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6 *Chairman of the Executive Committee*
7 *for the Direct Purchaser Plaintiffs*

8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12
13 IN RE: OPTICAL DISK DRIVE
14 ANTITRUST LITIGATION

Case No. 3:10-md-2143-RS
MDL No. 2143

15
16 This Document Relates to:
17 ALL DIRECT PURCHASER CLASS
18 ACTIONS

**DECLARATION OF LINDA P.
NUSSBAUM IN SUPPORT OF MOTION
FOR ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES, AND
INCENTIVE AWARDS**

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1 I, LINDA P. NUSSBAUM, declare and state as follows:

2 1. I was the founding partner of the law firm of Nussbaum LLP. I submit this
3 declaration in support of Direct Purchaser Plaintiffs (“DPP”) joint application for an award of
4 attorneys’ fees in connection with the services rendered in this litigation. I make this Declaration
5 based on my own personal knowledge, and if called as a witness, I could and would competently
6 testify to the matters stated herein.

7 2. My firm has served as counsel to CMP₂ and as counsel for the Direct Purchaser
8 Class (“Class”) throughout the course of this litigation. The background and experience of
9 Nussbaum LLP₂ and its attorneys are summarized in the *curriculum vitae* attached hereto as
10 Exhibit 1.

11 3. Nussbaum LLP has prosecuted this litigation solely on a contingent-fee basis, and
12 has been at risk that it would not receive any compensation for prosecuting claims against the
13 Defendants. While Nussbaum LLP devoted its time and resources to this matter, it has foregone
14 other legal work for which it would have been compensated.

15 4. During the pendency of the litigation, Nussbaum LLP performed the following
16 work: prepared responses to the detailed client questionnaire to determine the most suitable class
17 representatives, facilitated client’s production of materials, and reviewed briefing concerning
18 discovery stay.

19 5. Attached hereto as Exhibit 2 is my firm’s total hours and lodestar, computed at
20 historical rates, for the period of May 7, 2010 through December 31, 2014. This period reflects
21 the time spent after the appointment of the Chairman of the Executive Committee for the DPPs
22 (the “Chairman”) in this litigation. The total number of hours spent by Nussbaum LLP₂ during this
23 period of time was 10.75 hours, with a corresponding lodestar of \$7,056. This summary was
24 prepared from contemporaneous, daily time records regularly prepared and maintained by my
25 firm. The lodestar amount reflected in Exhibit 2 is for work assigned by the Chairman, and was
26 performed by professional staff at my law firm for the benefit of the Class.

27 6. The hourly rates for the attorneys and professional support staff in my firm

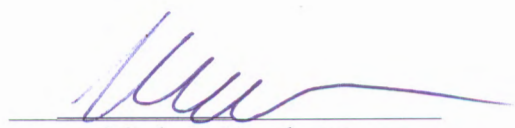
1 included in Exhibit 2 are the usual and customary hourly rates charged by Nussbaum LLP.

2 7. My firm has expended a total of \$19.37 in unreimbursed costs and expenses in
3 connection with the prosecution of this litigation. These costs and expenses are broken down in
4 the chart attached hereto as Exhibit 3. They were incurred on behalf of Direct Purchaser Plaintiffs
5 by my firm on a contingent basis, and have not been reimbursed. The expenses incurred in this
6 action are reflected on the books and records of my firm. These books and records are prepared
7 from expense vouchers, check records and other source materials and represent an accurate
8 recordation of the expenses incurred.

9 8. I have reviewed the time and expenses reported by my firm in this case which are
10 included in this declaration, and I affirm that they are true and accurate.

11 I declare under penalty of perjury under the laws of the United States of America that the
12 foregoing is true and correct. Executed on this 14th day of January, 2015 at New York, New York.

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Linda P. Nussbaum

EXHIBIT 1

Nussbaum LLP

info@nussbaumllp.com

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Attorneys At-Law

Linda P. Nussbaum

Linda Nussbaum is the Founding and Senior Partner at Nussbaum, LLP, where she specializes in plaintiff's antitrust litigation in both class and individual actions.

Ms. Nussbaum recently conducted a five-week jury trial on behalf of Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Hospitals in Boston before Justice Saris resulting in a RICO verdict against Pfizer of \$47 million before trebling. She was selected as [Litigator of the Week by the AmLaw Litigation Daily on April 2, 2010 for her role in the trial.](#)

Ms. Nussbaum has lectured and written extensively about various aspects of antitrust law. Her articles include: "The Evolving Challenges of Class Certification" presented at the American Antitrust Institute's Third Annual Symposium on Private Antitrust Enforcement on December 8, 2009; "*Daubert* 15 Years Later: How Have Economists Fared?" presented at the ABA Section of Antitrust Law Spring Meeting in March 2009; and "The Hatch-Waxman Act 25 Years Later: Successes, Failures and Prescriptions for the Future," presented at a panel on "Lawyers, Drugs and Money, a Prescription for Antitrust Enforcement in the Pharmaceutical Industry" at the University of San Francisco School of Law Antitrust Symposium on September 25, 2009.

Other recent presentations by Ms. Nussbaum include panel discussions at the 57th Annual Antitrust Law Spring Meeting of the ABA in March 2009; the ABA Section of Antitrust Law Brown Bag Program in April 2009; the 56th Annual Antitrust Law Spring Meeting of the ABA in March 2008; the New York State Bar Association's 2007 and 2008 Annual Meetings; the 55th Annual Antitrust Law Spring Meeting of the ABA in Washington, D.C. in April 2007; and the ABA Antitrust Litigation Course in Philadelphia in October, 2007.

Ms. Nussbaum has served as sole or co-lead counsel in many significant antitrust class actions which have resulted in substantial recoveries, many in the realm of hundreds of millions of dollars. *See In re Microcrystalline Cellulose Antitrust Litigation* (E.D.Pa. Master File No. 01-CV-111 (O'Neill, J.) (co-lead counsel); *Oncology & Radiation Associates, P.A. v. Bristol Myers Squibb Co., et al. (Taxol Antitrust Litigation)* (D.D.C. Case No. 01-cv-02313) (sole lead counsel); *North Shore Hematology-Oncology Associates, P.C. v. Bristol-Meyers Squibb Co. (Platinol Antitrust Litigation)* (D.D.C. Case No. 04-cv-00248) (sole lead counsel); *In re Children's Ibuprofen Oral Suspension Antitrust Litigation*, (D.D.C. Case No. 04-mc-0535) (sole lead counsel); *In re Relafen Antitrust Litigation* (D.Mass. Master File No. 01-cv-12239) (co-lead counsel); *In re Plastics Additives Antitrust Litigation* (E.D.Pa. Case No. 03-cv-2038) (co-lead counsel); *In re Remeron Antitrust Litigation* (D.N.J. Master Docket No. 03-cv-

00085) (co-lead counsel); *Meijer, et al. v. Warner Chilcott Holdings Company, III, Ltd., et al. (Ovcon Antitrust Litigation)*, (D.D.C. Case No. 05-cv-2195 (CKK) (lead counsel committee); and *In re Lorazepam & Clorazepate Antitrust Litigation* (D.D.C. Case No. 99-cv-00276) (co-lead counsel), where Chief Judge Hogan commented, “Obviously, the skill of the attorneys, and I’m not going to spend the time reviewing it, I’m familiar with counsel, and they, as I said, are among the best antitrust litigators in the country.”

Ms. Nussbaum is presently serving in lead counsel positions in: *In re Puerto Rican Cabotage Antitrust Litigation*, Case No. 08-md-1960 (DRD) (D.P.R.); *In re DDAVP Direct Purchaser Antitrust Litigation*, Case No. 1:05-cv-2237 (S.D.N.Y.); *In re Fasteners Antitrust Litigation*, Case No. 2:08-md-01912 (E.D.Pa.); *In re Wellbutrin XL Antitrust Litigation*, Case No. 08-cv-2431 (MAM) (E.D.Pa.); *Meijer, Inc., et al. v. Astrazeneca Pharmaceuticals Lp, et al (Torprol Antitrust Litigation)*, Case No.06-cv-52 (GMS) (D. Del); and *Meijer, Inc., et al. v. Abbott Laboratories (Norvir Antitrust Litigation)*, Case No. 3:07cv5985 (CW) (N.D.Ca.).

In addition, she represents large corporate entities in individual actions in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, Case No. 1:05-md- 1720 (JG) (JO) (E.D.N.Y.); *In re Neurontin Marketing and Sales Practices Litigation*, Master File No. 04-10981 (PBS) MDL Docket No. 1629 (D. Mass.); *In re Chocolate Confectionary Antitrust Litigation*, Case No. 1:08-md-1935 (CCC) (M.D.Pa.); and *CVS Pharmacy v. American Express Travel Related Services, et al.*, Case No. 08-cv-2316 (NGG) (E.D.N.Y.).

Education:

- B.A., Brooklyn College
- J.D., George Washington University
- LL.M., Degree in Taxation from New York University School of Law

Bar affiliations and court admissions:

- Bar of the State of New York (1974)
- Bar of the District of Columbia
- U.S. District Courts for the Southern, Eastern and Northern Districts of New York and the District of Columbia
- Supreme Court of the United States

Ms. Nussbaum can be reached at lnussbaum@nussbaumllp.com

John D. Radice

John D. Radice is a Founding Partner of Nussbaum LLP and practices in the areas of antitrust – with particular focus on pharmaceutical antitrust – False Claims Act, and other areas of complex civil litigation. Representative cases include: *In re Tricor Direct Purchaser Antitrust Litig.*, No. 05-340 (D. Del.) (\$250 million settlement after the start of trial in case alleging delayed entry of AB-rated generic

versions of Tricor); *In re Neurontin Marketing & Sales Litig.*, No. 04-10981 (D. Mass.) (\$47 million jury verdict before interest and statutory trebling based on unlawful and fraudulent promotion of Neurontin); *United States ex rel. Piacentile v. Bristol-Myers Squibb Co.*, No. 05-10196 (D. Mass.) (\$515 million settlement related to unlawful promotion of Abilify); *United States ex rel. Marchese v. Cell Therapeutics, Inc.*, No. 06-168 (W.D. Wash) (\$10.5 million settlement stemming from unlawful marketing of Trisenox). Prior to joining the firm, John was associated with major plaintiffs' class action firms in New York and Philadelphia, where he primarily represented clients pursuing antitrust, False Claims Act, and international human rights cases.

Mr. Radice's published articles include: "Where do we go now? The Hatch-Waxman Act 25 Years Later: Successes, Failures, and Prescriptions for the Future" (forthcoming in the Rutgers Law Journal); "The False Claims Act: A Public-Private Partnership" in Volume II, in AAJ 2009 ANNUAL CONVENTION: AAJ EDUCATION REFERENCE MATERIALS 1497 (Jennifer Adams ed., 2009); and "Daubert and Rule 702 in the Context of Antitrust Economic Experts: A Practitioner's Guide," Daubert 15 Years Later: How Have Economists Fared (ABA Spring Meeting 2009).

Mr. Radice clerked for Judge Edith Brown Clement in the United States Court of Appeals for the Fifth Circuit in New Orleans following his graduation from law school. Through the Arthur Garfield Hays Civil Liberties Program at NYU Law, where he was a Palmer Weber Fellow, John pursued internships at the NAACP Legal Defense & Education Fund, the ACLU, and a prominent civil rights law firm. At Princeton, John was a member of the lightweight crew team. Together with Dr. Lee Shearer, John founded and is president of Insicknessandinhealth.org, a non-profit dedicated to promoting health and well-being in underserved communities.

Education:

- A.B., magna cum laude, Princeton University (1997)
- J.D., New York University School of Law (2003)

Bar Affiliations and Court Admissions:

- Bar of the State of New Jersey (2004)
- Bar of the State of New York (2005)
- U.S. District Courts for the Southern and Eastern Districts of New York and the District of New Jersey

Mr. Radice can be reached at jradice@nussbaumllp.com

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EXHIBIT 2

EXHIBIT 3

EXHIBIT 3*In re Optical Disk Drive Antitrust Litigation*, Case No. 3:10-md-2143-RS**NUSSBAUM LLP**

Reported Unreimbursed Expenses Incurred on Behalf of Direct Purchaser Class

May 7, 2010 through December 31, 2014

EXPENSE REPORT

CATEGORY	AMOUNT INCURRED
Court Fees (filing, etc.)	
Experts/Consultants	
Federal Express	\$19.37
Transcripts (Hearing, Deposition, etc.)	
Computer Research	
Messenger Delivery	
Photocopies – In House	
Photocopies – Outside	
Postage	
Service of Process	
Telephone/Telecopier	
Travel (Airfare, Ground Travel, Meals, Lodging, etc.)	
TOTAL:	\$19.37