

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE: AUTOMOTIVE PARTS
ANTITRUST LITIGATION

Master File No. 12-md-02311
Hon. Marianne O. Battani

IN RE: BEARINGS

Case No. 2:14-cv-00507-MOB-MKM
Case No. 2:14-cv-13356-MOB-MKM

THIS DOCUMENT RELATES TO
TRUCK AND EQUIPMENT DEALER
CASES

**COUNSEL FOR THE TRUCK AND EQUIPMENT DEALER PLAINTIFFS' MOTION
FOR AN AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION
EXPENSES**

Counsel for the Truck and Equipment Dealer Plaintiffs (“TED Plaintiffs”) hereby move the Court, pursuant to Fed. R. Civ. P. 23(h) and 54(d)(2), for an award of attorneys’ fees of one-third of the \$4,745,000 in settlement funds¹ (after deduction of class notice and claims administration expenses) and reimbursement of out-of-pocket expenses.

In support of this Motion, TED Plaintiffs rely upon and incorporate by reference herein the facts and legal arguments set forth in the accompanying Memorandum of Law, the Declaration of William Shotzbarger and its exhibits, and any oral argument that may be held.

¹ The \$4,745,000 total settlement amount reflects the \$1,100,000 settlement payment from SKF USA Inc., the \$475,000 settlement payment from the Nachi Defendants, and a \$3,170,000 *net* settlement payment from the NSK Defendants after deduction of \$90,000 pursuant to the most-favored nation provision in TED Plaintiffs’ Settlement Agreement with the JTEKT Defendants. *See* TED Plaintiffs’ First Round Mot. for Preliminary Approval, Case No. 14-cv-00507, ECF No. 44 at 6, n.2; JTEKT Settlement Agmt. ¶ 42, Case No. 14-cv-00507, ECF No. 44-3 at 28-29; *see also* Order Granting Motion to Revise the SKF USA Inc. Notice and Final Approval Schedule, Case No. 2:14-cv-13356, ECF No. 78 at 17-18.

Respectfully submitted,

Dated: August 10, 2017

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**TRUCK AND EQUIPMENT DEALER PLAINTIFFS' MEMORANDUM OF LAW IN
SUPPORT OF MOTION FOR AN AWARD OF ATTORNEYS' FEES AND
REIMBURSEMENT OF LITIGATION EXPENSES**

STATEMENT OF ISSUES PRESENTED

1. Should counsel for the Truck and Equipment Dealer Plaintiffs, who have obtained approximately \$4.7 million in additional class settlements completely resolving the *Bearings* case, be awarded a portion of those settlements for attorneys' fees?

Suggested Answer: Yes.

2. Should counsel for the Truck and Equipment Dealer Plaintiffs be reimbursed for the out-of-pocket costs and expenses they have incurred in pursuing the claims in this case in which settlements have been presented?

Suggested Answer: Yes.

CONTROLLING OR MOST APPROPRIATE AUTHORITIES

- *In re Automotive Parts Antitrust Litig.*, Case No. 12-cv-00103, ECF No. 498 (June 20, 2016)
- *In re Delphi Corp. Sec. Derivative & ERISA Litig.*, 248 F.R.D. 483 (E.D. Mich. 2008)
- *In re Packaged Ice Antitrust Litig.*, 08-MDL-01952, 2011 WL 6209188 (E.D. Mich. Dec. 13, 2011)

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Other Authorities

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BACKGROUND

After three years of hard-fought litigation, counsel for the Truck and Equipment Dealer Plaintiffs (“TED Plaintiffs”) have negotiated settlements with the three remaining Defendants in the *Bearings* case totaling approximately \$4.7 million. Taken together with the settlements previously approved by this Court with the other *Bearings* defendants, the total settlement proceeds arising out of the TED Plaintiffs’ claims in the *Bearings* litigation is \$10.49 million.² The settlements that are presently before the Court for final approval resolve the TED Plaintiffs’ remaining claims in this case. These settlements provide significant cash and non-cash benefits, including fulsome cooperation from certain settling Defendants that was instrumental in securing settlement with the last remaining holdout Defendant in the case. All of the net proceeds from these settlements will be paid to eligible new Truck and Equipment dealerships—there is no *cy pres* reversion to Defendants or third-party charities.³

Truck and Equipment Dealer class representatives and their counsel have zealously pursued this complex antitrust litigation. There can be no doubt that all Defendants have mounted a spirited defense in this case. And while there were undoubtedly antitrust violations, the Defendants have argued, among other things, that the illegal conduct as it related to Trucks

² This amount reflects the net settlement amount from the NSK Defendants. *See* n.3, *infra*.

³ The JTEKT Settlement Agreement contains a most favored nation provision wherein the settlement amount will be reduced when the most favored nation provisions were triggered by a qualifying settlement at an amount below the relevant amount. TED Plaintiffs’ settlement with the NSK Defendants for \$3,260,000 triggers the JTEKT settlement MFN and will require payment of \$90,000 of the NSK settlement to JTEKT pursuant to the JTEKT settlement MFN, meaning that the net value to the class of the NSK settlement is \$3.17 million. *See* JTEKT Settlement Agmt. ¶ 42, Case No. 14-cv-00507, ECF No. 44-3 at 28-29. Also, some of the settlement agreements include provisions whereby settlement funds can be reduced if there are a sufficient number of opt-outs. *See, e.g., id.* at ¶ 29(d). At the time of the filing of this motion, movants are not aware of any opt-outs, though the opt-out deadline has not yet passed.

and Equipment was primarily related to overseas markets, that none of the Plaintiffs suffered an antitrust injury, and that no litigation class could be certified.

The final *Bearings* settlements currently before the Court provide substantial benefits to Truck and Equipment Dealers and are notable in light of the formidable opposition from Defendants—even those that pleaded guilty to criminal charges. The Court and Special Master have seen first-hand much of the work done by the attorneys representing the Truck and Equipment Dealers. Defendants directed significant discovery efforts at the Truck and Equipment Dealer class representatives, and responding to this discovery—and the discovery that remains ongoing in other parts cases—has consumed a significant amount of time and resources for Truck and Equipment Dealer class representatives and their counsel.

TED Plaintiffs submit this motion in support of their request for: (1) reimbursement of litigation expenses already incurred in this case for which counsel for the TED Plaintiffs have not yet been reimbursed; and (2) an award of attorneys' fees.⁴ As discussed in this brief, the case law from the Sixth Circuit and other federal courts, as well as this Court's prior rulings in this MDL proceeding, supports these requests.

Like the percentage-of-the-fund award this Court previously approved for TED Plaintiffs, Direct Purchasers and Automobile Dealers in this MDL, counsel for Truck and Equipment Dealers seek a fee award based on a percentage of the approximately \$4.7 million in settlement funds currently available to eligible members of the Truck and Equipment Dealer settlement classes. This Court has previously supported this approach in this MDL. *See, e.g., In re: Automotive Parts Antitrust Litig., Bearings*, No. 2:14-cv-00507, ECF No. 60, at 2 (April 13,

⁴ TED Plaintiffs are not seeking a second set of service awards for the Class Representatives in the *Bearings* case. The Court previously awarded each of the Class Representatives a service award of \$5,000 from the proceeds of the first group of TED Plaintiffs' *Bearings* settlements.

2017) (Exhibit 1-A to the Shotzbarger Decl.) (applying percentage-of-the-fund approach from *Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 515 (6th Cir. 1993)); *In re: Automotive Parts Antitrust Litig.*, No. 2:14-cv-14451, ECF No. 128 at 2 (Dec. 28, 2016) (same). The award requested—one-third of the settlement fund after certain costs have been deducted—is within the range of fee awards made by this Court. *See, e.g., id.* (awarding one-third of the fund). A lodestar cross-check will confirm that the amount sought is reasonable, showing that the total fees requested represent 85.6% of the total lodestar reflecting the value of the professional fees devoted by counsel for the prosecution of the Truck and Equipment Dealers' claims in *Bearings*, less attorneys' fees previously awarded in this case. *See Bearings*, Case No. 2:14-cv-00507, ECF No. 60 (April 13, 2017) (Exhibit 1-A to the Shotzbarger Decl.). This less than 1.0 multiplier lodestar is commonly approved within the Sixth Circuit and elsewhere and is objectively fair and reasonable in light of the relevant factors, as discussed below.

Through the efforts of counsel for the Truck and Equipment Dealers and the dealerships who serve as named plaintiffs, substantial cash settlements have been obtained. Counsel have pursued the litigation vigorously; succeeded in discovery motions; provided a team of document reviewers that reviewed, translated, analyzed, and coded documents provided by the Defendants; pursued discovery, including depositions and witness proffers from defendants; obtained cooperation from certain Defendants; and negotiated beneficial settlements during the three years of litigation since this case was filed. Counsel for the Truck and Equipment Dealers have substantially advanced the claims of the Truck and Equipment Dealers on a contingent fee basis.

A. Counsel for Truck and Equipment Dealer Plaintiffs Have Committed Significant Resources in this Litigation.

The Court has noted several times that this litigation is unique in its size and complexity. Antitrust litigation is inherently risky, with high stakes, and the outcome of this litigation has

been far from certain. From the outset, counsel for the TED Plaintiffs worked on a contingent basis to advance the claims of Truck and Equipment dealerships authorized by OEMs to sell new vehicles.

The Department of Justice has described its investigation of the bid-rigging and price-fixing conspiracies at issue here as the largest criminal investigation it has ever undertaken. The conduct involves a staggering number of parts, affected models, and conspiring participants. Most of the Defendant groups have had one or more of their corporate affiliates convicted of serious crimes in the United States, Europe, and/or Asia. The list of settling and non-settling Defendants includes well-known companies that are dominant players in their industries.

The TED Plaintiffs asserted damage claims under laws of twenty-nine states and the District of Columbia, as well as a federal claim for injunctive relief. Some states permit indirect purchaser actions under state antitrust laws; others permit them under state consumer protection laws; and others permit them under general laws of restitution.

Since 2015, many of the attorneys for the Truck and Equipment Dealers have worked nearly full-time on this case. It has been a huge undertaking, as reflected by the time invested in prosecution of the TED Plaintiffs' claims and the work accomplished in furtherance of that effort. Counsel's activities have included:

- Collecting and synthesizing information from a variety of sources and evidence produced by Defendants;
- Collecting and analyzing information and discovery;
- Researching various aspects of the laws of the states under which laws the Complaints assert claims, and drafting and editing the Complaints and amendments thereto;
- Reviewing, selecting, hiring, and consulting with economic and other liability and damages experts;

- Drafting and negotiating key case management documents, protocols, and stipulations;
- Reviewing, in conjunction with the other plaintiff groups, English and foreign language documents produced by the Defendants;
- Receiving and reviewing cooperation materials from amnesty applicants, and traveling to and attending in-person attorney and witness proffers from amnesty applicants;
- Drafting, preparing for, and arguing oppositions to multiple motions to dismiss;
- Drafting, preparing for, and arguing discovery motions and oppositions to discovery motions;
- Negotiating discovery issues with defense counsel including innumerable meet and confer sessions;
- Preparing correspondence with respect to timing, stipulations, and case planning issues;
- Obtaining and analyzing documents and data from the class representatives, including multiple telephone conferences;
- Locating, reviewing, and producing of over 870,000 pages of documents from the class representatives;
- Participating in telephone conferences and meetings to help formulate OEM subpoenas and discovery from third-parties;
- Preparing/coordinating service of in excess of 50 OEM subpoenas throughout the United States;
- Preparing for, traveling to, and attending more than 100 days of depositions of Defendants and Defendant witnesses throughout the United States;
- Preparing a witness for, traveling to, attending, and defending the deposition of a corporate representative of Rush Enterprises, Inc.;
- Responding to scores of discovery emails from Defendants demanding discovery;
- Participating in innumerable telephone calls with Defendants regarding discovery and motion practice before the Special Master and appeals to Judge Battani;
- Traveling to and attending many MDL status conferences;

- Performing all the tasks necessary to reach these settlements, including assessing the potential value of claims and risks associated with continued pursuit of those claims, formulating demands, negotiating, preparing, reviewing, and revising various drafts of settlement agreements, preparing, reviewing, and revising various drafts of escrow agreements;
- Interviewing, selecting, hiring, and communicating with an escrow agent;
- Interviewing, selecting, hiring, and communicating with a settlement administrator;
- Drafting preliminary approval motions;
- Receiving cooperation materials from settling Defendants disclosing the details of the conspiracies, and reviewing and analyzing cooperation materials from settling Defendants; and
- Drafting settlement notices, developing claim forms, and preparing other settlement-related documents and consulting with the claims administrator regarding those materials.

(See generally, Exhibit 1 (Shotzberger Decl.))

B. The Settlements were Reached after Arms-Length Negotiation and Adversarial Proceedings.

The settlements before the Court were reached after litigation was well underway—indeed, the case was deep into discovery—and were negotiated by experienced counsel on both sides. The settlements were reached through lengthy negotiations of the parties, some of which took many months. (*Id.*) In each instance, counsel was armed with transactional data, documents and materials produced by the settling Defendants, deposition testimony, witness proffers, and a strong understanding of the claims and defenses.

ATTORNEYS' FEES AND EXPENSES STANDARD OF REVIEW

Fed. R. Civ. P. 23(h) provides that “[i]n a certified class action, the court may award reasonable attorney’s fees and non-taxable costs that are authorized . . . by law.” District courts may award reasonable attorneys’ fees and expenses from the settlement of a class action upon motion under Fed. R. Civ. P. 54(d)(2) and 23(h). This Court has adopted a two-part analysis

when assessing the reasonableness of a petition seeking an award of attorneys' fees. *See, e.g., In re Automotive Parts Antitrust Litig.*, No. 2:12-cv-00102, ECF No. 401, at 2 (Dec. 7, 2015) (citing *In re Cardinal Health Inc. Sec. Litig.*, 528 F. Supp. 2d 752, 760 (S.D. Ohio 2007)). The court first determines the method of calculating the attorneys' fees: it applies either the percentage of the fund approach or the lodestar method. *Id.*; *Van Horn v. Nationwide Prop. and Cas. Inc. Co.*, 436 F. App'x 496, 498 (6th Cir. 2011). The court has the discretion to select the appropriate method for calculating attorneys' fees "in light of the unique characteristics of class actions in general, and of the unique circumstances of the actual cases before them." *Id.* (citing *Rawlings*, 9 F.3d at 513, 516). In common fund cases, the award of attorneys' fees need only "be reasonable under the circumstances." *Id.* The court will then analyze and weigh the six factors described in *Ramey v. Cincinnati Enquirer, Inc.*, 508 F.2d 1188 (6th Cir. 1974). *Id.*

ARGUMENT

I. The Court Should Reimburse Class Counsel for Past Expenses.

For three years, counsel for the Truck and Equipment Dealers funded the substantial expenses required to advance the litigation and continue to do so without any guarantee of being reimbursed. Having achieved the settlements currently before the Court—the final settlements in the TED Plaintiffs' *Bearings* case—counsel for the Truck and Equipment Dealers should be reimbursed for the litigation expenses incurred in connection with the settled claims.

A. Reimbursement of Costs Already Incurred.

The Court should follow the approach it has previously adopted in this MDL and award reimbursement for the litigation expenses already incurred in this case. *See, e.g., In re Automotive Parts Antitrust Litig.*, 2:12-cv-00102, at 3-5 (Dec. 7, 2015) (citing Fed. R. Civ. P. 23(h); *In re Delphi Corp. Sec. Derivative & ERISA Litig.*, 248 F.R.D. 483, 504 (E.D. Mich. 2008) ("Under the common fund doctrine, class counsel are entitled to reimbursement of all

reasonable out-of-pocket litigation expenses and costs in the prosecution of claims and in obtaining settlement, including expenses incurred in connection with document production, consulting with experts and consultants, travel and other litigation-related expenses.” (Citation and internal quotation marks omitted.); *Cardizem*, 218 F.R.D. at 535; *B & H Med., L.L.C. v. ABP Admin., Inc.*, No. 02–73615, 2006 WL 123785, at *3 (E.D. Mich. Jan. 13, 2006.)

Duane Morris, as counsel for the TED Plaintiffs, has invested approximately \$219,122.77 of its own money to pay for reasonable litigation expenses in this case incurred from January 1, 2017 through July 31, 2017, with settlements before the Court. (Shotzberger Decl.) These costs included economic experts, document review and hosting for the millions of pages produced in this case, travel to court hearings, conferences, depositions, proffers, and other meetings, translations of extensive numbers of documents, compensation of translators for depositions, payment of court reporters and videographers for deposition services, and other reasonable litigation expenses. (*Id.*) Counsel for TED Plaintiffs are not requesting that any percentage of the settlement funds be set aside to pay for future expenses, as this Court has permitted the Auto Dealer, End Payors, and Direct Purchasers to do. *See, e.g., In re Automotive Parts Antitrust Litig.*, No. 12-cv-00103, ECF No. 498 at 2 (June 20, 2016) (End Payors); *In re Automotive Parts Antitrust Litig.*, 2:12-cv-00102, ECF No. 401, at 3-5 (Dec. 7, 2015) (Auto Dealers); *In re Automotive Parts Antitrust Litig.*, 2:12-cv-00101, ECF No. 232, at 1 (Mar. 20, 2015) (Direct Purchasers). Nor is counsel seeking reimbursement of out-of-pocket expenses for which the Court has already compensated counsel.⁵ *See Bearings*, Case No. 2:14-cv-00507, ECF No. 60 (April 13, 2017) (Exhibit 1-A to the Shotzberger Decl.).

⁵ Duane Morris was previously reimbursed out of the first group of *Bearings* settlements for litigation expenses it incurred from the outset of the case through December 31, 2016.

Duane Morris incurred these expenses in this case without any guarantee of recovery and should be reimbursed from the settlement funds. (*Id.*) Having achieved the settlements currently before the Court, Duane Morris should be awarded the amount of \$219,122.77, representing the litigation expenses it has incurred in this case from January 1, 2017 through July 31, 2017, when these settlements were preliminarily approved by the Court. *See Bearings*, Case No. 2:14-cv-13356, ECF No. 75 (June 1, 2016); *see also Bearings*, Case No. 2:14-cv-13356, ECF No. 78 (June 22, 2017).⁶

II. The Court Should Award Attorneys' Fees to Counsel for the Truck and Equipment Dealer Plaintiffs.

The Court has settlements before it totaling approximately \$4.7 million for the benefit of the Truck and Equipment Dealers. Taken together with the proceeds of the first group of *Bearings* case settlements already approved by the Court, the TED Plaintiffs' claims have generated settlement proceeds totaling \$10.49 million.⁷ Counsel for TED Plaintiffs have been litigating this case on a contingent basis for three years and have already invested thousands of hours in the case. Counsel for the Truck and Equipment Dealers request an award of attorneys' fees based on the work done to achieve these settlements and deliver these substantial benefits to the Settlement Class.

Fee awards are appropriate in large-scale litigation in which settlements are reached periodically. *See In re Air Cargo Shipping Serv. Litig.*, No. 06-md-1775 (JG) (VVP), 2011 WL

⁶ Pursuant to the Court's Order Granting Truck and Equipment Dealer Plaintiffs' Motion for Preliminary Approval of Proposed Settlements with Certain Defendants, Provisional Certification of Settlement Classes, and Authorization of Dissemination of Class Notice, and Motion to Revise the SKF USA Inc. Notice and Final Approval Schedule, the attorneys' fees and final approval process for the TED Plaintiffs' SKF USA Inc. settlement has been combined with the process for the TED Plaintiffs' settlements with the Nachi Defendants and the NSK Defendants. *See* Case No. 2:14-cv-13356, ECF No. 78 at 17-18.

⁷ This amount reflects the net settlement amount from the NSK Defendants. *See* n.3, *supra*.

2909162, at *5-7 (E.D.N.Y., Jul. 15, 2011) (interim fee award granted); *In re Sterling Foster & Company, Inc. Sec. Litig.*, 238 F. Supp. 2d 480, 484-85, 489-90 (E.D.N.Y. 2002) (interim attorneys' fees awarded). Counsel for the Truck and Equipment Dealers have already litigated this case for three years and will continue to vigorously represent the interests of truck and equipment dealerships in other parts cases. *See In re Diet Drugs Prod. Liab. Litig.*, 2002 WL 32154197, at *12 (E.D. Pa., Oct. 3, 2002) (awarding an interim fee after years of litigation and noting "to make them wait any longer for at least some award would be grossly unfair").

A. The Court Should Again Use the Percentage-of-the-Fund Approach.

The Supreme Court recognizes that "a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *see also Delphi*, 248 F.R.D. at 502. When calculating attorneys' fees under the common fund doctrine, "a reasonable fee is based on a percentage of the fund bestowed on the class." *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984).

The Court has previously awarded fees in this MDL using the percentage-of-the-fund approach. *See, e.g., Bearings*, Case No. 2:14-cv-00507, ECF No. 60, at 2 (April 13, 2017) (applying percentage-of-the-fund approach); *In re: Automotive Parts Antitrust Litig.*, Case No. 2:14-cv-14451, ECF No. 128, at 2 (Dec. 28, 2016) (same). Counsel for the Truck and Equipment Dealers seek the same approach here. Courts in this Circuit prefer this method of awarding attorneys' fees because it eliminates disputes about the reasonableness of rates and hours, conserves judicial resources, and aligns the interests of class counsel and the class members. *See, e.g., Rawlings*, 9 F.3d at 515; *In re Packaged Ice Antitrust Litig.*, 08-MDL-01952, 2011 WL 6209188, at *16 (E.D. Mich. Dec. 13, 2011); *Delphi*, 248 F.R.D. at 502; *Cardinal*, 528 F. Supp. 2d at 762 (the Sixth Circuit has "explicitly approved the percentage approach in

common fund cases”); *In re Skelaxin (Metaxalone) Antitrust Litig.*, 2014 WL 2946459, *1 (E.D. Tenn. Jun. 30, 2014) (“the lodestar method is cumbersome; the percentage-of-the-fund approach more accurately reflects the result achieved; and the percentage-of-the-fund approach has the virtue of reducing the incentive for plaintiffs’ attorneys to over-litigate or ‘churn’ cases.”) (citations omitted).

The lodestar method, on the other hand, “has been criticized for being too time-consuming of scarce judicial resources,” as it requires that courts “pore over time sheets, arrive at a reasonable hourly rate, and consider numerous factors in deciding whether to award a multiplier.” *Rawlings*, 9 F.3d at 516-17. Moreover, “[w]ith the emphasis it places on the number of hours expended by counsel rather than the results obtained, it also provides incentives for overbilling and the avoidance of early settlement.” *Id.* at 517; *see also* MANUAL FOR COMPLEX LITIGATION (Third) § 24.12 at 189 (West 1995). There is a “trend towards adoption of a percentage-of-the-fund method in [common fund] cases.” *Delphi*, 248 F.R.D. at 502 (quoting *Rawlings*, 9 F.3d at 516-517).

B. The Fee Requested by Counsel for the Truck and Equipment Dealer Plaintiffs is Appropriate.

The Court is well-versed with the complexity of this litigation. For the case at issue here, counsel for the Truck and Equipment Dealers have worked for over three years and dedicated more than 6,164 attorney hours and more than 1,440 hours for paralegals, law clerks, and technical support staff. (*See* Shotzbarger Decl.) Interim Lead Counsel was solely responsible for prosecuting this case and had no assistance from other counsel, except to the extent the parties coordinated, as ordered by the Court, with respect to issues such as briefing, depositions and third-party discovery. (*Id.*)

Counsel for the Truck and Equipment Dealers request that the Court award fees totaling one-third of the settlement funds remaining after the deduction of: (1) the notice and administration costs; and (2) the costs of escrow anticipated in this case. Precedent supports applying the selected percentage to the settlement fund before deducting the litigation costs and expenses from the funds. *See, e.g., In re Packaged Ice Antitrust Litig.*, 2011 WL 6209188, at *17; *Delphi*, 248 F.R.D. at 505 (attorneys' fees awarded on gross settlement fund); *In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508, 531-535 (E.D. Mich. 2003) (awarding costs in addition to percentage of the fund fee). Reasonable fee awards range from 20 to 50 percent of the common fund. *In re Telectronics Pacing Sys., Inc., Accufix Atrial "J" Leads Prods. Liab. Litig.*, 137 F. Supp. 2d 1029, 1046 (S.D. Ohio 2001); *In re Cincinnati Gas & Elec. Co. Sec. Litig.*, 643 F. Supp. 148, 150 (S.D. Ohio 1986); Alba Conte & Herbert Newberg, *NEWBERG ON CLASS ACTIONS* (4th ed. 2002), §14:6 at 551 ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."). Courts in this District routinely approve attorneys' fees in antitrust class actions of one-third of the common fund created for the settlement class. *In re Packaged Ice Antitrust Litig.*, 2011 WL 6209188, at *19; *Thacker v. Chesapeake Appalachia, L.L.C.*, 695 F. Supp. 2d, 521, 528 (E.D. Ky. 2010); *Bessey v. Packerland Plainwell, Inc.*, Case No. 4:06-CV-95, 2007 WL 3173972, at *4 (W.D. Mich. 2007); *Delphi*, 248 F.R.D. at 502-03; *In re National Century Financial Enterprises, Inc. Investment Litig.*, 2009 WL 1473975 (S.D. Ohio, May 27, 2009); *Kogan v. AIMCO Fox Chase, L.P.*, 193 F.R.D. 496, 503 (E.D. Mich. 2000). The Court previously awarded one-third of a similar, approximate \$5.1 million settlement fund in this MDL to counsel for TED Plaintiffs because it "constitutes fair and reasonable compensation for the work done and the benefits achieved for the members of the settlement classes." *See In re*

Automotive Parts Antitrust Litig., Case No. 2:14-cv-14451-MOB-MKM, ECF No. 128, at 4 (Dec. 28, 2016); *see also In re Bearings*, Case No. 2:14-cv-00507, ECF No. 60 (April 13, 2017) (Exhibit 1-A to the Shotzbarger Decl.).⁸

Fee awards of *more than* one-third are also common. *See, e.g., In re Combustion, Inc.*, 968 F. Supp. 1116, 1133, 1142 (W.D. La. 1997) (awarding fee of 36 percent and noting that “50 percent of the fund is the upper limit on a reasonable fee award from a common fund [D]istrict courts in the Fifth Circuit have awarded percentages of approximately one-third contingency fee”); *In re U.S. Bancorp Litig.*, 291 F.3d 1035, 1038 (8th Cir. 2002) (fee of 36 percent); *Waters v. Intern. Precious Metals Corp.*, 190 F.3d 1291, 1292-94 (11th Cir. 1999); *In re Vitamins Antitrust Litig.*, 2001 WL 34312839, at *10 (D.D.C. 2001) (awarding one third of \$359 million antitrust recovery, which is “within the fifteen to forty-five percent range

⁸ The same is true in other districts. *See Standard Iron Works v. Arcelormittal*, 2014 WL 77815572, at *1 (N.D. Ill. Oct. 22, 2014) (attorneys’ fee award of one-third of \$163.9 million settlement); *In re Fasteners Antitrust Litig.*, 2014 WL 296954, *7 (E.D. Pa. Jan. 27, 2014) (“Co-Lead Counsel’s request for one third of the settlement fund is consistent with other direct purchaser antitrust actions.”); *In re Titanium Dioxide Antitrust Litig.*, 2013 WL 6577029, at *1 (D. Md. Dec. 13, 2013) (one-third fee from \$163.5 million fund); *In re Flonase Antitrust Litig.*, 951 F. Supp. 2d 739, 748-52 (E.D. Pa. 2013) (noting that “in the last two-and-a-half years, courts in eight direct purchaser antitrust actions approved one-third fees” and awarding one-third fee from \$150 million fund); *Heekin v. Anthem, Inc.*, Case No. 05-cv-01908, 2012 WL 5878032 (S.D. Ind. Nov. 20, 2012) (awarding one-third fee from \$90 million settlement fund); *In re Ready-Mixed Concrete Antitrust Litig.*, 2010 WL 3282591, at *3 (S.D. Ind. Aug. 17, 2010) (approving one-third fee); *Williams v. Sprint/United Mgmt. Co.*, 2007 WL 2694029, at *6 (D. Kan., Sept. 11, 2007) (awarding fees equal to 35 per cent of \$57 million common fund); *Lewis v. Wal-Mart Stores, Inc.*, 2006 WL 3505851, at *1 (N.D. Okla., Dec. 4, 2006) (awarding one-third of the settlement fund and noting that a “one-third [fee] is relatively standard in lawsuits that settle before trial.”); *New England Health Care Employees Pension Fund v. Fruit of the Loom, Inc.*, 234 F.R.D. 627, 635 (W.D. Ky. 2006) (“[A] one-third fee from a common fund case has been found to be typical by several courts.”) (citations omitted), *aff’d*, 534 F.3d 508 (6th Cir. 2008); *In re AremisSoft Corp., Sec., Litig.*, 210 F.R.D. 109, 134 (D.N.J. 2002) (“Scores of cases exist where fees were awarded in the one-third to one-half of the settlement fund.”) (citations omitted); *Moore v. United States*, 63 Fed. Cl. 781, 787 (2005) (“one-third is a typical recovery”).

established in other cases.”); *In re Ampicillin Antitrust Litig.*, 526 F. Supp. 494, 498 (D.D.C. 1981) (awarding fee of 45 percent).

C. Consideration of the Factors Used by the Sixth Circuit Supports the Requested Fees.

Once the Court has selected a method for awarding attorneys’ fees, it will consider the six *Ramey* factors in weighing a fee award in a common fund case: (1) the value of the benefits rendered to the class; (2) society’s stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others; (3) whether the services were undertaken on a contingent fee basis; (4) the value of the services on an hourly basis [the lodestar cross-check]; (5) the complexity of the litigation; and (6) the professional skill and standing of counsel on both sides. *See, e.g., In re Automotive Parts Antitrust Litig.*, Case No. 2:12-cv-00102, ECF No. 401 at 3-5 (Dec. 7, 2015) (Auto Dealers) (citing *Ramey*, 508 F.2d at 1194-97). When applied here, these factors indicate that the fee requested is fair.

1. Counsel Secured Valuable Benefits for Truck and Equipment Dealers.

The result achieved for the class members is a principal consideration. *Delphi*, 248 F.R.D. at 503. As discussed in the memoranda filed in support of the preliminary approval of the settlements, counsel for the Truck and Equipment Dealers have achieved excellent recoveries. These are cash settlements coupled with meaningful cooperation that assisted TED Plaintiffs in the prosecution of this case. Specifically, the Nachi Defendants agreed to (and did provide) substantial cooperation that was both timely and extremely useful in securing settlements with other Defendants in the *Bearings* case. The settlement funds in this round totaling roughly \$4.7 million represent a significant recovery for class member dealerships that sell new Trucks and Equipment.

After the deduction of fees, notice and claims administration costs, and expenses, all of the net settlement funds will be paid to eligible dealerships that file claims. None of the money will revert to the settling Defendants or to a *cy pres* designee.⁹ All eligible Truck and Equipment dealerships that file a claim for new vehicles and parts purchased in the indirect purchaser states will be entitled to a share of the settlement fund. In addition to the money benefits, the cooperation terms of these settlements provided significant value to TED Plaintiffs in their prosecution of the claims against the remaining Defendants and were essential to securing settlement with the last remaining defendant.

2. Society Has an Important Stake Rewarding Attorneys with Reasonable Fees in this Litigation.

There is a “need in making fee awards to encourage attorneys to bring class actions to vindicate public policy (e.g., the antitrust laws) as well as the specific rights of private individuals.” *In re Folding Carton Antitrust Litig.*, 84 F.R.D. 245, 260 (N.D. Ill. 1979). Courts in

⁹ Because of the Most Favored Nation provision in the JTEKT Settlement Agreement, *see* n.3, *supra*, TED Plaintiffs will use \$90,000 of the proceeds from the \$3,260,000 NSK Settlement Amount to pay the JTEKT Defendants pursuant to the Most Favored Nation provision, meaning that the net value of the NSK Settlement is actually \$3.17 million. *See* TED Plaintiffs’ First Round Mot. for Preliminary Approval, Case No. 14-cv-00507, ECF No. 44 at 6, n.2; *see also* JTEKT Settlement Agmt. ¶ 42, Case No. 14-cv-00507, ECF No. 44-3 at 28-29. TED Plaintiffs believe this represents a reasonable outcome in the *Bearings* case because the NSK Settlement in the amount of \$3,260,000 (or net \$3,170,000) still offers a *substantial* cash value for the proposed Settlement Class. Counsel for TED Plaintiffs vigorously negotiated with NSK as hard and as far as they could in terms of the NSK Settlement Amount and were unable to obtain more despite several months of hard fought negotiations. TED Plaintiffs believe that an infusion of \$3,170,000 into the settlement fund for distribution to the proposed Settlement Class is preferable to the continued expenditure of resources by both sides on litigation of the case, especially considering the ongoing expenses that would be incurred to continue the litigation against NSK—most notably the expert witness expenses, costs to maintain access to the case document database (tens of thousands of dollars per month), and travel and other expenses related to continued depositions, all of which would have easily exceeded \$100,000 per month for every month the case remained in active litigation. This rationale is bolstered by the fact that NSK was the last remaining defendant in the *Bearings* case with which TED Plaintiffs were actively litigating.

the Sixth Circuit weigh “society’s stake in rewarding attorneys who [win favorable outcomes in antitrust class actions] in order to maintain an incentive to others Society’s stake in rewarding attorneys who can produce such benefits in complex litigation such as in the case at bar counsels in favor of a generous fee Society also benefits from the prosecution and settlement of private antitrust litigation.” *In re Cardizem*, 218 F.R.D. at 534 (internal quotation marks omitted); *Delphi*, 248 F.R.D. at 504.

The Department of Justice did not seek restitution from the settling Defendants, and the criminal actions were largely focused on conduct involving passenger cars, not commercial trucks or equipment. As such, the work of movants, working on a contingent basis, was essential to securing a recovery for Truck and Equipment Dealers. The substantial recoveries counsel for the Truck and Equipment Dealers have achieved have helped serve the public policy of holding accountable those who violate antitrust laws in the United States. Society benefits when those who have violated laws fostering fair competition and honest pricing are required to reimburse affected consumers in civil proceedings such as this one.

3. Counsel for the Truck and Equipment Dealer Plaintiffs Have Worked on a Contingent Basis.

Counsel for the Truck and Equipment Dealers have pursued, and will continue to pursue, litigation in this MDL proceeding on a contingent basis. The risk relating to doing so supports a reasonable fee award from a common fund. *See In re Packaged Ice Antitrust Litig.*, 2011 WL 6209188, at *19 (risk of non-payment a factor supporting the requested fee). The contingency factor “stands as a proxy for the risk that attorneys will not recover compensation for the work they put into a case.” *Cardinal*, 528 F. Supp. 2d at 766. Indeed, ““some courts consider the risk of non-recovery as the most important factor in fee determination.”” *Kritzer v. Safelite Solutions, LLC*, 2012 WL 1945144, at *9 (S.D. Ohio May 30, 2012) (quoting *Cardinal*, 528 F. Supp. 2d at

766). “[W]ithin the set of colorable legal claims, a higher risk of loss does argue for a higher fee.” *In re Trans Union Corp. Privacy Litig.*, 629 F.3d 741, 746 (7th Cir. 2011).

Counsel for the Truck and Equipment Dealers work on a contingent fee basis and advance funds and time associated with the litigation, risking not receiving payment for their work or reimbursement of the out-of-pocket expenses they paid. Being rewarded only for success in litigation this complex creates a high degree of risk, which was enhanced by the fact that the claims being pursued on behalf of the Truck and Equipment Dealers were not the main focus of the guilty pleas secured during the criminal enforcement proceedings against some of the Defendants. The substantial risk undertaken by counsel for the Truck and Equipment Dealers further supports the requested attorneys’ fees. *Delphi*, 248 F.R.D. at 503-54.

4. A Lodestar Crosscheck Confirms that the Requested Fee is Reasonable.

Some courts, including this one, apply a lodestar “cross-check” on the reasonableness of the fee calculated as a percentage of the fund. *See, e.g., In re Automotive Parts Antitrust Litig.*, Case No. 2:12-cv-00102, ECF No. 401 at 3-5 (Dec. 7, 2015) (Auto Dealers); *see also Cardinal*, 528 F. Supp. 2d at 764; *In re Packaged Ice Antitrust Litig.*, 2011 WL 6209188, at *18. A lodestar cross-check is optional, however, and the Court is not required to engage in a detailed scrutiny of time records. *Cardinal*, 528 F. Supp. 2d at 767. The time counsel for the Truck and Equipment Dealers had to expend confirms that the fee requested is well “aligned with the amount of work the attorneys contributed” to the recovery, and does not constitute a “windfall.” *Id.*

To calculate a reasonable fee under the lodestar method, the court determines the base amount of the fee by multiplying the number of hours counsel reasonably expended by their hourly rate. *Isabel v. City of Memphis*, 404 F.3d 404, 415 (6th Cir. 2005). Counsel for the Truck and Equipment Dealers have done an enormous amount of work in this case. Discovery has been

extensive, Defendants have been relentless in their pursuit of discovery from the Truck and Equipment Dealer class representatives, and there has been extensive motion practice related to discovery directed at them. Counsel for the Truck and Equipment Dealers received cooperation from settling Defendants and used that information against the other Defendants to secure settlements from them. All the while, counsel for the Truck and Equipment Dealers have been working to certify classes and prepare to bring this case to trial.

Counsel for the Truck and Equipment Dealers have vigorously prosecuted this case while being efficient and avoiding duplication and unproductive work. As shown in the declaration of William Shotzbarger submitted with this motion, counsel representing the Truck and Equipment Dealers and their professional staff have worked more than 7,604 total hours in the *Bearings* case (including 1,938 hours from January 1, 2017 through July 31, 2017 alone). Applying the rates charged by counsel to the total hours expended from inception through July 31, 2017 yields a “lodestar” of approximately \$3,837,696.50.¹⁰ (*See* Shotzbarger Decl.) The requested fee is \$1,479,000, which represents one-third of the funds remaining after deducting the fund for the escrow agent costs (\$18,000) and notice and claims administration (\$290,000). *Id.* When the \$1,479,000 fee award requested is added to the attorneys’ fees previously awarded to Duane Morris by this Court from the first set of *Bearings* settlements, \$1,809,000 (*see* Exhibit 1-A), Duane Morris would have received a total of \$3,288,000 in fees from all *Bearings* case settlements. *Id.* When that \$3,288,000 potential total fee award is measured against the actual value of Duane Morris’ time invested in the *Bearings* case—over 7,604 hours valued at \$3,837,696.50—the total lodestar for the *Bearings* case would be 85.6%. *Id.* This 85.6%

¹⁰ The use of current rates is appropriate to compensate counsel for inflation and the delay in receipt of the funds. *Missouri v. Jenkins*, 491 U.S. 274, 282-84 (1989); *see also Pennsylvania v. Delaware Valley Citizens’ Council for Clean Air*, 483 U.S. 711, 716 (1987).

lodestar for all of the *Bearings* case settlements is less than a 1.0 multiplier and well under multipliers as high as 6.0 recognized as appropriate by courts within the Sixth Circuit.

Whether analyzed as a “cross-check” on the percentage-of-the-fund method—or under the lodestar method—the requested fee is reasonable. The requested fee represents 85.6% of the total lodestar for time spent from inception through July 31, 2017. A fee representing a multiplier of less than 1.0 like this one is entirely reasonable and is lower than the multipliers approved in other cases. *See, e.g., Cardinal*, 528 F. Supp. 2d at 767-68 (*approving multiplier of 6*, and observing that “[m]ost courts agree that the typical lodestar multiplier” on a large class action “*ranges from 1.3 to 4.5*”) (emphasis added); *Prandin*, 2015 WL 1396473, at *4 (approving a 3.01 multiplier). The lodestar here is conservative because it does not include the time spent prosecuting this case after July 31, 2017, which includes the preparation of this motion, as well as many settlement administrative tasks.

While the hours worked are substantial, they are reasonable and reflect the challenging nature of the litigation. Defendants are represented by able counsel who have asserted vigorous defenses. Defendants’ efforts have required the Truck and Equipment Dealers to expend considerable effort and skill in prosecuting this case. Given the excellent results achieved, the complexity of the claims and defenses, the real risk of non-recovery, the formidable defense teams, the delay in receipt of payment, and the substantial experience and skill of counsel, the requested multiplier on the lodestar and the resulting fee is reasonable compensation for the work done by counsel for the Truck and Equipment Dealers.

5. The Complexity of the Litigation Supports the Requested Fee.

As the Court is well-aware, “[a]ntitrust class actions are inherently complex” *In re Cardizem*, 218 F.R.D. at 533; *In re Packaged Ice Antitrust Litig.*, 2011 WL 6209188, at *19; *In re Linerboard Antitrust Litig.*, 292 F. Supp. 2d 631, 639 (E.D. Pa. 2003) (“An antitrust class

action is arguably the most complex action to prosecute. The legal and factual issues involved are always numerous and uncertain in outcome.”) (citations and internal quotation marks omitted). This litigation is decidedly complex given the numerous conspiracies and parts involved, the international Defendants, and the sheer magnitude of the conduct and regulatory investigations.

6. Skill and Experience of Counsel.

The skill and experience of counsel on both sides of the litigation is a factor courts consider in determining a reasonable fee award. *In Re Polyurethane Foam Antitrust Litig.*, Case No. 1:10 MD 2196, 2015 WL 1639269 at * 7; *In re Packaged Ice Antitrust Litig.*, 2011 WL 6219188, at *19. The Court has already found Interim Lead Counsel for the Truck and Equipment Dealers to have the requisite skill and experience in class action and antitrust litigation to serve effectively as class counsel for the Truck and Equipment Dealers. *In re Automotive Parts Antitrust Litig.*, Case No. 2:14-cv-14451, ECF No. 119 at 6 (Sept. 15, 2016); *id.*, Case No. 2:15-cv-12050, ECF No. 18 at 8 (Oct. 7, 2016). In assessing this *Ramey* factor, courts also look to the qualifications of the defense counsel opposing the certification of the class. Here, defense counsel are extraordinarily well-qualified and experienced antitrust and class action firms.

CONCLUSION

For the foregoing reasons, Interim Lead Counsel for the Truck and Equipment Dealers respectfully request that the Court grant their Motion and award attorneys’ fees and reimbursement of litigation expenses.

Respectfully submitted,

Dated: August 10, 2017

By: /s/ J. Manly Parks
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*Counsel for Truck and Equipment Dealer
Plaintiff*

CERTIFICATE OF SERVICE

I certify that I served the foregoing Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses on all counsel of record by the Court's ECF system.

Dated: August 10, 2017

/s/ J. Manly Parks
J. Manly Parks

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE: AUTOMOTIVE PARTS ANTITRUST LITIGATION	Master File No. 12-md-02311 Hon. Marianne O. Battani
IN RE: BEARINGS	Case No. 2:14-cv-13356-MOB-MKM Case No. 2:14-cv-00507-MOB-MKM
THIS DOCUMENT RELATES TO TRUCK AND EQUIPMENT DEALER CASES	

**INDEX OF EXHIBITS TO
TRUCK AND EQUIPMENT DEALER PLAINTIFFS' MOTION FOR AN AWARD OF
ATTORNEYS' FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

<u>Exhibit</u>	<u>Description</u>
1	Declaration of William Shotzbarger, Esquire
1-A	Order Regarding Truck and Equipment Dealers' Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards, Case No. 2:14-cv-00507, ECF 60 (April 13, 2017)
1-B	Summary of Time Spent from January 1, 2017 through July 31, 2017
1-C	Summary of Litigation Expenses from January 1, 2017 through July 31, 2017

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE: AUTOMOTIVE PARTS ANTITRUST LITIGATION	:	Master File No. 12-md-02311 Hon. Marianne O. Battani
	:	Case No. 14-cv-00507-MOB-MKM
	:	Case No. 14-cv-13356-MOB-MKM
<hr/> PRODUCT(S)	:	
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IN RE: BEARINGS	:	
	:	
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TRUCK AND EQUIPMENT DEALER CASES	:	
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**DECLARATION OF WILLIAM SHOTZBARGER IN SUPPORT OF TRUCK AND
EQUIPMENT DEALER PLAINTIFFS’ MOTION FOR AN AWARD OF ATTORNEYS’
FEES AND REIMBURSEMENT OF LITIGATION EXPENSES**

I, William Shotzbarger, submit this declaration pursuant to 28 U.S.C. § 1746 and declare as follows:

1. I am an attorney at Duane Morris LLP and submit this declaration in support of the Truck and Equipment Dealer Plaintiffs’ Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses for Duane Morris’ time spent on the *Bearings* case from January 1, 2017 through July 31, 2017. We are Class Counsel appointed by the Court to represent the putative litigation and provisionally-certified settlement classes of Truck and Equipment Dealers in this multi-district litigation (“TED Plaintiffs”).

2. Our firm has worked on this case on a contingent basis and without any guarantee of being paid for its time or being reimbursed for the millions of dollars of time and expenses invested in the pursuit of this case.

3. This is a decidedly complex litigation, a point the Court itself has acknowledged. There are 20 TED Plaintiff class representatives who pursued money damage claims in 29 states and the District of Columbia.¹ There are dozens of different cases pending in this MDL proceeding surrounding different parts (or types of parts) in a bid-rigging and price-fixing conspiracy involving some of the settling Defendants; my firm has advanced claims on behalf of classes of Truck and Equipment Dealers in five different parts cases.

4. Since 2014, my firm has represented the TED Plaintiffs. Many of the Duane Morris attorneys working on this matter have worked nearly full-time on this litigation in various aspects of the following activities (and expect to be involved in similar future activities in connection with other aspects of this MDL proceeding):

- Collecting and synthesizing information from a variety of sources and evidence produced by Defendants;
- Collecting and analyzing information and discovery in the cases with settlements;
- Researching various aspects of the laws of the states under which laws the Complaints assert claims, and drafting and editing the Complaints and amendments thereto;
- Reviewing, selecting, hiring, and consulting with economic and other liability and damages experts;
- Drafting and negotiating key case management documents, protocols, and stipulations;
- Reviewing, analyzing, and translating English and foreign language documents produced by the Defendants;
- Receiving and reviewing cooperation materials from amnesty applicants, and traveling to and attending in-person attorney and witness proffers from amnesty applicants;
- Drafting, preparing for, and arguing discovery motions and oppositions to discovery motions;
- Negotiating discovery issues with defense counsel including numerous meet and confer sessions;
- Preparing correspondence with respect to timing, stipulations, and case planning issues;

¹ Nine class representative Plaintiffs were dismissed by stipulation on November 8, 2016, but they participated as class representatives up until that time.

- Obtaining and analyzing documents and data from the class representatives, including multiple telephone conferences;
- Locating, reviewing, and producing of over 870,000 pages of documents from the class representatives;
- Participating in telephone conferences and meetings to help formulate OEM subpoenas and discovery from third-parties;
- Preparing/coordinating service of in excess of 50 OEM subpoenas throughout the United States;
- Preparing for, traveling to, and attending more than 100 days of depositions of Defendants and Defendant witnesses throughout the United States;
- Preparing a witness for, and traveling to, attending, and defending the deposition of a corporate representative of Rush Enterprises, Inc.;
- Responding to scores of discovery emails from Defendants demanding discovery;
- Participating in numerous telephone calls with Defendants regarding discovery and motion practice before the Special Master and appeals to Judge Battani;
- Traveling to and attending many MDL status conferences;
- Performing all the tasks necessary to reach these settlements, including assessing the potential value of claims and risks associated with continued pursuit of those claims, formulating demands, negotiating, preparing, reviewing, and revising various drafts of settlement agreements, preparing, reviewing, and revising various drafts of escrow agreements;
- Communicating and negotiating with an escrow agent;
- Communicating and negotiating with a settlement administrator;
- Drafting preliminary approval motions;
- Receiving cooperation materials from settling Defendants disclosing the details of the conspiracies, and reviewing and analyzing cooperation materials from settling Defendants; and
- Drafting settlement notices, developing claim forms, and preparing other settlement-related documents and consulting with the claims administrator regarding those materials.

5. Defendants asked the class representative TED Plaintiffs to produce documents for a 17-year period, including: (1) all documents or data referring, or relating to any actual or potential term of every new vehicle-related transaction, including thousands of hard copy “deal files”; (2) information regarding any and all costs incurred in connection with their businesses; (3) financing and insurance details; (4) what and how they paid their sales employees; (5) every negotiation for every one of the tens of thousands of vehicles sold by the class representatives

during the period in question; (6) sales and margin targets; (7) inventory management documents including but not limited to, business guidelines, handbooks, strategy presentations, and planning presentations; and (8) salesperson training materials. Defendants have sought documents and data located at all locations where the class representatives did business during the period in question, as well as hard copy documents located at every such location (including in storage at off-site locations). Counsel for the TED Plaintiffs have had to negotiate these demands with Defendants and have brought and opposed discovery motions.

6. Defendants have also sought electronic data from the class representative TED Plaintiffs, including hundreds of fields of electronic data from sales and inventory databases and electronic files reflecting years of finance and insurance related data.

7. The class representative TED Plaintiffs have met with and communicated through their in-house counsel with their lawyers countless times over the course of this litigation and have actively participated in the litigation. They have opened their business records and files, provided access to documents and data, have provided over 870,000 pages of documents that have been produced to-date, have turned over highly sensitive business information, and have offered up a senior sales employee of their corporate parent for deposition. In addition, the class representatives will continue to incur significant burden as litigation and discovery proceeds in the other parts cases, including producing significant numbers of additional documents and submitting to depositions.

8. The Court has before it settlements totaling over \$4.7 million² for the benefit of eligible TED Plaintiffs. The settlements were reached after litigation was well underway and

² The \$4,745,000 total settlement amount reflects the \$1,100,000 settlement payment from SKF USA Inc., the \$475,000 settlement payment from the Nachi Defendants, and a \$3,170,000 *net* settlement payment from the NSK Defendants after deduction of \$90,000 pursuant to the most-

were negotiated by experienced counsel on both sides. The settlements were reached through lengthy negotiations of the parties, some of which took many months and involved many communications and numerous rounds of negotiation. In each case before the Court, counsel on both sides received and reviewed with the help of experts, transactional data, documents produced in discovery, and developed a robust understanding of the claims and defenses.

9. The Court is well-versed with the complexity of this litigation. For the *Bearings* case at issue in these settlements, counsel for the TED Plaintiffs have dedicated roughly 7,604 hours total in the case (and 1,938 hours in the case from January 1, 2017 through July 31, 2017).

10. My firm maintained its time and expense records, when possible, on a per-case basis for tasks that related specifically to a particular case. Work done to specifically analyze the damage caused in a specific case was charged to that case.

11. Duane Morris has served as sole counsel for the TED Plaintiffs throughout this proceeding and has invested substantial time on this litigation that could have been spent working on other lucrative matters. Duane Morris has invested this time for approximately three years.

12. We have previously submitted a Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses on February 22, 2017 and were awarded the amount of \$1,809,000.00 for Attorneys' Fees and the amount of \$697,822.26 for Litigation Expenses on the *Bearings* case. The motion was granted on April 13, 2017. *See* Order in Case No. 14-00507, Doc 60, attached to this Declaration as Exhibit 1-A.

favored nation provision in TED Plaintiffs' Settlement Agreement with the JTEKT Defendants. *See* TED Plaintiffs' First Round Mot. for Preliminary Approval, Case No. 14-cv-00507, ECF No. 44 at 6, n.2; JTEKT Settlement Agmt. ¶ 42, Case No. 14-cv-00507, ECF No. 44-3 at 28-29; *see also* Order Granting Motion to Revise the SKF USA Inc. Notice and Final Approval Schedule, Case No. 2:14-cv-13356, ECF No. 78 at 17-18.

13. Attached to this Declaration as Exhibit 1-B is a summary of the time spent by Duane Morris attorneys and professional staff who have been involved in the *Bearings* case from January 1, 2017 through July 31, 2017. The summary was prepared at my request from contemporaneous, daily time records regularly prepared and maintained by Duane Morris. The hourly rates for the attorneys and professional staff reflected in Exhibit 1-B are the usual customary hourly rates charged by Duane Morris in similar complex class action matters from January 1, 2017 through July 31, 2017 and are in line with rates approved by other courts for work by Duane Morris attorneys in similar matters. This time is in addition to the time spent by Duane Morris attorneys and professional staff set forth in our Motion for an Award of Attorneys' Fees and Reimbursement of Litigation Expenses on February 22, 2017. All told, counsel for the TED Plaintiffs have dedicated roughly 7,604 hours total in the case with a total time value of \$3,837,696.50.

14. Duane Morris, as Counsel for the TED Plaintiffs, has also invested approximately \$219,122.77 of its own money to pay for litigation expenses in this case from January 1, 2017 through July 31, 2017. (*See* attached to this declaration as Exhibit 1-C a summary of \$219,122.77 spent by Duane Morris toward litigation expenses from January 1, 2017 through July 31, 2017.) These out of pocket payments are above and beyond the out of pocket payments of \$697,822.00 for which Duane Morris was previously reimbursed in connection with the first set of *Bearings* case settlements. These new out-of-pocket case-related costs included experts, document review and hosting for the millions of pages of documents produced in these cases, travel to court hearings, conferences, depositions, proffers, and other meetings, translations of extensive numbers of documents, compensation of interpreters for depositions, payment of court reporters and videographers for deposition services, and other reasonable and typical litigation

expenses. Duane Morris incurred these expenses in these cases without any guarantee of recovery and should be reimbursed from the settlement funds.

15. The time period of January 1, 2017 through July 31, 2017 was an *extremely* busy time in the *Bearings* case (and the *Auto Parts* cases in general). Specifically, from January 1, 2017 until we reached a settlement in principle with the last *Bearings* defendant in late March 2017, at least 63 depositions were scheduled in *Bearings*. Out of those 63 depositions, Duane Morris attorneys attended 40 of them. These depositions were almost all more than one day commitments in accordance with the *Bearings* Deposition Protocol. For example, my colleague Manly Parks and I traveled back and forth from Philadelphia, Pennsylvania to Seattle, Washington three weeks in a row for separate two-day *Bearings* Depositions from February 2, 2107 to February 18, 2017. Meanwhile, the rest of our Duane Morris team was traveling to and covering depositions in San Francisco, California, Ann Arbor, Michigan, New York, New York, and when appropriate, attending depositions by telephone rather than in person. In addition to time spent traveling and participating in these depositions, there was a significant amount of coordinating and preparing for these depositions with the three other Plaintiffs groups.

16. The expenses for the development, implementation, and delivery of the notice plan for the settlements before the Court and the administration of claims (if the settlements are granted final approval) are limited by the settlement agreements to approximately \$290,000. To the extent that the costs of notice and administration of claims do not reach \$290,000, all remaining funds will be returned to the settlement fund for allocation to the class members.

17. The expenses paid or to be paid to the escrow agent for accepting, holding, and distributing the settlement funds pursuant to the settlement agreements before the Court are projected to be \$18,000.

18. Duane Morris, as counsel for TED Plaintiffs, respectfully requests that it receive a fee award equal to one-third of the settlements presently before the court for final approval, after backing out the cost of the escrow agent and class notice and claims administration. That calculation is: $(\$4,745,000 - \$290,000 - \$18,000) / 3 = \$1,479,000$.

19. When the \$1,479,000 fee award requested is added to the attorneys' fees previously awarded to Duane Morris by this Court from the first set of *Bearings* settlements, \$1,809,000, Duane Morris would have received a total of \$3,288,000 in fees from all *Bearings* case settlements.

20. When that \$3,288,000 potential total fee award is measured against the actual value of Duane Morris' time invested in the *Bearings* case—over 7,604 hours valued at \$3,837,696.50—the total lodestar for the *Bearings* case would only be 85.6%. This 85.6% lodestar for all of the *Bearings* case settlements is less than a 1.0 multiplier and well under multipliers as high as 6.0 recognized by courts within the Sixth Circuit.

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

Executed on the 10th day of August, 2017 at Philadelphia, Pennsylvania.



William Shotzberger
Duane Morris LLP

EXHIBIT 1-A

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE: AUTOMOTIVE PARTS
ANTITRUST LITIGATION

Master File No. 12-md-02311
Hon. Marianne O. Battani

IN RE: BEARINGS

Case No. 2:14-cv-13356-MOB-MKM
Case No. 2:14-cv-00507-MOB-MKM

THIS DOCUMENT RELATES TO
TRUCK AND EQUIPMENT DEALER
CASES

**ORDER REGARDING TRUCK AND EQUIPMENT DEALERS' MOTION FOR
AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF LITIGATION
EXPENSES, AND SERVICE AWARDS**

The above matter came before the Court on the Truck and Equipment Dealers' motion for an award of attorneys' fees, reimbursement of litigation expenses, and service awards.

The Court has reviewed the memorandum submitted by the Truck and Equipment Dealers in support of their motion seeking an award of attorneys' fees, reimbursement of litigation expenses, and the issuance of service awards. The Court has also reviewed the various declarations and submission relating to that motion and held a hearing on March 22, 2017.

Based on the record and proceedings before the Court, it is hereby **ORDERED:**

1. The Court has considered the relevant case law and authority and finds that awards of attorneys' fees and reimbursement of expenses to the Truck and Equipment Dealers and their counsel are appropriate under Fed. R. Civ. P. 23(h) and Fed. R. Civ. P. 54(d)(2).
2. The Court engages in a two-part analysis when assessing the reasonableness of a petition seeking an award of attorneys' fees. *In re Cardinal health Inc. Sec. Litig.*, 528 F. Supp. 2d 752, 760 (S.D. Ohio 2007). The Court first determines the method of calculating the attorneys' fees:

it applies either the percentage of the fund approach or the lodestar method. *Id.*; *Van Horn v. Nationwide Prop. and Cas. Inc. Co.*, 436 F. App'x 496, 498 (6th Cir. 2011).

3. The Court has the discretion to select the appropriate method for calculating attorneys' fees "in light of the unique characteristics of class actions in general, and of the unique circumstances of the actual cases before them." *Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993). In common fund cases, the award of attorneys' fees need only "be reasonable under the circumstances." *Id.*, 9 F.3d at 516. The Court has also analyzed and weighed the six factors described in *Ramey v. Cincinnati Enquirer, Inc.*, 508 F.2d 1188 (6th Cir. 1974).

4. The Court will award fees to the Truck and Equipment Dealers using the percentage-of-the-fund approach. This method of awarding attorneys' fees is preferred in this district because it eliminates disputes about the reasonableness of rates and hours, conserves judicial resources, and aligns the interests of class counsel and the class members. *Rawlings*, 9 F.3d at 515; *Shane Group, Inc. v. Blue Cross Blue Shield of Michigan*, No. 10-cv-14360, 2015 WL 1498888 at* 15 (E.D. Mich. March 31, 2015); *In re Packaged Ice Antitrust Litig.*, 08-MDL-01952, 2011 WL 6209188, at *16 (E.D. Mich. Dec. 13, 2011); *In re Delphi Corp. Sec. Derivative & ERISA Litig.*, 248 F.R.D. 483, 502 (E.D. Mich. 2008); *Cardinal*, 528 F. Supp. 2d at 762 (the Sixth Circuit has "explicitly approved the percentage approach in common fund cases."); *In re Skelaxin (Metaxalone) Antitrust Litig.*, 2014 WL 2946459, *1 (E.D. Tenn. Jun. 30, 2014).

5. The Court **GRANTS** the Truck and Equipment Dealers' request for reimbursement of past litigation expenses in the amount of \$697,822.26. The past litigation expenses incurred in specific parts cases involved in these settlements, as set forth in the declaration submitted by counsel for the Truck and Equipment Dealers, shall be deducted from the settlement funds

available in those cases. The past litigation expenses incurred in the general prosecution of the cases with settlements currently before the Court shall be reimbursed on a pro rata basis from each of the settlements.

6. The Court authorizes class counsel for the Truck and Equipment Dealers to pay the costs of the accepting, holding, and distribution of settlement funds by the escrow agent (being handled by U.S. Bank) from the settlement funds in accordance with the fee schedule set forth in the Escrow Agreements up to a maximum amount of \$18,000.00.

7. The Court authorizes class counsel for the Truck and Equipment Dealers to pay the costs of the settlement notice and claims administration (being handled by RG/2 Claims Administration) from the settlement funds in accordance with the provisions of the Settlement Agreements up to a maximum amount of \$300,000.00.

8. Counsel for the Truck and Equipment Dealers request a fee award of one-third of the settlement funds remaining after the cost of escrow and class notice and claim administration have been deducted. The award requested is within the range of fee awards made by courts in this Circuit. *In re Prandin Direct Purchaser Antitrust Litig.*, 2015 WL 1396473 (E.D. Mich. Jan. 20, 2015) (awarding one-third of the fund); *In re Packaged Ice Antitrust Litig.*, 2011 WL 6209188, at *19; *Skelaxin*, 2014 WL 2946459, at *1; *In re Southeastern Milk Antitrust Litig.*, 2013 WL 2155387, at *8 (E.D. Tenn. May 17, 2013); *Thacker v. Chesapeake Appalachia, L.L.C.*, 695 F. Supp. 2d, 521, 528 (E.D. Ky. 2010); *Bessey v. Packer/and Plainwell, Inc.*, No. 4:06-CV-95, 2007 WL 3173972, at *4 (W.O. Mich. 2007); *Delphi*, 248 F.R.D. at 502-03; *In re National Century Financial Enterprises, Inc. Investment Litig.*, 2009 WL 1473975 (S.D. Ohio, May 27, 2009); *Kogan v. AIM CO Pox Chase, L.P.*, 193 F.R.D. 496, 503 (E.D. Mich. 2000).

9. The Court has considered the six *Ramey* factors in weighing a fee award to counsel for the Truck and Equipment Dealers: (1) the value of the benefits rendered to the class; (2) society's stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others; (3) whether the services were undertaken on a contingent fee basis; (4) the value of the services on an hourly basis [the lodestar cross-check]; (5) the complexity of the litigation; and (6) the professional skill and standing of counsel on both sides. 508 F.2d at 1194-97.

10. The *Ramey* factors and a cross-check of the lodestar incurred by counsel for the Truck and Equipment Dealers indicate that the fee requested constitutes fair and reasonable compensation for the work done and the benefits achieved for the members of the settlement classes. The fee requested represents just 65% of the current lodestar, so the lodestar multiplier is currently a negative number and is entirely reasonable.

11. The Court **GRANTS** an award of attorneys' fees to counsel for the Truck and Equipment Dealers in the amount of one-third of the net settlement funds available after the deduction of: (1) the cost of the settlement notice and claims administration; and (2) the costs associated with escrow referenced above. These attorneys' fees, totaling \$1,809,000.00, shall be paid on a pro rata basis from the net settlement funds available for each settlement currently before the Court.

12. The Court finds that the class representatives are deserving of service awards in view of the time and effort they have invested in furtherance of these cases and the burden and inconvenience visited upon them as a result of their involvement in the cases and hereby **AWARDS** each distinct class representative named in the operative Complaints in the cases listed above a service award of \$5,000.00 for their effort and service to the members of the settlement classes in bringing these cases and helping move the cases to settlements that benefit

the absent settlement class members. These awards shall be paid on a pro rata basis from the settlements currently before the Court.

Date: April 13, 2017

s/Marianne O. Battani
MARIANNE O. BATTANI
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court's ECF System to their respective email addresses or First Class U.S. mail to the non-ECF participants on April 13, 2017.

s/ Kay Doaks
Case Manager

EXHIBIT 1-B

**IN RE: AUTOMOTIVE PARTS ANTITRUST LITIGATION
IN RE: BEARINGS TIME REPORT**

Firm Name: Duane Morris LLP

Reporting Period: January 1, 2017 – July 31, 2017

PROFESSIONAL	STATUS	TOTAL HOURS	CURRENT HOURLY RATE	TOTAL
Wayne A. Mack	P	171.60	\$990.00	\$169,884.00
J. Manly Parks	P	415.70	\$750.00	\$311,775.00
Sean McConnell	A	318.60	\$555.00	\$176,823.00
Robyn Stoter	A	22.60	\$555.00	\$12,543.00
Andrew Sperl	A	46.40	\$450.00	\$20,880.00
Kevin Potere	A	1.30	\$550.00	\$715.00
Erica Fruiterman	A	271.10	\$400.00	\$108,440.00
William Shotzbarger	A	399.60	\$355.00	\$141,858.00
Andrea Stein	PL	224.30	\$395.00	\$88,598.50
Joanne Helmich	PL	59.10	\$245.00	\$14,479.50
Vivian Funchion	PM	7.60	\$300.00	\$2,280.00
Christopher Santo	PM	.10	\$300	\$30.00
TOTALS		1,938		\$1,048,306.00

P= Partner

A=Associate

PL=Paralegal

PM= Project Manager (Litigation Support)

EXHIBIT 1-C

**IN RE: AUTOMOTIVE PARTS ANTITRUST LITIGATION
IN RE: BEARINGS LITIGATION EXPENSE REPORT**

Firm Name: Duane Morris LLP

Reporting Period: January 1, 2017 – July 31, 2017

EXPENSE	AMOUNT
Arbitrators/Mediators	\$2008.33
Deposition/Court Transcripts	\$4,523.35
Experts	\$53,664.00
Litigation/Forensic Support Vendors (Epiq)	\$47,615.81
Travel/Meals/Meetings	\$33,664.26
Telephone/Fax Expenses	\$163.80
Overnight Mail Service (Federal Express, UPS, etc.)	\$378.97
Translation Services	\$56,856.30
In-House Photocopying	\$1108.24
On-line Research (West Law/Lexis/Pacer/Industry Data)	\$4159.60
Subpoena Services/Third Party Documents	\$14,980.11
TOTAL EXPENSES	\$219,122.77