

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

In re Gateway Plaza Residents Litigation

Index No. 651023/2014
Hon. Melissa A. Crane

**DECLARATION OF JEREMY HEISLER IN SUPPORT OF (1) PLAINTIFFS' MOTION
FOR FINAL APPROVAL OF THE CLASS SETTLEMENT, AND (2) PLAINTIFFS'
MOTION FOR ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS**

Jeremy Heisler hereby declares as follows, pursuant to penalty of perjury:

1. I am a founding partner and the Vice Chairman of Sanford Heisler Sharp, LLP, co-Counsel in this matter.

2. I have overseen my firm's involvement in this litigation and make this Declaration in support of Plaintiffs' Motion for Final Approval of the Class Settlement and Plaintiffs' Motion for Attorneys' Fees, Costs, and Service Awards.

I. Co-Counsel's Background

A. The Firm

3. Sanford Heisler Sharp has a high standing at the bar and a reputation for zealous and effective advocacy. From its formation in 2004 and to date, Sanford Heisler Sharp has been significantly involved in civil rights and employment class action litigation. The Firm has served as counsel in numerous class actions around the United States, generating hundreds of millions of dollars in recoveries for class members.

4. Sanford Heisler Sharp attorneys have served as lead or co-lead counsel in approximately 50 class and collective actions, covering class members in most of the states in the

union. These cases have been filed in over 20 federal and state jurisdictions across the United States, including New York, California, New Jersey, Illinois, Tennessee, Massachusetts, Connecticut, Alaska, Virginia, Kentucky, Georgia, Florida, and Washington D.C.

5. Sanford Heisler Sharp and/or its predecessor entities has served as class counsel in numerous consumer cases, including: *Windley v. Starion Energy, Inc.*, Case No. 1:14-cv-09053 (S.D.N.Y.); *Yu v. Energy Plus Holdings, LLC*, No. 2:12-cv-02627 (D.N.J.); *Binetti v. Washington Mut. Bank*, No. 06 Civ. 1732 (S.D.N.Y.); and *Thomas v. CitiFinancial Auto Ltd.*, No. 1:07-cv-00721 (D. Md.). The firm has also pursued predatory lending cases including *Kings Court Condo. Ass'n v. Countrywide Home Loans Inc.*, No. 2005 CA 001475 B (D.C. Super. Ct.). Additional complex consumer cases in which the firm is or has been involved include: *In re Vioxx Prod. Liab. Litig.*, No. 2:05-cv-01657 (E.D. La.); *In re Equifax, Inc., Customer Data Sec. Breach Litig.*, No. 1:17-md-02800 (N.D. Ga.); *Gann et al. v. Nissan North America, Inc.*, No. 3:18-cv-00966 (M.D. Tenn.); and *In re Whirlpool Corp. Front-Loading Washer Prod. Liab. Litig.*, No. 1:08-WP-65000 (N.D. Ohio).

6. SHS has also served as class counsel in employment and wage-and-hour cases including: *Velez v. Novartis Pharms. Corp.*, No. 04-cv-9194 (S.D.N.Y.); *Hernandez et al. v. C&S Wholesale Grocers, Inc.*, No. 7:06-CV-02675 (S.D.N.Y.); *Zolkos v. Scriptfleet, Inc.*, No. 12 CIV. 8230 GF (N.D. Ill.); and *In re Novartis Wage & Hour Litigation*, No. 09-437-cv (2d Cir. 2010). The Firm has also served as class counsel in *Rosenberg, et al. v. Ikon Office Solutions, Inc.*, No. 1:05-cv-09131-PAC (S.D.N.Y.) (pay, promotion, and other Title VII claims for a class of African American employees; certified settlement class); *Fogg v. Sessions* (pay, promotion, and assignment discrimination for a class of African American law enforcement and operational personnel with the U.S. marshals service dating back over twenty years; certified class from 1994-

present); *Barrett v. Forrest Labs., Inc.*, No. 12-cv-5224 (S.D.N.Y.) (pay, promotion, and pregnancy discrimination for a class of female accounting professionals; certified settlement class); *Wellens et. al. v. Daiichi Sankyo, Inc.*, No. C 13-00581 (N.D. Cal.) (pay, promotion, and pregnancy discrimination claims for a class of female pharmaceutical sales representatives; conditionally certified national pay class); *Smith v. Merck & Co.*, No. 3:13-cv-02970 (D.N.J.) (nationwide employment discrimination case on behalf of female sales representatives; certified settlement class); and *Pan et al. v. Qualcomm Inc. et al.*, No. 16-cv-01885 (S.D. Cal.) (approximately \$19.5 million settlement of class and collective claims in gender discrimination matter).

7. Sanford Heisler Sharp's class actions have resulted in significant recoveries and injunctive relief for class members, including the largest jury verdict ever awarded in an employment discrimination class action. The *Velez* case resulted in a jury verdict of \$250 million in punitive damages awarded to more than 7,000 female sales representatives and \$3.6 million compensatory damages awarded to 12 class members. And, in *In re Novartis Wage & Hour Litigation*, the Firm secured a \$99 million settlement for a class of pharmaceutical sales representatives.

8. Sanford Heisler Sharp has been repeatedly recognized for the high-caliber representation it gives its clients and has a well-deserved high standing at the bar. For example, at the final fairness hearing in *Velez*, the judge commented that the firm had achieved an "extraordinary" result: "This was a well prepared case. It was a brilliantly tried case by plaintiff's counsel . . . and it yielded a one-of-a-kind result, and that has led to a one-of-a-kind settlement."

9. At the final fairness hearing in *Hernandez*, the judge described the firm as "exceptionally able and experienced," praising "the work that counsel have put in, not just in terms

of the quantity, but what it was that counsel did, with obviously the tremendous amount of work.” The judge acknowledged a highly favorable result in “obviously a very complex dispute, both in terms of the law and in terms of the facts.”

10. In *Zolkos*, the court appointed Sanford Heisler Sharp, among other firms, as class counsel and preliminarily approved a class wage and hour settlement. In relevant part, the court stated:

Similarly, Sanford Heisler is very experienced in complex class and collective litigation, particularly in wage and hour cases, and has been repeatedly recognized for its skilled and effective representation. *See Stiller v. Costco*, No. 09 Civ. 2473, 2010 WL 5597272 (S.D. Cal. Dec. 13, 2010) (“Sanford, Wittels & Heisler, LLP [Sanford Heisler’s former name] . . . [is] experienced in employment and wage-and-hour class action litigation.”); *Velez v. Novartis Pharm. Corp.*, No. 04 Civ. 09194, 2010 WL 4877852, at *10 (S.D.N.Y. Nov. 30, 2010) (“Here, Class Counsel, Sanford Wittels & Heisler LLP, has just the sort of established record contemplated by the Rules.”); *Bellifemine v. Sanofi–Aventis*, No. 07 Civ. 2207, 2010 WL 3119374, at *1 (S.D.N.Y. Aug. 6, 2010) (recognizing Sanford Heisler as having “an established record of competent and successful prosecution of large . . . class actions”).

11. Among many accolades, Sanford Heisler has also been recognized as a “Best Law Firm National Tier 1 Employment Firm” by U.S. News (2015, 2016, and 2019), “Elite Trial Lawyers” by the *National Law Journal* (2014, 2015, and 2019), and among Above the Law’s “Top Litigation Firms by Law School Pedigree.”

B. The Attorneys Involved in this Litigation

12. I am founding partner and Vice Chairman of Sanford Heisler Sharp. I graduated *magna cum laude* from Brooklyn Law School in 1979. Over the course of forty years as an attorney, I have served as class counsel on myriad cases, established leading precedents, and produced more than \$500 million in benefits to class members. I have prosecuted a wide-range of complex class actions, including consumer cases, and prevailed in novel and groundbreaking litigation against some of the largest corporations in the nation. I was selected as a *Benchmark Litigation* Labor and Employment Litigation Star in 2018 and 2019.

13. David Sanford is founding partner and Chairman of the Firm. He graduated from Stanford Law School in 1995. Since 2001, Mr. Sanford has obtained approximately 35 class settlements throughout the United States, and is currently serving as lead counsel in numerous class, individual, and *qui tam* matters. Mr. Sanford was lead counsel in *Velez*, which resulted in the largest verdict in a Title VII discrimination class action in United States history. Mr. Sanford was inducted into the *National Law Journal's* Elite Trial Lawyers Hall of Fame and is listed among the top 100 trial lawyers by the National Trial Lawyers. He was a 2018 Attorney of the Year Finalist for *The American Lawyer*; he was the 2018 *Benchmark Litigation* Employment Attorney of the Year; and he was recently inducted as a Fellow of the American Bar Foundation. He has been recognized as a "Top Employment Lawyer" by *American Lawyer, Corporate Counsel*, and the *National Law Journal*. Mr. Sanford has been recognized by *Law 360* as a "Titan of the Plaintiffs' Bar" (in 2018 and 2014) and an "Employment MVP" (in 2014, 2015, and 2018); by *Chambers* as a Leader in the Field for Labor and Employment (in 2017, 2018, and 2019); by the *National Law Journal* as a 2018 Trailblazer Plaintiffs' Lawyer; and as a "Super Lawyer" in both Washington, D.C. and New York. Since 2006, he has been AV-rated by Martindale-Hubbell.

14. Andrew Melzer is a partner at Sanford Heisler Sharp. He graduated from New York University School of Law in 2003. Mr. Melzer was a law clerk on the Massachusetts Appeals Court from 2003 to 2005. In 2013 and 2014, Mr. Melzer was selected for inclusion on *Super Lawyers* magazine's "Rising Stars" list; he was selected as a "Super Lawyer" in 2019. Mr. Melzer was selected as a *Benchmark Litigation* Labor and Employment Litigation Star in 2018 and 2019. He has acted as class counsel in numerous cases and has significant trial experience.

15. The background for other attorneys and staff members who worked on this litigation can be found at <https://sanfordheisler.com/team/>.

II. Counsel's Attorneys' Fees and Costs

16. As of January 10, 2020, Sanford Heisler Sharp has expended more than 1,155 hours on this litigation and incurred \$27,844.17 in out-of-pocket costs. The Firm's total lodestar equals \$740,436.50 to date. We expect our lodestar to increase in connection with final approval and administration of the settlement.

17. To date, SHS has incurred \$27,844.17 in litigation costs, for which it seeks reimbursement. These amounts include the Firm's share of expert fees, e-discovery vendor costs, and various other out-of-pocket expenditures. These costs were reasonably incurred in prosecuting this action on behalf of the Class and should be approved by the Court.

18. The following chart reflects SHS's litigation costs:

<i>CATEGORY</i>	<i>PAID AMOUNT</i>
SHS'S share of expert & consultant fees	\$26,210.30
Data hosting & ESI discovery fees	\$999.00
Court filing fees	\$210.00
Miscellaneous expenses	\$424.87
Grand Total	\$27,844.17

19. The vast bulk of these expenses (a total of \$26,210.30) is attributable to experts and consultants—namely liability expert James Cicalo of FSI Architecture, who performed a structural analysis of the Gateway buildings and completed two expert reports, and damages expert Cynthia L. Jones, who assessed damages. Their services were essential to litigating liability and class certification, and to reaching the settlement and determining the optimal allocation of settlement funds.

20. Another significant category of expenses are vendor and consultant costs incurred for data hosting and ESI discovery. This totals \$999.00 paid to HLP Integration. Finally, the remainder of SHS expenses consists of the court filing fee (\$210) and miscellaneous litigation

costs such as meals and transportation (\$424.87). Nearly all of SHS expenses are “hard” costs we have advanced for necessary third-party services.

21. If the Court requests, Counsel will provide an itemized catalog of expenses.

22. Collectively, Class Counsel has spent several thousand hours investigating, prosecuting, and settling this class action, all on a contingency basis. The firms’ work in this matter included, *inter alia*: investigating legal and factual allegations of warranty of habitability violations; drafting multiple complaints; briefing various motions, including a motion for class certification; engaging in comprehensive discovery including extensive meet-and-confer sessions with opposing counsel; working with Plaintiffs’ experts to analyze the claims and prepare damages models; exchanging and reviewing thousands of pages of documents and data; taking and defending the depositions of multiple witnesses negotiating and drafting the Class Action Settlement Agreement; obtaining preliminary approval of the settlement; and seeking final approval.

23. Between March 2014 and January 10, 2020, SHS expended over **1,155 hours** on this matter, resulting in a total lodestar of \$740,436.50. These numbers do not include the substantial hours that Counsel expects to devote in connection with final approval and settlement administration— including filing any additional papers that may be necessary, attending the final fairness hearing, communicating with class members, and coordinating with the settlement administrator and opposing counsel. Counsel believes that the total hours and lodestar are reasonable in a litigation of this magnitude, duration, and complexity. Counsel properly delegated work between the firms and between partners, junior attorneys, and support staff.

24. The following chart reflects SHS’s hours and lodestar by time-keeper:

<i>NAME & TITLE</i>	<i>HOURS</i>	<i>RATE</i>	<i>LODESTAR</i>
David Sanford- Chairman	9.8	\$1,200.00	\$11,760.00

Jeremy Heisler- Vice Chair	35.6	\$1,000.00	\$35,600.00
Deborah Marcuse- Partner (P)	3.5	\$880.00	\$2,975.00
Andrew Melzer- P	479.9	\$850.00	\$407,915.00
Michael Palmer- P	1.5	\$850.00	\$1,275.00
Russell Kornblith- P	0.7	\$850.00	\$595.00
Inayat Hemani- Sr. Litig. Counsel	4	\$750.00	\$3,000.00
Jennifer Siegel- Sr. Litig. Counsel	25.47	\$750.00	\$19,102.50
Jenifer Rajkumar- Of Counsel	213.25	\$600.00	\$127,950.00
Leigh Anne St. Charles- Associate	68.85	\$500.00	\$34,425.00
Jonathan Hiles- Associate	25.9	\$450.00	\$11,655.00
Alok Nadig- Associate	5.2	\$425.00	\$2,210.00
Sean Chang- Sr. Legal Asst. (Sr. LA)	91.5	\$295.00	\$26,992.50
Thomas K. Enering- Sr. LA	128.8	\$295.00	\$37,996.00
Alec Konstantin- Sr. LA	0.1	\$295.00	\$29.50
Amber Krupp- Sr. LA	0.2	\$295.00	\$59.00
Claire Shennan- Sr. LA	1.9	\$295.00	\$560.50
Kristen Campbell- Sr. LA	0.1	\$295.00	\$29.50
Nathan Cummings- Sr. LA	4.1	\$295.00	\$1,209.50
Alexandra van Nievelt- Legal Asst. (LA)	1.5	\$275.00	\$412.50
Christopher Dietz- LA	19.2	\$275.00	\$5,280.00
Laura McFeely- LA	0.8	\$275.00	\$220.00
Martin Carlino- LA	22.3	\$275.00	\$6,132.50
Maya Inamura- LA	1.5	\$275.00	\$412.50
Zane Martin- LA	0.3	\$275.00	\$82.50
Alexandra Johnson- LA	6.1	\$275.00	\$1,677.50
Anderson Riddick- LA	3.2	\$275.00	\$880.00
Grand Total	1155.27	-	\$740,436.50

25. The preceding summary was prepared from detailed time records which are available at the request of the Court.

III. Counsel's Support of the Settlement

26. Based on our experience in this type of litigation and class actions in general, as well as thorough familiarity with the factual and legal issues in this case, the risks of litigation and potential recoverable damages, the significant recovery obtained for Class Members, and the overwhelmingly positive response by the Class Members, we are confident that that the Settlement

is an excellent result for the Class and is in Class Members' best interest. We strongly support the final approval of the Settlement.

Dated: New York, NY
January 13, 2020

By: /s/ Jeremy Heisler

EXHIBIT A

Sanford Heisler Sharp, LLP (the “Firm”) is a national public interest law firm that specializes in complex high stakes class action litigation on behalf of aggrieved plaintiffs. Since opening its doors in 2004, Sanford Heisler Sharp has successfully prosecuted thousands of cases and recovered more than one billion dollars for individual clients, states, and the United States government. Sanford Heisler Sharp’s reputation for success is matched by its reputation for professionalism and its ability to zealously advocate without sacrificing the core tenets of professional courtesy and respect.

Sanford Heisler Sharp has considerable experience litigating complex and class action cases. The following is a non-exhaustive list of such cases:

- ❖ *Amy Velez, et al., v. Novartis Pharmaceuticals Corp.*, Case No. 1:04-cv-09194 (S.D.N.Y.) (served as lead counsel in a class action that resulted in \$253 million verdict on behalf of nearly 7,000 female employees—the largest Title VII verdict in United States history);
- ❖ *Stanley, et al., v. Cracker Barrel Old*, Case No. 4:01-cv-00326 (N.D. Ga.) (served as lead counsel in class action that settled for \$8.7 million);
- ❖ *In re Vioxx Products Liability Litigation.*, Case No. 2:05-cv-01657 (E.D. La.) (participated in resolution of multibillion dollar consumer fraud action);
- ❖ *Lopes v. Novartis Corporation, et al.*, Case No. 1:06-cv-02268 (S.D.N.Y.) (resolved class and collective action for \$99 million);
- ❖ *Bellifemine, et al., v. Sanofi-Aventis U.S. LLC*, Case No. 1:07-cv-02207 (S.D.N.Y.) (resolved class action for \$24 million);
- ❖ *U.S. ex rel. Kelly v. Amgen Corporation*, Case No. 1:08-cv-04157 (E.D.N.Y.) (acted as lead counsel and participated in global settlement of claims for \$762 million);
- ❖ *U.S. ex rel. Cox v. Smith & Nephew*, Case No. 2:08-cv-02832 (W.D. Tenn.) (recovered \$11.3 million);
- ❖ *Luque, et al., v. AT&T Corp., et al.*, Case No. 3:09-cv-05885 (N.D. Cal.) (resolved class action for \$28 million);
- ❖ *U.S. ex rel. Gale v. Omnicare, Inc.*, Case No. 1:10-cv-00127 (N.D. Ohio) (recovered \$120 million);
- ❖ *U.S. ex rel. Simmons v. Meridian Surgical Partners, LLC*, Case No. 3:11-cv-00439 (M.D. Tenn.) (settled for \$5.1 million);
- ❖ *Da Silva Moore v Publicis Groupe, et al.*, Case No. 1:11-cv-01279 (S.D.N.Y.) (settled class action for \$3 million);
- ❖ *Tian, et al., v. Ma Laboratories, Inc., et al.*, Case No. 1:11-cv-195373 (Cal. Sup. Ct.) (resolved class action for \$2.85 million);
- ❖ *U.S. ex rel. Cox, et al., v. Medtronic, Inc.*, Case No. 0:12-cv-02562 (D. Minn.) (recovered \$23.5 million);

- ❖ *Yu v. Energy Plus Holdings LLC, et al.*, Case No. 2:12-cv-02627 (D.N.J.) (resolved consumer fraud action for \$11 million);
- ❖ *U.S. ex rel. Sherwin v. Office Depot, Inc.*, Case No. 2:12-cv-09952 (C.D. Cal.) (settled for \$68 million);
- ❖ *Wellens, et al., v. Daiichi Sankyo, Inc.*, Case No. 3:13-cv-00581 (N.D. Cal.) (settled class action and collective action for \$8.2 million);
- ❖ *U.S. ex rel. Gipson, et al., v. Pathway Genomics Corporation*, Case No. 3:14-cv-01919 (S.D. Cal.) (settled for \$4.1 million);
- ❖ *Gruber v. Starion Energy, Inc.*, Case No. X03-HHD- CV17-6075408-S (Conn. Sup. Ct.) (resolved consumer fraud action for \$2.58 million);
- ❖ *Orr, et al., v. Novartis Corporation and Alcon Laboratories, Inc.*, Case No. 1:15-cv-01980 (S.D.N.Y.) (settled class action for \$8 million);
- ❖ *Ha, et al., v. Google, Inc. and Urpan Technologies, Inc.*, Case No. 1:16-cv-290847 (Cal. Sup. Ct.) (resolved class action for \$5.5 million);
- ❖ *Pan, et al., v. Qualcomm Incorporated, et al.*, Case No. 3:16-cv-01885 (S.D. Cal.) (resolved class action for \$19.5 million);
- ❖ *Fletscher, et al., v. Overland Solution, Inc.*, Case No. 1:17-cv-852058 (S.D. Cal.) (resolved wage & hour class action for \$2.4 million);
- ❖ *Campbell, et al., v. Norton Rose Fulbright, et al.*, Case No. 1:16-cv-06832 (S.D. N.Y.) (resolved class action for \$3.1 million);
- ❖ *Barrett, et al., v. Forest Laboratories, Inc., et al.*, Case No. 1:12-cv-01885 (S.D. N.Y.) (resolved class action for \$4 million);
- ❖ *Hernandez et al. v. C&S Wholesale Grocers, Inc.*, No. 7:06-CV-02675 (S.D.N.Y.) (resolved class action for \$14 million);
- ❖ *Price v. Eaton Vance*, Case No. 18-12098 (D. Mass.) (resolved ERISA class action for \$3.45 million).

A more comprehensive list of the cases Sanford Heisler Sharp has successfully resolved is available at www.sanfordheisler.com/case.