\$ 215.00
9/22/2016	Client email re suggested edits to the final draft of the complaint	\$ 430.00	0.2	\$ 86.00
9/29/2016	Review email with complaint draft for filing, print and file	\$ 430.00	0.2	\$ 86.00
10/4/2016	Review co-counsel email to client re complaint filing and imminent service	\$ 430.00	0.1	\$ 43.00
10/4/2016	Review email from co-counsel re draft press release re complaint	\$ 430.00	0.2	\$ 86.00
10/5/2016	Review client's edits to the press release	\$ 430.00	0.2	\$ 86.00
11/17/2016	Review client email request for status of proceeding and co-counsel reply	\$ 430.00	0.2	\$ 86.00
11/30/2016	Review co-counsel's email re social media postings/press releases, etc.	\$ 430.00	0.1	\$ 43.00
12/27/2016	Review Defendant's motion to dismiss	\$ 430.00	1.2	\$ 516.00
12/30/2016	Review client email re comments on Motion to dismiss (MTD)	\$ 430.00	0.1	\$ 43.00
1/1/2017	review co-counsel email reply to client re MTD	\$ 430.00	0.1	\$ 43.00
1/11/2017	Review email from client and response from co-counsel re MTD status	\$ 430.00	0.1	\$ 43.00
2/2/2017	Review filed opposition response to MTD	\$ 430.00	1.7	\$ 731.00
2/3/2017	Review email from client re receipt of MTD response	\$ 430.00	1.1	\$ 473.00
2/6/2017	Review email from client re status of car and inspection	\$ 430.00	0.2	\$ 86.00
2/9/2017	Review client email re conference call and co-counsel reply	\$ 430.00	0.1	\$ 43.00
2/10/2017	Conference call with client and co-counsel	\$ 430.00	0.6	\$ 258.00
2/20/2017	review email from co-counsel re conference call with all parties' counsel	\$ 430.00	0.1	\$ 43.00
4/5/2017	Email re schedule call with all co-counsel	\$ 430.00	0.2	\$ 86.00
4/7/2017	Review email from co-counsel to client re expert inspection	\$ 430.00	0.1	\$ 43.00
4/7/2017	Review email from co-counsel with expert CV attachment	\$ 430.00	0.3	\$ 129.00
4/7/2017	Review client email with video links to videos created by client to display trunk defect	\$ 430.00	0.4	\$ 172.00
4/10/2017	Review email from co-counsel re scheduling conference call among all co-counsel	\$ 430.00	0.2	\$ 86.00
4/11/2017	Review email from co-counsel re scheduling conference call among all co-counsel	\$ 430.00	0.1	\$ 43.00
4/20/2017	Review co-counsel email to client re expert inspection and client response	\$ 430.00	0.2	\$ 86.00
4/21/2017	Review Rule 26f draft report	\$ 430.00	0.3	\$ 129.00
4/21/2017	Review requests for production to Defendant	\$ 430.00	0.4	\$ 172.00
4/25/2017	Review email re expert inspection status	\$ 430.00	0.1	\$ 43.00
4/26/2017	Review client email re expert inspection date	\$ 430.00	0.1	\$ 43.00
4/27/2017	Review co-counsel email and client response re inspection date	\$ 430.00	0.2	\$ 86.00
4/28/2017	Review email confirming the inspection date	\$ 430.00	0.1	\$ 43.00
5/1/2017	Review email and response confirming the final inspection date	\$ 430.00	0.2	\$ 86.00
5/4/2017	review email from client and co-counsel response confirming garage location for inspection	\$ 430.00	0.2	\$ 86.00
5/5/2017	Review email from co-counsel summarizing the expert's findings based on inspection	\$ 430.00	0.3	\$ 129.00
5/15/2017	Review revised 26f report	\$ 430.00	0.1	\$ 43.00
5/16/2017	Review final 26f report and calendar	\$ 430.00	0.1	\$ 43.00
5/17/2017	Review Email and CLRA letter attachment to Defendant counsel re additional class pltf Price	\$ 430.00	0.2	\$ 86.00
5/26/2017	Review co-counsel's draft protocol for defense inspection of client's vehicle	\$ 430.00	0.4	\$ 172.00
5/30/2017	Review other co-counsel response to draft protocol	\$ 430.00	0.2	\$ 86.00
6/1/2017	Review five (5) emails and responses between parties' counsel re scheduling of defense inspection	\$ 430.00	0.5	\$ 215.00
6/2/2017	Review email with letter attachment response from Hyundai to CLRA letter re additional class pltf Price	\$ 430.00	0.2	\$ 86.00
6/2/2017	Review email to defense counsel re letter attachment response from Hyundai to CLRA letter re additional class pltf Price	\$ 430.00	0.1	\$ 43.00
6/7/2017	Review Emails to and review email responses from Defense counsel re expert defense inspection (five (5) total)	\$ 430.00	0.5	\$ 215.00
6/12/2017	Review emails among co-counsel re lack of defense counsel response to CLRA letter re additional class pltf Price and future action	\$ 430.00	0.3	\$ 129.00
6/12/2017	Review emails among co-counsel re ESI protocol	\$ 430.00	0.3	\$ 129.00
6/13/2017	Review email to confirm the defense inspection date	\$ 430.00	0.1	\$ 43.00
6/14/2017	Review email response confirming the defense inspection date	\$ 430.00	0.1	\$ 43.00
6/20/2017	Review Defendant responses to request for production	\$ 430.00	0.8	\$ 344.00
6/21/2017	Review email proposing final inspection protocol with defense counsel	\$ 430.00	0.1	\$ 43.00
6/23/2017	Review email response confirming final inspection protocol with defense counsel	\$ 430.00	0.2	\$ 86.00
6/27/2017	Review co-counsel email summarizing defense expert inspection observations	\$ 430.00	0.3	\$ 129.00

6/30/2017	Review co-counsel email with defense expert memo attachments summarizing defense expert inspection conclusions	\$ 430.00	0.4	\$ 172.00
7/6/2017	Review emails, six (6), re scheduling conference call among all counsel	\$ 430.00	0.5	\$ 215.00
7/7/2017	Review of of emails with co-counsel re vehicle retention and remaining expert review	\$ 430.00	0.2	\$ 86.00
7/10/2017	Review of emails re vehicle sale and document retention re same	\$ 430.00	0.2	\$ 86.00
7/13/2017	Review of emails re scheduling of meet and confer on discovery between counsel	\$ 430.00	0.2	\$ 86.00
7/18/2017	Review of emails re scheduling of meet and confer on discovery between counsel	\$ 430.00	0.2	\$ 86.00
7/20/2017	Review of email from co-counsel summarizing meet and confer on discovery between counsel	\$ 430.00	0.2	\$ 86.00
7/20/2017	Review of email with proposed final protective order attachment	\$ 430.00	0.2	\$ 86.00
7/24/2017	Review client email re conirmation of subject vehicle sale by him, review KBB numbers	\$ 430.00	0.3	\$ 129.00
7/31/2017	Review of email from co-counsel with letter attachment summarizing meet and confer on discovery between counsel	\$ 430.00	0.2	\$ 86.00
8/14/2017	Review emails, two (2), among co-counsel and between parties' counsel re defendant's intial production	\$ 430.00	0.2	\$ 86.00
8/15/2017	Review emails between co-counsel re ESI protocol issues	\$ 430.00	0.2	\$ 86.00
8/16/2017	Review emails and attached proposed stip re protective order for filing	\$ 430.00	0.3	\$ 129.00
8/22/2017	Review MTD opinion	\$ 430.00	0.5	\$ 215.00
9/8/2017	Review proposed final ESI protocol attachment to email for defense counsel comment/edit	\$ 430.00	0.3	\$ 129.00
9/12/2017	Review Exhibit to ESI protocol with proposed metadata fields	\$ 430.00	0.3	\$ 129.00
9/15/2017	Review final ESI protocol attachment to email	\$ 430.00	0.2	\$ 86.00
9/15/2017	Review co-counsel email re notice to client of upcoming mediation	\$ 430.00	0.1	\$ 43.00
9/20/2017	Review Order to show cause re Answer filing and email between co-counsle re same	\$ 430.00	0.2	\$ 86.00
9/28/2017	Review email with attachments, discovery from defendant to plaintiff	\$ 430.00	0.4	\$ 172.00
10/3/2017	Review email from co-counsel re forward to client discovery from defendant to plaintiff	\$ 430.00	0.1	\$ 43.00
10/3/2017	Review email from co-counsel re mediation	\$ 430.00	0.1	\$ 43.00
11/9/2017	Review email from co-counsel to client re client documents and discovery responses	\$ 430.00	0.2	\$ 86.00
11/16/2017	Review Emails between co-counsel and client re client's proposed answers to certain interrogatories	\$ 430.00	0.4	\$ 172.00
11/27/2017	Review follow up Emails between co-counsel and client re client's proposed answers to certain interrogatories	\$ 430.00	0.2	\$ 86.00
11/30/2017	Review second set of follow up set of Emails between co-counsel and client re client's proposed answers to certain interrogatories	\$ 430.00	0.2	\$ 86.00
12/1/2017	Review third set of follow up set of Emails between co-counsel and client re client's proposed answers to certain interrogatories	\$ 430.00	0.3	\$ 129.00
1/18/2019	Review co-counsel email with settlement agreement draft	\$ 430.00	0.3	\$ 129.00
1/24/2019	Review Email from client re approval of settement agreement draft	\$ 430.00	0.1	\$ 43.00
<b>Total fees</b>			34.30	\$ 14,749.00