



MEHIGAN et al v. ASCENA RETAIL GROUP, INC. et al

2016 | Cited 0 times | E.D. Pennsylvania | September 12, 2016

STATES COURT FOR OF PENNSYLVANIA

CAROL ROUGVIE, CIVIL ACTION

NO. GROUP,

MEMORANDUM

2016

2016 IN THE UNITED DISTRICT THE EASTERN DISTRICT

et al. vs.

15-724 ASCENA RETAIL INC., et al.

KEARNEY,J. September 12,

Class and representative actions uniquely allow qualified attorneys to represent both their known clients and numerous, even millions, of unknown clients. The attorneys appointed as Class Counsel owe fiduciary duties to the absent class members. These duties include timely and accurately recording their invested time when pursuing national consumer protection class claims based on state statutes which generally involve court review of the reasonableness of hourly rates and time invested. Class Counsel should ensure their contemporaneous description of time invested for the Class accurately and fully describes their effort and, as in any service profession, efficiently provide the necessary services to accomplish the client's objective. Such rudimentary principles form the basis of professionalism. Experienced lawyers approved as class counsel understand these fiduciary duties.

As we found in our July 29, Opinion, Class Counsel performed extraordinary work for the over 18.4 Million Class Members. Class Counsel is entitled to be paid now for reasonable hours for their efforts on behalf of the Class Members who selected immediate cash or a voucher. But when, as here, Class Counsel representing over 18.4 Million consumers in a national consumer protection case largely based on state statutes submit time records without adequate descriptions or otherwise do not contemporaneously maintain time records, we must



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Opinion

500 not approve funds allocated for Class Members to pay for ambiguous uncertain services. We provided Class Counsel three opportunities to clarify their services but still cannot determine the benefit to the Class from several time entries. At this initial hourly fee stage, we will not approve payment of all of the proffered hourly billings without support to be paid from the Class recovery.

I. Background

As more fully detailed in our July 29, 2016 and incorporated today 1

, Class Counsel filed a series of class actions seeking injunctive relief and damages from retailer Tween Brands arising from an allegedly deceptive national marketing strategy describing continual 40% off sales on tween merchandise. Class Counsel pursued claims under individual state consumer protection statutes and common law. The statutes generally provided for either mandatory or permissive fee shifting for the prevailing consumer. Although other courts rejected similar consumer claims on a smaller scale, the parties worked over several months and reached a settlement in principle in early July 2015. After preliminary approval, Class Counsel moved for attorney's fees and expenses seeking a percentage recovery but generally describing their lodestar including hours from Robert Mansour, Esquire. At our final hearing on settlement approval and review of Class Counsel's motion for fees and costs, we raised several questions about the undocumented hourly billing in this largely statutory fee shifting matter. Class Counsel initially opposed an inquiry claiming they only sought a percentage of the recovery. We ordered a detailed analysis of the hourly work product on a monthly basis from the beginning of the representation through May 20, 2016. 2

Contemporaneous with approving the settlement in this national consumer class action, we granted in part Class Counsel's motion for attorney's fees and costs based on the benefit to

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'Comlish")

2,500 \$400 \$1,000,000 \$1,750,000 the Class in two phases: we approved payment of \$3,035,125.85 to compensate Class Counsel's demonstrated hourly work subject to our immediate review of detailed invoices. After analysis, we found a 1.75 multiplier to be appropriate and, absent objection, continue to do so today. Given the vast majority of consideration is available through redeemed vouchers, we deferred a fee award based on a percentage of the recovery until we could measure the benefit to the Class based on redeemed vouchers for merchandise sold by Defendants. To satisfy our obligation to the absent Class Members, we ordered Class Counsel to supplement their asserted hourly investment with a comparator reasonableness affidavit and detailed billings.



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Class Counsel timely moved nunc pro tunc to then increase its asserted lodestar representing an investment of \$3,203,135.25, based on 5919.4 hours. 3

Class Counsel filed a comparator affidavit on the reasonableness of some, but not all, of the proffered hourly rates. 4 We again required more specificity and Class Counsel filed a Declaration and attached billing records supporting Class Counsel's new revised lodestar amount. 5

Class Members Barbara Comlish and Kathryn Artlip (collectively timely objected arguing 5919 .4 hours and the blended rate of \$541.12 is excessive. Comlish moves we reduce Class Counsel's hours to 'hours and reduce Class Counsel's blended hourly rate to

making Class Counsel's lodestar and applying the 1.75 multiplier award

in attorneys' fees. Class Counsel filed a vigorous response to Comlish's objections asserting the lodestar hours are reasonable and the hourly rates are not excessive. Class Counsel did not provide more detail for its billing entries. While Comlish raises several fair objections, we similarly cannot grant their broadside challenge and must instead scrutinize the proffered hourly billing.

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"party II. Analysis thorough judicial review of fee applications 1s required in all class action

is so even where the parties have consented to the proposed attorney's fees ... because of the risk that



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the 'lawyers might urge a class settlement at a low figure or on a less-than-optimal basis in exchange for re-carpet treatment for fees. of the intrinsic conflict of interest between the attorneys for a Rule 23(b)(3) class and the class members when attorneys' fees are a deduction from the fund created for the benefit of the class, fee requests from a fund in court must be subjected to heightened judicial District Court has a positive and affirmative function in the fee fixing process, not merely a passive

We will not, and do not, attempt to second guess every strategic and staffing decision made by Class Counsel and deduct hours based on hindsight. cost effectiveness of various law firm models is an open question, and it is by no means clear whether a larger law firm would have billed more or less for the entire case. The district court may been right that a larger firm would employ junior associates who bill at a lower rate than plaintiffs counsel, but a larger firm would also employ a partner-likely billing at a higher rate than plaintiffs counsel-to supervise them. And the partner in charge would still have had to familiarize himself with the documents, a step that plaintiffs counsel avoided by reviewing the documents herself. Moreover, lead counsel can doubtless complete the job more quickly, being better informed as to which documents are likely to be irrelevant, and which need to be examined closely. Modeling law firm economics drifts far afield of the Hensley calculus and the statutory goal of sufficiently compensating counsel in order to attract qualified attorneys to do civil rights

The party seeking attorney's fees has the burden to submit evidence of the hours worked and the hourly rate claimed. 11

The opposing the fee award then has the burden to

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Skipton challenge, by affidavit or brief with sufficient specificity to fee applicant's notice, the reasonableness of the requested The court cannot a fee award based on factors not raised at all by the adverse once the adverse party raises objections to the fee request, the court has a great deal of discretion to adjust the fee award in light of those objections. role the fee determination stage, [is to] protect the class's interest by acting as a fiduciary for the A. Objections to Class Counsel's award of hours

Comlish objects to Class Counsel's 5919.4 hours and asks we reduce the compensable hours to hours from three perspectives. argues, at a level, the hours are excessive when compared to class counsel hours in similar consumer class actions and non consumer class actions. objects at a level to duplicative billing for the same tasks, amount of hours dedicated to conferencing within and among the three law firms, amount of hours dedicated to settlement negotiation, and over-attendance of counsel at hearings. then objects at a granular level to including hours related to attorney's fees petitions, failure to exclude hours related to coupon relief to avoid double counting, the billing of time in a quarter hour increment rather than tenths-of-an-hour, vague billing entries by Attorney Mansour, attorneys billing time for drafting pro hac vice applications, the inclusion of time spent on unsuccessful motions, Attorney hours spent reading the Class Action Playbook, and the high hourly rate attorneys performing tasks delegated to lower hourly rate attorneys.

1. We will not deduct hours based on strategic and case management decisions.

We will not, and do not, attempt to second guess every strategic and staffing decision made by Class Counsel and deduct hours based on hindsight. We will award fees for time where Class Counsel describes the work completed and we can discern a Class benefit. We cannot, and

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"unnecessary". should not, reconstruct 19 months of litigation and reduce hours based on pure speculation. Class Counsel filed a unique large scale national class action and we not aware of a fair comparator. Each case is different and we will not use a comparison perspective to strike hundreds of hours in this case because of facts and law in other cases. Instead, fulfilling our obligation to the



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Class, we must evaluate the efforts on its behalf.

a. We award detailed time for conferencing within and between Class Counsel. Comlish objects to 1,728.25 hours billed by Class Counsel for conferences within and between the three (3) law firms. asks us to reduce those hours by an apparently arbitrary 66%. 16

Comlish provides a chart delineated by firm but provides no cite to Class Counsel's billing records. Class Counsel defends or - inter office as strategy sessions, meetings regarding hearings and settlement negotiations, and attorneys communicating about research, assignments, and case status. Class Counsel argues Comlish's calculation of hours of or - inter office for the Pietragallo firm is incorrect and the correct number of hours is 350.

We do not reduce 1,728.25 hours by 66% when we can evaluate time entries demonstrating hours spent conferencing about this case. We cannot in hindsight disqualify hours as unnecessary and providing a Class benefit. We found, after no objection, Class Counsel to be particularly qualified to represent a nationwide 18.4 Million member consumer class. We have no basis to broadly redline two-thirds of their time as

We must pause to remind Class Counsel their vague billing entries do not often detail the subject of these conferences and meetings. While we cannot strike conferences without a basis to find they did not benefit the Class, we caution Class Counsel they are much better served to accurately describe the substance of their inter- and intra-office conferences. We suspect, as

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20 Class Counsel knows from Loughner, these commercial lawyers would not expect their commercial clients to pay for vague time entries. As shown below and in the appended chart, we disallow time entries lacking a nexus to moving the case forward.

b. We award demonstrated time after the July 2, initial settlement. Comlish objects to the 3,211.4 hours Class Counsel billed after the parties reached initial settlement in July 2015. Comlish argues hours billed post-initial settlement are because Class Counsel faces no risk of non-recoupment." 17

further objects to hours spent briefing settlement approval as excessive and redundant and the hours spent on settlement negotiations and documentation as excessive because of the number of attorneys participating. 18

Class Counsel argues after July 2, it negotiated the remaining terms of the settlement agreement, revised drafts of the settlement agreement, responded to filings before the Multi-District Litigation prepared and appeared in Court hearings, reviewed and responded to objectors, and drafted Long and Form Notices, vouchers, press releases, website language, and the escrow agreement for the common fund.

We will not deduct hours because Class Counsel billed those hours after the agreement in principle on July 2, 2015. We will not deduct hours invested in settlement negotiations, documentation and briefing because we do not find them redundant, or otherwise

We the time charged, decide whether the hours set out were reasonably expended for each of the particular purposes described and then exclude those that are 'excessive, redundant, or otherwise unnecessary. As Class Counsel describes, this nationwide consumer class settlement required continued negotiations, briefing, organizing, and drafting notices, vouches, and responses to objectors. Comlish' s reliance on In re Citigroup Inc Litig. to

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70 argue post-settlement hours are is misplaced. In In re Citigroup, the parties reached settlement in principle then one firm hired new contract attorneys to continue working on discovery while partners and associates stopped billing on this case almost entirely. 21 Class Counsel billed hours working on the settlement, not discovery and Class Counsel did not increase its staff after July Because we do not find them redundant, or otherwise

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we do not deduct hours invested in settlement negotiations, documentation and briefing.

c. We find no evidence of duplicative billing. Comlish objects to Class Counsel's duplicative investing 73.45 hours drafting the Mehigan and Cowhey complaints, the number of attorneys attending court hearings and redundancies during briefing of settlement approval, researching caselaw, and reviewing orders/documents. 23

We do not find proof of excessive duplication nor do we second guess Class Counsel's staffing decisions so we do not deduct hours based on this objection.

Hours spent on similar complaints have been reduced for duplicative billing. 24

In Ward, defendant objected to an attorney billing 14 hours for a complaint to a complaint the attorney had already drafted in a previous matter. 25

The district court an independent comparison, and agrees that Attorney Gold spent an excessive amount of time on this task given that the legal analysis in the Complaint is identical to the legal analysis in and reduced attorney's hours from 14 hours to 6.78 hours. 26

The Pietragallo firm drafted the Mehigan and Cowhey complaints concurrently. We do not find spending approximately hours to research and draft several complaints at the beginning of a large class action suit to be facially excessive. There is no evidence Class Counsel duplicated work in the three firms. The Mansour Gavin firm billed a maximum 27

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Pietragallo 20



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" 31 hours to review the Mehigan complaint, Cow hey complaint, and the 1st Amended Complaint and Attorney Westlow spent 2.75 hours doing the same. Class Counsel's hours also decrease with the drafting of the 2nd and 3rd Amended Complaints. The firm spent approximately

hours drafting and filing the 2nd Amended Complaint and approximately 13 hours drafting and filing the 3rd Amended Complaint. Mansour Gavin billed a maximum of 10.25 hours or less reviewing the 2nd and 3rd Complaints and Attorney Westlow spent 1.5 hours reviewing both.

We do not deduct hours from the drafting of complaints nor we do we second guess Class Counsel's staffing decisions because we do not find proof of duplication. 28

d. We award reimbursement for hours invested on fee petitions. Comlish objects to hours billed by Class Counsel to brief its attorneys' fees as non compensable because they do not benefit the class. 29

Class Counsel argues Comlish incorrectly relies on Lindy Bros. Builders, Inc. v. American Radiator & Standard Sanitary Corp. (hereafter

IF') and hours invested in fee petitions are recoverable is this case. 30

We will not deduct the hours Class Counsel spent preparing its fee petitions because party entitled to an award of attorneys' fees is also entitled to reimbursement for the time spent litigating its fee application.

Comlish cites Lindy II, where our Court of Appeals denied attorneys' fees for time spent petitioning for attorneys' fees from the common fund. Lindy II is a multidistrict class action settlement for plumbing fixtures. 32

Members of the settlement fund are categorized into three classes, those represented by the attorneys seeking fees, those represented by attorneys not involved in the appeal, and the third group not presently represented by counsel and would not be represented until after final court approval for the settlement. 33

The settlement fund is a common fund and attorneys' fees come from the same finite pool of money where plaintiffs seek

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10 their recovery. Court of Appeals reversed the District Court's award of hours spent on fee applications because the time spent seeking fees from the fund benefited only the attorneys to the detriment of claimants who could face reduced or no recovery from the depleted common fund. 34

Lindy II does not apply to the settlement fund structure here. 35

The parties structured the settlement fund to cover awards to class members, administrative fees, and attorneys' fees. 36 The parties agreed that Class Counsel could apply for up to \$14.1 million in attorneys' fees so no Class Member will lose recovery because of attorneys' fees. 37

We find time invested on fee petitions should be reimbursed. Pardini is a Title VII class action settlement where the parties agreed the defendant would pay the class members and expenses and, separately, the defendant would pay reasonable attorneys' fees up to

The district court, relying on Lindy II, denied attorneys' fees for time spent on the fee petition. 39

Court of Appeals reversed the district court because a statute awarded the attorneys' fees and the settlement fund was not an equitable fund. the attorneys' fees do not come out of, nor do they reduce, the plaintiffs' recovery ... The fact that any of the which is not awarded to plaintiffs' attorneys will not be paid to the plaintiffs to augment their settlement fund, as is the case in the normal common fund situation. Rather, any such excess will be returned to the defendant National. It is this fact



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which ultimately makes this case distinguishable from Lindy II, and requires a different

We will not deduct the hours Class Counsel spent preparing its fee petitions because party entitled to an award of attorneys' fees is also entitled to reimbursement for the time spent litigating its fee

Opinion.

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"re: e. We do not strike time related to coupon relief. Comlish objects to Class Counsel's failure to exclude time relating to coupon relief because it will result in double counting. We addressed this issue in our

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We awarded attorneys' fees based on the present actual benefit to the Class Members who choose the cash payment and Class Members who choose the voucher over a cash payment. 44

We will apply the percentage-of-recovery method based on coupons after their exercise and deduct the present actual value of the affirmative claim vouchers we are factoring into the attorneys' fees awarded today. 45

Class Counsel does not need to exclude time relating to coupon relief because it will not be double counted.

f. We do not strike hours invested on unsuccessful motions. Comlish objects to Class Counsel receiving fees for time spent on two unsuccessful motions, the motion for appointment of counsel and motion to strike the Gallagher objectors at the preliminary approval stage. Class Counsel argues our Circuit caselaw allows the award of fees for unsuccessful and untiled motions so long as they contribute to the case outcome. We do not deduct hours invested in motions because the motion is later denied.

There is no caselaw requiring Class Counsel to exclude hours spent on denied motions. Time spent on unnecessary or unreasonable motions has been excluded but time invested in unsuccessful motions not excluded from fee petitions. 46

These motions were not unnecessary or unreasonable we will not exclude Class Counsel's hours spent on the motion for appointment of counsel and motion to strike the Gallagher objectors.

g. We do not deduct time for experienced litigators charging for "basic" work. Comlish objects to the 1.7 hours Attorney billed to read the first and second chapters of Class Action Playbook and the .5



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hours Attorney Westlow billed to suggestions

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500 for inducing more class representatives to file We will not deduct 2.2 hours because these hours are de minimis for an experienced litigator to refresh their skills.

Comlish objects to Attorney drafting pro hac vice motions for 11 hours at \$375 an hour. Class Counsel argues our Policies require an additional affidavit for attorney's pro hac vice motions and argue it appointed an associate because several attorneys had their admissions denied. 47

cannot condone 'the wasteful use of highly skilled and highly priced talent for matters easily delegable to non-professionals.'" 48

Attorney is an attorney with 5 years at the Bar according to Attorney Boni' s declaration and drafting a pro hac vice motion is associate work. A review of the bill has 4.4 hours dedicated exclusively to pro hac vice motions and another 6.2 hours where drafting pro hac vice motions is combined in one billing narrative with other tasks. 49

We will not second guess staffing decisions in preparing pro hac vice motions particularly after we denied initial pro hac vice motions as non-compliant.

2. We deduct hours too vague to benefit the Class. Class Counsel must contemporaneously and fully describe their work so we and the Class can assess if they are efficiently providing the necessary service to accomplish the client's objective. We deduct hours too vague to determine if they benefited the Class.

a. Robert Mansour cannot recover an hourly fee. Comlish objects to Robert Mansour's hours as inadequately documented and requests his hours be eliminated. We find Robert Mansour' s vague summary of his role in this litigation does not meet the minimum requirements for reimbursement of fees on a lodestar basis and we deduct his hours from Class Counsel's loadstar calculation. As he



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cannot properly document his time, he will have to await any common fund distribution based on the benefit to

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2016 Order the Class, as he anticipated when he started this case. We do not doubt he provided effort and appears to have introduced the case and possibly a plaintiff to the other Class Counsel. But he is general counsel to a title company and elected to not contemporaneously keep track of his invested time in this side endeavor.

March 18, Class Counsel 51

filed an initial Motion for Award of Attorneys' Fees, Expenses and Incentive Awards. 52

At Exhibit 4, Robert Mansour stated he spent hours on this case, from its inception through March 11, In a May 31, post fairness hearing memorandum, Class Counsel 54

submitted amended and supplemental declarations. 55

Anthony Coyne, president of Mansour Gavin, LP A, swore Mansour Gavin and co-counsel Robert Mansour (collectively referred to therein as

spent hours on representing the Class from inception through May 25, at a blended hourly rate of \$532.60. In an August 12, supplemental declaration, 56



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Attorney Coyne swore he reviewed Mansour Gavin's time and expenses and affirmed them. Attorney Coyne admitted his previous declaration overstated hours and fees. Attorney Coyne previously swore an hourly investment of \$1,335,729.60 through May 25, comprising 2,507 hours at a \$532.80 blended rate, and which included Robert Mansour's reported lodestar of

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The corrected lodestar for Mansour Gavin only according to Attorney Coyne is comprising 2,254 hours at a blended rate of \$534.04. This corrected lodestar does not include Robert Mansour's amount, according to Attorney Coyne. 58

Following our August 16, directing Class Counsel to file contemporaneously created invoices or time records 59

, Robert Mansour responded by swearing as to an estimate of his hours:

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2016), 500 1. When I first became involved in this matter, it was based upon the



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assumption that the attorney fees would be on a contingent basis. Therefore, I did not record my time on a day-to-day calendar, but I have, to the best of my ability, estimated the time I have spent on this matter. 2. ... I cannot certify that the approximation of hours is specifically

accurate. It is the best I can do since I began working on this matter in March of I have summarized from memory the work I spent in discovery, both of a factual nature and a legal nature, together with numerous meetings.

party seeking an award of fees should submit evidence supporting the hours worked and rates claimed. Where the documentation of hours is inadequate, the district court may reduce the award accordingly. Robert Mansour admits he did not keep contemporaneous time records. While in limited circumstances, our Court of Appeals permits attorneys' fees based on reconstructed time accounts, such accounts must provide sufficient detail to allow opposing counsel to attack specific items. 62

Robert Mansour's estimated fees raise several issues: Robert Mansour submitted a petition for admission pro hac vice attesting he is General Counsel for Competitive Title Agency. 63 As general counsel for a title agency, Robert Mansour does not describe any level of expertise in class action litigation. Robert Mansour now claims he spent hours in protecting the Class in addition to being general counsel for a title agency. Robert Mansour began accruing time billed to the Class in March while other Class Counsel began time entries no earlier than January 28, We have no basis to find he did anything by himself for over nine months to benefit the Class. In March Robert Mansour swears he spent (the round number) hours from inception of this case through March 16, (ECF Doc. No. 99, p. August 18, Robert Mansour submitted reconstructed time estimates including for two additional months (April and May although his estimated time remains hours.

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" 66 We rely on an attorney's billing records to determine the proper level of the fee award. enable



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such calculation it is imperative that attorneys keep clear billing records throughout the case; indeed district courts have the authority to reduce a fee award if documentation is inadequate.

Robert Mansour's vague and somewhat evolving summary of his role in protecting the Class does not meet the minimum requirements for reimbursement of fees on a lodestar basis. In reviewing the remaining Class Counsel's contemporaneous time records, we note scant references to Robert Mansour's participation in hundreds of class counsel conferences. Without adequate documentation of hours invested by Robert Mansour, we reject Class Counsel's request for in legal fees based on Robert Mansour's claim of hours at his hourly rate.

b. We will not permit recovery for time based on vague billing entries. Comlish objects to Class Counsel's billing narrative as vague and moves we exclude those hours because we cannot tell if they were beneficial to the Class. We reviewed the billing records and found 192 entries too vague for us to determine whether the work provided a benefit to the Class.

We review in camera billing narratives to ensure they are detailed enough for Class Members and us to determine if the work benefited the Class. We cannot the payment of attorney's fees unless the attorney involved has established by clear and convincing evidence the time and effort claimed and shown that the time expended was necessary to achieve the results fee petition should include fairly definite information as to the hours devoted to various general activities, e.g. pretrial discovery, settlement negotiations, and the hours spent by various classes of attorneys.

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"conference settlement." "some information" Bearing in mind our duty to the Class, we strike Class Counsel's entries as too vague for us to determine the benefit to the Class as shown in the appended chart, including generally: 67

Entries regarding telephone communications by and among Class Counsel which list the persons present but do not describe the topics covered on the call. Entries with Class Counsel scheduling a conference, participating in a conference or conferring with each other without a description of what happened. Entries with Class Counsel reviewing, responding, and drafting emails with no description of the subject of the email and how it benefits the class. Entries with Class Counsel



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meeting or preparing for a meeting with no description of how they prepared or the subject of the meeting. We reviewed Class Counsel's billing narratives individually and asked how the Class benefited from Class Counsel's activity. We gave Class Counsel the benefit of the doubt when there is some indication of beneficial activity, call re: But one-hundred and ninety two (192) entries lacked fairly definite as to how the hours were spent and leave us unable to determine the benefit to the Class. Accordingly, as specifically described on the appended chart, we deduct 157 hours equaling \$95,811.30 of entirely vague time descriptions from Class Counsel's lodestar. 68

c. We reduce uncertain quarter hour billing increments. Comlish objects to Attorney Pietragallo 69

, Attorney Westlow, and the Mansour Gavin firm who bill in both quarter-hour increments and tenths-of-the-hour. Class Counsel argues there is no prohibition on quarter hour billing in our Circuit. We impose a 12.5% reduction of hours where Class Counsel billed just .25 hours for phones calls, reviewing emails, or reviewing ECF documents.

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On 2015, 0.1 Order

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Orders Order Other

10.5 \$6,300.00.

\$2,124.00 There is no prohibition on quarter hour billing in our Circuit. But attorneys who billed at the quarter-hour increments have their time reduced by a percentage, particularly for tasks like reviewing emails, phone calls, leaving voicemails, and reviewing simple court notices. 71

Attorney Friesen billed just .25 hours 71 72

times totaling 17.75 hours. At an hour this cost the Class \$8,875 for items such as phone calls, reading emails, and reviewing notices. Reducing 17.75 hours by 12.5% reduces to 15.53 hours for a



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total of \$7,765.25. Attorney Coyne billed .25 hours 5 times totaling 1.25 hours. At an hour, he cost the Class and, reducing this 1.25 hours by 12.5%, would reduce to hours for a total of \$656.25.

Attorney Westlow billed in both tenths of an hour and quarter of an hour increments and we are unable to discern any reason for his distinctions and he elected not to describe his reasons.

April 21, Attorney Westlow invested hours in reviewing an granting pro hac vice admission but on September 21, (months after the July 2, settlement agreement) it took him .25 hours to review another granting pro hac vice. 73

Because Attorney Westlow billed on the tenth of an hour, we reviewed his quarter hour billing entries and deducted 48 entries which could not have reasonably taken .25 hours. These entries were for reviewing routine ECF notifications like Notice of Appearance 74

, granting pro hac vice 75

, Certificates of Service 76

, and our one sentence granting a motion for a conference call. 77 .25 entries were for providing availability for conference calls and meetings 78

and unavailability when drafting and transmitting out-of-office notice to the group. 79

Reducing 12 hours by 12.5% reduces his .25 billings to hours for a total of

We reduce Attorney Friesen hours by 2.22 hours, Attorney Coyne by .16 hours, and Attorney Westlow by 1.53 hours for tasks more appropriate for a tenth-of-the-hour increment. Together, we deduct 3.89 hours totaling from Class Counsel's lodestar.

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discretion." 83

"[t]he question" "[m]odeling calculus." 84 B. Challenges to Class Counsel's hourly rates.

Comlish objects to the reasonableness of Class Counsel's hourly rates 80



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because Class Counsel did not discount its time below the full rate for low level tasks completed by those with high billing rates or delegate those low level tasks to an associate, paralegal, or legal assistant. Comlish objects to the blended rate of \$541.12 as beyond the normal blended rate in this Circuit. Comlish requests we reduce the blended rate to

1. We will not second guess delegable tasks. Comlish objects to the reasonableness of Class Counsel's rate because Class Counsel did not discount its time below the full rate for low level tasks completed by those with high billing rates or delegate those low level tasks to an associate, paralegal, or legal assistant. We do not find partners entries for tasks that should have been clearly completed by an associate or paralegal and do not deduct hours from the lodestar.

We have the discretion to reduce time billed by partners to a lower associate level rate if we determine the tasks were improperly assigned. 81

In In re Fine Paper, our Court of Appeals upheld a district court's reduction of partner time to associate time but noted their differing judgment of the same tasks. 82

we think that much of time might reasonably be classified as appropriate for partners, we cannot hold that there was an abuse of We will not, and do not, attempt to second guess every strategic and staffing decision made by Class Counsel and deduct hours based on hindsight. As explained in Moreno cost effectiveness of various law firm models is an open and cautioned law firm economics drifts far afield of the Hensley

We reviewed the objectionable tasks Comlish cites, bearing in mind our role in protecting the Class, and do not find any tasks to be obviously associate level work. We refrain from

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\$400.

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Pietragallo \$19,395.00 \$24,750.00.

"Generally,

clients." 85

"The

standard." 86



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"bears

standard." 87

"Ever

Our

" 88

Philadelphia. second guessing staffing choices within a law firm with speculation about specific attorneys' expertise and skill sets.

2. We approve demonstrated reasonable rates. Comlish objects to the rates as beyond the normal rates in this Circuit. Comlish requests we reduce the blended rate to Class Counsel argues it billed attorneys' market rates and attached a declaration attesting to the reasonableness of those rates. Class Counsel produced satisfactory evidence for the reasonableness of attorneys' billing rates and we approve those rates. Class Counsel failed to meet its burden of producing evidence of the reasonableness of 9 attorneys' rates so we will reduce the bill by and the Mansour Gavin bill by

to determine the reasonableness of an attorney's hourly rate for the purposes of awarding fees, courts begin by looking to the attorney's customary billing rate for fee-paying

prevailing party bears the burden of establishing by way of satisfactory evidence, 'in addition to [the] attorney's own affidavits' that the requested hourly rates meet this

The party seeking fees the burden of establishing by way of satisfactory evidence, in addition to [the] attorney's own affidavits ... that the requested hourly rates meet this

since Lindy I this court, both in fund in court cases and in statutory fee cases, we have reiterated that individual determinations of reasonable billing rates are required for the lodestar determination. premise has been that the reasonable value of an attorney's time is the price that time normally commands in the marketplace for legal services in which those services are offered. The Third Circuit uses the Community Legal Services, Inc. fee schedule as a measuring stick for prevailing hourly rates for attorneys in

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20

Bar 90

CLS \$600 \$600-650 Pietragallo \$600-650

\$600 \$600-650 30 \$600 \$600-650

\$520-590 \$500 \$350-420 Skipton \$200-250

\$600 \$600-650 \$300 \$200-250 Owens \$250 \$200-250

\$520-590 S. \$600-650

\$600-650 \$500 \$600-650 \$500

\$200-250 40 \$600 \$600-650

\$350

20 Class Counsel provided an affidavit by Attorney Michael Boni attesting to the reasonableness of attorneys' rates. The chart below compares the attorney's rate to the Community Legal Services range for an attorney with comparable experience. We find the attorneys' rates covered in Attorney Boni's declaration are reasonable and will not reduce any of those attorneys' billing rates:

Attorney Name Years at the Actual rate Range 91 Ernest Mansour 61 William 44 \$725 Edward J. Westlow 37 Robert Mansour Kevin Raphael 22 \$675 Brendon Friesen 13 Edward 5 \$375 Anthony Coyne 28 Jason Kreps 4 Alex 2 Kenneth D. McArthur \$675

Marc Raspanti 28

\$72593 James W. Kraus 25 \$675 Mark T. Caloyer 26 Doug M. Hall 17 \$435-505 Elisa M. Brody 2 \$225 Jeffery M. Embleton Jennifer E. Horn 9 \$265-335

O'Connor \$300 \$180-200 P. \$300 \$180-200

\$200.00), \$200.00), (10.00 \$200.00), Olivia (20.30 \$200.00), O'Connor 95

\$200.00), \$200.00). 96



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"bears

standard." 97

Order Opinion, Emily 1 Miles Welo 1

Three attorneys appear in the Pietragallo billing summary, Kerry Rodgers (28.90 hours at \$225.00), Harriet Ruffin (49.50 hours at 225.00), and Nancy Garrett (7.8 hours at \$225.00) totaling \$19,395 but are not included in Attorney Boni's Declaration and no evidence is offered as to the reasonableness of their rates. 94

Mansour Gavin seeks fees for five attorneys in the Billing Summary who are not included in Attorney Boni's Declaration. No evidence is offered as to the reasonableness of their rates. We will not award fees without a reasonableness opinion as to Jaclyn C. Staple (.20 hours at

Matt Martin (75.90 hours at James Gianfagna hours at Buller hours at Emily (15.10 hours at and Chris Sponseller (2.25 hours at

The party seeking fees the burden of establishing by way of satisfactory evidence, in addition to [the attorney's own affidavits ... that the requested hourly rates meet this

Class Counsel failed its burden of producing evidence of the reasonableness of these three attorneys' rates so we will reduce the Pietragallo bill by 86.2 hours totaling \$19,395.00 and the Mansour Gavin bill by 123.75 hours totaling \$24,750.00.

III. Conclusion As held in our July 29, 2016 and Class Counsel performed to the level expected with their experience and obtained a significant result in an unsettled area of consumer law. They deserve to be paid. We will not second-guess experienced trial counsel's allocating attorneys' skills to meet the needs of a national consumer protection case so long as the attorneys

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Our Order

201, 201-1, 201-2, 201-3, 201-4

Pick-Up 708 178-80 2013); Us, 80 Supp.3d 649-50

Pa. 2015).

12-204, 2012 *20 2012) 820). contemporaneously describe their efforts as they would for monthly



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clients. As shown by the majority of the billing, Class Counsel knows this lesson. They are established commercial lawyers well versed in fiduciary duties to their clients. Class Counsel specifically researched the individual states' statutory consumer protection regimes and we approve compensation for this research. If not independently informed by a fiduciary duty, their research would confirm a court could review their time entries at least to show the reasonableness of a lodestar comparator or, as we have done, to measure benefit to the Class based on the statutory fee shifting paradigm in most consumer protection statutes. When, even to a minor extent, Class Counsel does not properly report their time invested, we cannot permit funds owing to Class Members to be paid for these efforts. accompanying reflects this scrutiny.

1 ECF Doc. No. 183. 2 ECF Doc. No. 164. 3 ECF Doc. No. 195, 195-1, 195-2 4 ECF Doc. No. 194 5 ECF Doc. No. and 6 In re Prudential Ins. Co. American Sales Practice Litigation Agent Actions, 148 F.3d 283, 333 (3d Cir. 1998) (quoting In re General Motors Corp. Truck Fuel Tank Products Liability Litigation, 55 F.3d 768, 819 (3d Cir. 1995)); see also In re Baby Products Antitrust Litigation,

F.3d 163, (3d Cir. McDonough v. Toys R Inc., F. 626, (E.D. 7 O'Brien v. Brain Research Labs, LLC, No. WL 3242365, (D.N.J. Aug. 9,

(quoting In re Gen. Motors, 55 F.3d at

22

Sec.

260 2001).

Pietragallo,

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1106, 2008). See

720

Sec. 307-08 2005), 2005) 201, 2001) ("[T]he

members[.]"); 2002) ("We

fiduciaries."); 108 "must

function."); ("[A]n lawyers," "[t]raditionally, court."). 210



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10-11.

2001). 20

Secs. Supp. (S.D.N.Y. 2013) 8 In re Am. Integrity Litig., No. 86-7133, 1989 WL 89316, at *4 (E.D. Pa. Aug. 8, 1989). 9 Loughner v. University of Pittsburgh, F.3d 173, 178 (3d Cir. These concepts are well-known to the experienced Class Counsel we found appropriate to represent the over 18.4 million consumers. In Loughner, lead Class Counsel William A. II served as lead counsel for the defendants in appealing the district court's award on attorneys' fees because plaintiff's attorney failed to present objective, admissible evidence of the prevailing market rate and failed to assign different hourly rates to various tasks.

Moreno v. City of Sacramento, 534 F.3d 1114-15 (9th Cir. 11

Rode v. Dellarciprete, 892 F.2d 1177, 1183 (3d Cir. 1990). 12

Id. (citing Bell v. United Princeton Prop., Inc., 884 F.2d 713, (3d Cir.1989)). 13

Id. 14 Id. 15

In re Rite Aid Corp. Litig., 396 F.3d 294, (3d Cir. as amended (Feb. 25,

(citing In re Cendant Corp. Litigation, 264 F.3d 231 (3d Cir. District Court acts as a fiduciary guarding the rights of absent class Reynolds v. Beneficial Nat'l Bank, 288 F.3d 277, 280-81 (7th Cir. and other courts have gone so far as to term the district judge in the settlement phase of a class action suit a fiduciary of the class, who is subject therefore to the high duty of care that the law requires of Report of the Third Circuit Task Force, Court Awarded Attorneys Fees, F.R.D. 237, 251 (1985) (The court monitor the disbursement of the fund and act as a fiduciary for those who are supposed to benefit from it, since typically no one else is available to perform that cf. Cendant, 264 F.3d at 255 agent must be located to oversee the relationship between the class and its and that agent has been the 16

ECF Doc. No. at 9. 17

Id. at 6. 18

Id. at 19

Evans v. Port Auth. of New York & New Jersey, 273 F.3d 346, 362 (3d Cir. In re Citigroup Inc Litig., 965 F.2d 369, 391-392 21



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Id. at 391-392. 22

Evans, 273 F.3d at 362.

23

201 See 2015 Pa. 2015).

See

210 30

540 102, "Lindy

State 2002) 540 107.

40 23

ECF Doc. No. at 9-11. 24

Ward v. Phila. Parking Authority, Civil Action No. 11-4692, WL 263733 at *9 (E.D. Jan. 21, 25

Id. at *9. 26 Id. 27

Class Counsel used block billing for several entries regarding the complaints. We count all the hours in the block billing as the outside maximum Class Counsel spent on the complaint. 28

Moreno, 534 F.3d at 1114-15. 29

ECF Doc. No. at 12. Lindy Bros. Builders, Inc. v. American Radiator & Standard Sanitary Corp. F.2d 110-111 (3d Cir. 1976)(en bane)(hereafter If') 31

Planned Parenthood of Cent. New Jersey v. Attorney Gen. of of New Jersey, 297 F.3d 253, 268 (3d Cir. (citing Pardini v. National Tea Company, 585 F.2d 47 (3d Cir. 1978)). 32

Lindy II, F .2d at 33 Id. 34

Id. at 110-111. 35

ECF Doc. No. 183 at 45. 36



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Id. at 46. 37

Id. at 46-47. 38

Pardini, 585 F.2d at 49. 39

Id. at 52. Id. at 53. 41 Id. 42

Planned Parenthood, 297 F.3d at 268 (citing Prandini, 585 F.2d at 53). 43

ECF Doc. No. 183 at 47.

24

See 09-140 2016

30, 2016)

01- 1060, 2003 30, 2003)

10.

State

670, 201-1 29-30, 50

210

"Pietragallo

Esquire."

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if5. ifif if7.

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201-4.

U.S. 44



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Id. at 47. 45

Id. at 53. 46

Cottillion v. United Refining Company, Civil Action No. Erie, WL 3551688 (W.D. Pa. June (District Court refused to wholesale deduct time Plaintiffs' counsel spent on unsuccessful motions or alternative case theories but reviews them to determine if the hours spent were excessive); see also Catello v. Oriental Weavers Rug Mfg. Co. Inc., No.

WL 25888376 at *7 (W.D. Pa. Jan. (District court allows attorneys' fees for timely filed but ultimately denied motions but removes hours for motions not filed on time). 47

ECF Doc. No. 216 at 48

Halderman by Halderman v. Pennhurst School & Hosp., 49 F.3d 939, 942 (3d Cir. 1995) (quoting Ursic v. Bethlehem Mines, 719 F.2d 677 (3d Cir. 1983)). 49

ECF Doc. No. at 21-23, 34. ECF Doc. No. fn. 5. 51

Defined to include Gordon Alfano Bosick & Raspanti, LLP, Mansour Gavin LPA, Edward J. Westlow, Esquire and Robert Mansour, ECF Doc. No. 99, at 1. 52

ECF Doc. No. 99. 53

ECF Doc. No. 99-4 4. 54

Class counsel in the supplemental memorandum is defined to include Pietragallo Gordon Alfano Bosick & Raspanti, LLP, Mansour Gavin, LPA and Edward Westlow, Esq. ECF Doc. No. 167. 55

ECF Doc. No. 167, Exh. 2. 56

ECF Doc. No. 194-1, 57

Id. at 6, 7. 58

Id. at 59

ECF Doc. No. 197. ECF Doc. No. 61

Hensley v. Eckerhart, 461 424, 433 (1983).



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See TCOS 10-7130,

Upper

ifl.

U.S. ("Where accordingly."); 130 2010);

U.S.

See See

70

See 801 (Bankr.E.D.Pa. See Of

"for

adjournment"); United

2010 10, 2010)

Section 62

Keenan v. City of Phila., 983 F.2d 459, 472-73 (3d Cir.1992)(noting monthly cumulative hourly totals insufficient, but remanding for opportunity to amend); J&J Sports Prods., Inc. v.

Enterprises, Inc., No. 2012 WL 1361655, at *3 (E.D. Pa. Apr. 19, 2012); see also Walker v. Merion Police Dep't, No. 94-4888, 1996 WL 37822, at *7 (E.D. Pa. Jan. 26, 1996)(disallowing counsel's fee request which lacked specificity). 63

ECF Doc. No. 24, 64

Rubenstein, W., Newberg on Class Actions § 15:6 (5th ed.) (citing Hensley, 461 at 433

the documentation of hours is inadequate, the district court may reduce the award

Scott v. City of New York, 626 F.3d (2d Cir. Newberg on Class Actions§ 15:51 (5th ed.)(Attorneys' failure to maintain adequate contemporaneous time records may be a basis for downward adjustment



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in a fee request). 65

Hensley, 461 at 440-417. 66

Keenan, 983 F.2d at 473(internal citations omitted)(emphasis added). 67

In re Rite Aid, 396 F.3d at 307-08. 68

Keenan, 983 F.2d at 473. 69

We do not find any objectionable .25 entries by Attorney Pietragallo, nor did Class Counsel. See ECF Doc. 216 at 6.

Bankruptcy courts in our District prohibit quarter hour increments. In re Jefsaba, Inc., 172 B.R. 786, 1994). 71

Roccisano v. Twp. Franklin, Civ. Action No. 11-6558, 2015 WL 3649149 (D.N.J. June 11, 2015) (District Court reduces attorneys' fees by 1.8 hours for 18 occasions where attorney billed .25 hours tasks such as leaving a phone message, reviewing notice of phone conference, and reviewing an email from Defendant's request for see also States v. NCH Corp., Civil Action Nos. 98-5268 & 05-881, WL 3703756 (D.N.J. September (the District Court imposes a 12.5% fee reduction for billings in the quarter hour as opposed to the tenth of the hour). 72

Attorney Friesen billed .25 hours 78 times but we struck 7 of those entries are too vague in

2b. 73

ECF Doc. No. 201-3 at 6, 22. 74

Id. at 12. 75

Id. at 22, 44.

26

10,

8 °

See



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Supp.

U.S. Org. 703 2005) 260

590

See 2001). 9 ° CLS

Services (September 76

Id. at 12, 37. 77

Id. at 36. 78

Id. at 23, 24. 79

Id. at 12. Comlish objects to the blended rate as too high and cites cases with lower blended rates perhaps mislead by Class Counsel's continued use of the phrase. This argument is not correct for a statutory fee case because Class Counsel is awarded the hours and time billed in its lodestar. We review the reasonableness of Class Counsel's actual rates. 81

In re Fine Paper Antitrust Litigation, 751. F.2d 562, 593 (3d Cir. 1984). 82

Id. at 593. 83 Id. 84

Moreno, 534 F.3d at 1114-15. 85

MM v. Sch. Dist. of Philadelphia, 142 F. 3d 396, 404-45 (E.D.Pa. 2015) (citing Student Pub. Interest Research Group of New Jersey. Inc. v. AT & T Bell Laboratories, 842 F.2d 1436 (3d Cir. 1988)). 86

Washington v. Philadelphia Cty. Court of Common Pleas, 89 F.3d 1031, 1035 (3d Cir. 1996) (citing Blum v. Stenson, 465 886, 895-96 n. 11 (1984))(internal citations omitted). 87

Interfaith Cmty. v. Honeywell Int'l, Inc., 426 F.3d 694, (3d Cir. (quoting Loughner, F.3d at 180). 88

In re Fine Paper, 751 F.2d at (finding legal error in a district court applying hypothetical national rates to all class counsel regardless of their market rate). 89

Maldonado v. Houstoun, 256 F.3d 181, 187-188 (3d Cir. bases its range off of years of experience while the Boni Declaration uses length of membership in the bar. It is not clear that these match up to actual legal experience. 91



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Attorney Fees Range of Hourly Rates, Community Legal 12, 2014),
<https://clsphila.org/about-cls/attorney-fees>.

27

"been years" 20

201-1 260.

201-1

S. \$300.00 15.10 \$200.00.

201-2

703 260 180). 92

Attorney Boni attests Kenneth D. McArthur has a member of the bar for over twenty

but does not offer an exact number. ECF Doc. No. 194-1 at 4. We will count this as years experience.
93

Attorney Boni lists Attorney Raspanti with a billing rate of \$675. The legal bills produced by the Pietragallo firm list his billing rate as \$725 which we will use as the correct billing amount. ECF Doc. at 94

ECF Doc. at 260-261. 95

There are two separate entries for Emily O'Connor in the Mansour Gavin bill. Emily O'Connor who billed 69.25 hours at and Emily O'Connor who billed hours at

96

ECF Doc. at 78. 97

Interfaith, 426 F.3d at (quoting Loughner, F.3d at

28

600 2400



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600 1200

500 0.5 250

600 2400

600 1200

500 2/17/2015 201-2

600 2/26/2015 900

500 3/2/2015 10 500

500

600 600

500 1500

500 3/11/2015 0.5 250

600 600

600 3/17/2015 1500

500

600 3/17/2015 201-2 600

600 201-2 900

600 4/6/2015 1800

600 1800

600 4/14/2015 1200

600 2700

600 1500



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600 0.5 201-2 300

500 0.5 20 250

FIRM Attorney Rate Date Hours Narrative ECFDoc cite Cost

Mansour EPM 2/2/2015 4 Work on file 201-2at4

Mansour EPM 2/6/2015 2 Conference with Bob Mansour 201-2 at 5

Mansour BPF 2/5/2015 Phone conference Kevin Raphael 201-2 at 5

Mansour EPM 2/5/2015 4 Work on file 201-2 at 5

Mansour EPM 2/13/2015 2 Prepare for conference call; attend conference call 201-2 at 7

Mansour BPF 0.25 Phone conference Kevin Raphael at 8 125

Mansour AJC 1.5 Prepare for and attend conference call with co-counsel 201-2 at 9

and separate conference with Mr. Mansour; review emails

Mansour BPF 1 Prepare for and attend phone conference with Pietragallo 201-2 at
office

Mansour BPF 3/3/2015 0.25 Phone conference Kevin Raphael 201-2 at 11 125

Mansour AJC 3/6/2015 1 Review various emails; phone conference Mansour 201-2 at 11

Mansour BPF 3/9/2015 3 Meeting with Bill Pietragallo, Pat Perrotti, JME and AJC 201-2 at 11

Mansour BPF Confer with Kevin Raphael and Ed Shipton 201-2 at 12

Mansour JME 3/12/2015 1 Conference call with all co-counsel 201-2 at 12

Mansour EPM 2.5 Conference call with Pietragallo firm; conference with 201-2 at 13

BPF

Mansour BPF 3/17/2015 0.25 Phone conference Bill Pietragallo and Kevin Raphael 201-2 at 13 125



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Mansour JME 1 Phone conference Pat Perotti ; conference call Pietragallo at 13

firm

Mansour EPM 3/24/2015 1.5 Conference call; work on settlement at 14

Mansour EPM 3 Conference with AJC and BPF covering all emails, etc. 201-2 at 16

Mansour EPM 4/9/2015 3 Work on file preparing for meeting; conference with BPF 201-2 at 17

re presentation

Conference with Bill Pietragallo; conference with Kevin

Mansour EPM 2 Raphael; meeting with BPF; conference with Bob 201-2 at 18

Mansour

Mansour EPM 4/17/2015 4.5 Work on agreement 201-2 at 18

Mansour EPM 4/18/2015 2.5 Continued work on agreement; review of numerous 201-2 at 19

emails

Mansour JME 4/20/2015 Conference with AJC and BPF at 19

Mansour BPF 4/28/2015 Meeting with EPM and AJC 201-2 at

1

600 201-2 20 750 Pietragallo's

EPM 600 201-2 1500 Pietragallo

600 5/20/2015 EPM 201-2 600

EPM 600 201-2 600

EPM 600 201-2 600

BPF 500 6/10/2015 0.25 Phone



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600 6/10/2015 201-2 900

600 201-2 600

EPM 600 201-2 900 Pietragallo

BPF 500 6/23/2015 0.75 Pietragallo

EPM 600 201-2 600

EPM 600 201-2 900

BPF 500 7/14/2015 0.4 Phone 201-2 200

BPF 500 7/15/2015 Prepare Pietragallo 201-2 1000

BPF 500 7/20/2015 0.5 Phone 201-2 250

EPM 600 201-2 2700

EPM 600 201-2 1500

EPM 600 201-2 900

EPM 600 8/11/2015 201-2 1800

600 201-2 900

600 8/20/2015 0.75 201-2 40 450

BPF 500 0.5 Phone 201-2 250

BPF 500 0.75 Phone 201-2

600 201-2 600

BPF 500 9/10/2015 0.6 Phone Pietragallo 201-2 300

600 Pietragallo 201-2 600

600 10/1/2015 0.5 Phone Perroti's 201-2 300



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Mansour AJC 5/1/2015 1.25 Meeting with Friesen; phone conference Raphael; phone at conference office

Mansour 5/19/2015 2.5 Respond to numerous emails; conference calls with Kevin at 22 Raphael and William

Mansour AJC 1 Conference with at 23

Mansour 6/8/2015 1 Review of latest emails; conference with AJC at 25

Mansour 6/9/2015 1 Conference with AJC at 26

Mansour conference with Kevin Raphael 201-2 at 26 125

Mansour AJC 1.5 Review emails and court entry at 26

Mansour AJC 6/11/2015 1 Review series of emails from co-counsel; phone at 26 conference Rachael's office

Mansour 6/18/2015 1.5 Conference with AJC; conference with Kevin Raphael; at 28 conference with Bill

Mansour Correspondence with teams 201-2 at 29 375

Mansour 7/6/2015 1 Conference with AJC at 32

Mansour 7/7/2015 1.5 review of emails; review of proposals at 32

Mansour conference Kevin Raphael at 34

Mansour 2 for and attend phone conference with at 34 and Mansour team

Mansour conference Kevin Raphael at 35

Mansour 7/23/2015 4.5 work on settlement at 36



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Mansour 7/24/2015 2.5 work on settlement; conference call at 36

Mansour 8/5/2015 1.5 work on settlement at 37

Mansour 3 continued work on documents at 38

Mansour AJC 8/17/2015 1.5 Review series of documents and emails at 39

Mansour AJC Confer with Mr. Mansour; phone conference Raphael's at office

Mansour 8/24/2015 conference Kevin Raphael and meeting with AJC at 41

Mansour 8/26/2015 conference Kevin Raphael at 41 375

Mansour AJC 8/31/2015 1 Meet with Mr. Mansour; review emails and schedule at 42
conference call with co-counsel

Mansour conference with and Mansour teams at 43

Mansour AJC 9/28/2015 1 Review Westlow and Mr. emails at 46

Mansour JME conference Barb Marlowe from office at 46

2

500 10/9/2015 201-2 1500

500 10/12/2015 201-2 500

600 10/13/2015 201-2 900

500 10/14/2015 0.5 201-2 250

600 10/15/2015 201-2 1500

600 11/11/2015 0.5 201-2 300

600 1/20/2016 201-2 60 1800



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600 2/2/2016 201-2 900

600 2/5/2016 201-2 900

600 2/17/2016 201-2 900

500 2/22/2016 0.25 201-2

600 2/29/2016 0.5 201-2 300

500 3/10/2016 0.25 201-2

500 3/16/2016 201-2 500

600 4/5/2016 201-2 600

500 4/21/2016 0.25 201-2

500 4/23/2016 0.5 201-2 250

500 4/25/2016 0.5 201-2 250

BPF 500 4/26/2016 0.5 Phone 201-2 250

EPM 600 5/4/2016 201-2 600

600 5/10/2016 201-2 900

600 5/13/2016 201-2 1200

500 5/17/2016 0.5 201-2 80 250

JSK 300 2/4/2015 0.5 201-1at7 150

2/9/2015 0.7 201-1at14

EHS 2/10/2015 0.3 201-1at16

2/27/2015 0.2 201-1at26

3/10/2015 0.5 201-1at30



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3/10/2015 0.4 201-1at30 270

Mansour BPF 3 Prepare for and attend phone conference with Pietragallo at 47
team

Mansour BPF 1 Prepare for and attend phone conference with Pietragallo at 47
and Mansour team

Mansour JME 1.5 Conference Pat and conference Tony at 47

Mansour BPF Analyze Bob Mansour; confer with AJC re same and at 48
provide to Pietragallo team

Mansour EPM 2.5 Conference call; meeting with AJC at 48

Mansour AJC Review court entry and Mr. Raphael email at 52

Mansour EPM 3 Prepare for meeting in Pittsburgh at

Mansour EPM 1.5 Conference with BPF; attend conference call, etc at 62

Mansour EPM 1.5 Review of all emails; conference with AJC at 63

Mansour EPM 1.5 Review of multiple emails at 64

Mansour BPF Phone conference Kevin Raphael at 64 125

Mansour EPM Review of William Pietragallo's email at 65

Mansour BPF Phone conference Bob Mansour at 67 125

Mansour BPF 1 Prepare for and attend meeting with Bob Mansour at 68

Mansour EPM 1 Review emails and respond to requests at 71

Mansour BPF Phone conference Kevin Raphael at 74 125

Mansour BPF Phone conference Kevin Raphael at 75



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Mansour BPF Confer with Ed Skipton at 76

Mansour conference Kevin Raphael at 76

Mansour 1 Review of latest update at 77

Mansour EPM 1.5 Conference call at 78

Mansour EPM 2 Review of latest reports at 79

Mansour BPF Phone conference Kevin Raphael at

Pietragallo Call with Philadelphia attorneys

Pietragallo KER 675 Telephone conference with K. McArthur 472.5

Pietragallo 375 Teleconference with KER, WP, and Ernie Mansour 112.5

Pietragallo KDM 675 Review multiple email messages from Ernie Mansour and 135

Kevin Raphael and Anthony Coyne

Pietragallo WP 725 Review and assessment of emails; discussion with Kevin 362.5

Raphael

Pietragallo KER 675 Reviewing correspondence from co-counsel

3

3/12/2015 0.1 201-1at31

3/17/2015 0.3 201-1at34

3/17/2015 0.25 201-1at34

3/24/2015 201-1at40 1012.5

4/1/2015 0.1 201-1at46

4/9/2015 0.5 201-1at53



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4/9/2015 0.3 201-1at53 202.5

4/18/2015 0.5 201-1at58

4/25/2015 0.1 201-1at61

4/30/2015 0.3 201-1at64 202.5

5/7/2015 0.1 201-1at68

6/11/2015 0.8 201-1at91 580

6/15/2015 0.3 201-1at95 202.5

6/15/2015 0.2 201-1at95

6/15/2015 0.3 201-1at95 202.5

6/16/2015 0.3 201-1at96 202.5

6/17/2015 201-1at97 1450

6/18/2015 0.5 201-1at99

6/18/2015 0.3 201-1at99 202.5

6/22/2015 0.4 201-1at103 290

6/23/2015 0.3 201-1at105 202.5

6/24/2015 0.3 201-1at106

6/24/2015 0.1 201-1at106

6/26/2015 0.4 201-1a107 270

6/26/2015 0.4 201-1at108 270

6/30/2015 201-1at109

7/1/2015 0.5 201-1at110



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Pietragallo KDM 675 Review email messages from Mr. Rahpael and Mr. 67.5

Pietragallo

Pietragallo WP 725 Conference call with Mansour and Pietragallo lawyers 217.5

Pietragallo WP 725 Follow-up discussion with Kevin Raphael 181.25

Pietragallo KER 675 1.5 meeting with E. Westlow

Pietragallo KER 675 Telephone call with E. Mansour 67.5

Pietragallo WP 725 Review various emails and documents 362.5

Pietragallo KER 675 Telephone call with S. Rafferty

Pietragallo WP 725 Review and respond to various emails 362.5

Pietragallo KDM 675 Review email messages from E. Westlow 67.5

Pietragallo KDM 675 Review email messages from R. Mansour and E. Westlow

Pietragallo KDM 675 Review email message from E. Westlow 67.5

Pietragallo MSR 725 Reviewing documents; conferring with KER, WP

Pietragallo KER 675 Telephone call with A. Coyne

Pietragallo KER 675 Telephone call with E. Mansour 135

Pietragallo KER 675 Telephone call with WP

Pietragallo KER 675 Telephone call with F. Barkan

Pietragallo WP 725 2 Meeting with Pietragallo and Mansour attorneys

Pietragallo WP 725 Discussions with Tony Coyne; discussion with Kevin 362.5

Raphael

Pietragallo KER 675 Telephone call with F. Barkan



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Pietragallo MSR 725 Reviewing documents; conferring with KER

Pietragallo KER 675 Telephone call with Brendon Friesen

Pietragallo WP 725 Review email from Kevin Raphael and Ed Westlow; 217.5

separate discussions with Kevin Raphael

Pietragallo KER 675 telephone call with E. Monsour 67.5

Pietragallo KDM 675 Review multiple email messages from Mr. Raphael, E.

Skipton, E. Westlow, A. Coyne, and Mr. Pietragallo

Pietragallo KER 675 Telephone call with B. Friesen and A. Coyne

Pietragallo WP 725 1 Review and response to multiple emails; prepare for 725

conference call and meeting

Pietragallo WP 725 Telephone conference with Mansour and Pietragallo 362.5

lawyers

4

0.8 201-1at111 540

0.3 202.5

7/6/2015 0.3 201-1at112 202.5

201-1at112 450

0.2

0.5

0.4 270

0.2



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0.3 202.5

7/20/2015 1012.5

7/20/2015 0.5 201-1at122

0.3 201-1at123 202.5

0.5

0.25

0.6 405

0.4 201-1at129 270

0.1

7/30/2015 201-1at130

0.6

0.25 201-1at132

0.4 270

0.5

0.4 270

0.4 201-1at140 270

0.7 201-1at140

0.2 Review multiple email messages from E. Westlow; review email message from Mr. Raphael; conference with E.

Pietragallo KDM 675 7/2/2015 Westlow; draft email message to Mr. Raphael; telephone conference with Mr. Raphael; telephone conference with



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E. Westlow

Pietragallo KER 675 7/3/2015 Telephone call with B. Friesen 201-1at112

Pietragallo KDM 675 Conference with E. Westlow

Pietragallo EHS 375 7/6/2015 1.2 Team conference call; discussion with KER; call to Ed Westlow with KER

Pietragallo KER 675 7/8/2015 Telephone call with E. Mansour 201-1at114 135

Pietragallo KER 675 7/8/2015 Telephone call with E. Westlow 201-1at115 337.5

Pietragallo KER 675 7/13/2015 Telephone call with A. Coyne 201-1at118

Pietragallo KER 675 7/14/2015 Telephone call with B. Friesen 201-1at118 135

Pietragallo KER 675 7/14/2015 Telephone call with T. Coyne 201-1at118

Pietragallo KER 675 1.5 meeting with R. Zayas 201-1at122

Pietragallo KER 675 preparing for meeting with R. Zayas 337.5

Pietragallo KER 675 7/22/2015 Telephone call with R. Zayas

Pietragallo WP 725 7/27/2015 Review of multiple emails from Kevin Raphael, Ernie Mansour, Tony Coyne, and Ed Westlow. 201-1at127 362.5

Pietragallo WP 725 7/27/2015 Telephone conference with Ernie Mansour and Tony Coyne 201-1at127 181.25

Pietragallo KER 675 7/28/2015 Telephone call with E. Mansour 201-1at129

Pietragallo KER 675 7/28/2015 Telephone call with R. Zayas

Pietragallo KDM 675 7/29/2015 Review email message from E. Westlow 201-1at129 67.5

Pietragallo WP 725 1 Follow-up conversations with Tony Coyne and Kevin 725



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Raphael

Pietragallo MSR 725 7/31/2015 Conferring with co-counsel; reviewing documents 201-1at131 435

Pietragallo WP 725 8/5/2015 Telephone discussion with Ernie Mansour 181.25

Pietragallo KER 675 8/14/2015 Telephone call with B. Friesen 201-1at135

Pietragallo WP 725 8/19/2015 Review of various emails; telephone discussions with 201-1at138 362.5

Kevin Raphael

Pietragallo KER 675 8/19/2015 telephone call with R. Zayas 201-1at138

Pietragallo KER 675 8/24/2015 Conference call with B. Friesen and A. Coyne

Pietragallo KER 675 8/24/2015 Preparing for calls 472.5

Pietragallo KER 675 8/28/2015 Telephone call with T. Coyne and B. Friesen 201-1at142 135

5

9/1/2015 0.4 201-1at144 270

9/8/2015 0.5 201-1at148

9/9/2015 0.3 201-1at149 202.5

9/10/2015 0.5 201-1at150

9/10/2015 0.9 201-1at150 607.5

9/15/2015 0.3 201-1at153 202.5

9/18/2015 0.4 201-1at155 270

9/23/2015 0.3 201-1at158 202.5

9/30/2015 0.3 201-1at161 202.5

10/1/2015 0.4 201-1at161 270



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10/2/2015 0.8 201-1at162 580

10/5/2015 0.7 201-1at162 507.5

10/7/2015 0.2 201-1at163

10/7/2015 0.2 201-1at163

10/9/2015 0.2 201-1at166

10/9/2015 0.4 201-1at166 290

10/31/2015 0.6 201-1at178

10/16/2015 0.3 201-1at170 202.5

11/2/2015 0.1 201-1at178

11/9/2015 0.3 201-1at180 202.5

12/2/2015 0.3 201-1at186 202.5

12/28/2015 0.8 201-1at191 540

1/6/2016 0.3 201-1at192 202.5

1/12/2016 0.2 201-1at194

1/14/2016 0.3 201-1at194 202.5

1/15/2016 0.6 201-1at194 405

1/18/2016 0.7 201-1at195

1/18/2016 0.4 201-1at195 270

1/22/2016 0.3 201-1at198 202.5

1/22/2016 0.4 201-1at198 270

1/22/2016 0.3 201-1at198 202.5



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1/25/2016 201-1at198 810

1/26/2016 0.4 201-1at198 270

1/29/2016 0.3 201-1at199 202.5

Pietragallo KER 675 Telephone call with A. Coyne

Pietragallo KER 675 Telephone call with K. Dougherty 337.5

Pietragallo KER 675 Telephone call with R. Zayas

Pietragallo KER 675 Telephone call with L. Schultz 337.5

Pietragallo KER 675 Telephone call with R. Zayas

Pietragallo KER 675 Telephone call with F. Barkan

Pietragallo KER 675 Telephone call with A. Coyne and W. Pietragallo

Pietragallo KER 675 Conferring with WP/II

Pietragallo KER 675 Telephone call with L. Schultz

Pietragallo KER 675 Telephone call with L. Schultz

Pietragallo MSR 725 reviewing documents; conferring with WP, EHS

Pietragallo MSR 725 Conferring with WP; reviewing documents

Pietragallo KER 675 Telephone call with B. Friesen 135

Pietragallo KER 675 Telephone call with R. Zayas 135

Pietragallo KER 675 Preparing for call 135

Pietragallo MSR 725 Reviewing documents

Pietragallo MSR 725 Conferring with KER 435

Pietragallo KER 675 Telephone call with A. Coyne



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Pietragallo WP 725 Follow-up discussion with Kevin Raphael 72.5

Pietragallo KER 675 Telephone call with B. Friesen and T. Coyne

Pietragallo KER 675 Telephone call with A. Coyne

Pietragallo KER 675 reviewing documents

Pietragallo KER 675 Reviewing email from B. Friesen; drafting response to same

Pietragallo EHS 375 Call with KER to Mansour Gavin 75

Pietragallo KER 675 Telephone call with F. Barkan

Pietragallo KER 675 Telephone call with B. Friesen

Pietragallo KER 675 Preparing for team meeting 472.5

Pietragallo KER 675 Telephone call with B. Friesen

Pietragallo KER 675 Telephone call with L. Schultz

Pietragallo KER 675 Telephone call with L. Schultz

Pietragallo KER 675 Telephone call with team

Pietragallo KER 675 1.2 Telephone call with A. Coyne and B. Friesen

Pietragallo KER 675 Preparing for call tomorrow

Pietragallo KER 675 Conferring with EHS

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Pietragallo 201-1 200 810 WP

Pietragallo 0.2 201-1at201

Pietragallo 0.2 201-1at202



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Pietragallo 2/22/2016 0.3 201-1at204 202.5

Pietragallo 0.4 201-1at205 270

Pietragallo 3/14/2016 0.3 201-1 210 202.5

Pietragallo 0.4 201-1at211 270

Pietragallo 3/23/2016 0.4 270

Pietragallo Preparing

Pietragallo 3/30/2016 0.3 201-1 202.5

Pietragallo 3/30/2016 0.3 201-1at216 202.5

Pietragallo WPPII 201-1at226

Pietragallo 0.3

Pietragallo 4/26/2016 0.9

Pietragallo 0.4 201-1at232 270

Pietragallo 5/11/2016 0.3 201-1at236 202.5

Pietragallo 0.2 201-1

Pietragallo 0.6 201-1

Pietragallo 0.2 201-1at246

Pietragallo 0.5

600 2/10/2015 0.5 201-3 300

600 2/20/2015 0.25 201-3 150

600 5/17/2015 0.25 201-3 150

600 10/13/2015 0.2 201-3 120



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600 1/12/2016 0.1 201-3 60

KER 675 2/1/2016 1.2 Telephone call with B. Friesen; drafting email re: same; at telephone call with re: same

KER 675 2/2/2016 Telephone call with F. Barkan 135

KER 675 2/8/2016 Telephone call with B. Friesen 135

KER 675 Telephone call with B. Friesen

KER 675 2/28/2016 reviewing email from

KER 675 Telephone call with B. Friesen at

KER 675 3/15/2016 Telephone call with B. Friesen

KER 675 Telephone call with A. Coyne and B. Friesen 201-1at214

KER 675 3/28/2016 1.1 for conference call 201-1at216 742.5

KER 675 Telephone call with B. Friesen at 216

KER 675 Telephone call with E. Mansour

KER 675 4/23/2016 1.3 Telephone call with B. Friesen; telephone call with 877.5

MSR 725 4/25/2016 Reviewing documents 201-1at227 217.5

EHS 375 Call with Brendon F. and Kevin R. to Jeff Weinstein 201-1at228 337.5

KER 675 5/2/2016 Telephone call with Anthony Coyne

KER 675 Telephone call with R. Zayas

KER 675 5/14/2016 Telephone call with A. Coyne at 239 135

MSR 725 5/19/2016 Conferring with KER at 242 435

KER 675 5/25/2016 Telephone call with M. Boni 135



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KER 675 5/26/2016 Conference call with WP, B. Friesen, E. Westlow, and 201-1at248 337.5

EHS

Westlow EJW Telephone and e-mail correspondence with KDM at 4

Westlow EJW E-mail exchange with KDM at 4

Westlow EJW Review and respond to e-mail messages from Mr. at 8

Raphael and Mr. Skipton

Westlow EJW E-mail communication to the group re: EJW back in at 24

office

Westlow EJW Review e-mail correspondence from Mr. Mansour at 29

157 95811.3

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