

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

<b>WARREN BURCH, JAMES BODLEY, KYLE MATSON, RONALD McCALLUM,</b>	§	<b>Civil Action File No.</b>
	§	<b>1:17-cv-00018</b>
	§	
<b>Plaintiffs,</b>	§	
	§	
<b>v.</b>	§	<b>Hon. Paul L. Maloney</b>
	§	
<b>WHIRLPOOL CORPORATION,</b>	§	
	§	
<b>Defendant.</b>	§	
	§	

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**PLAINTIFFS’ SUPPLEMENTAL MOTION FOR APPROVAL OF SERVICE  
AWARDS, AWARD OF ATTORNEYS’ FEES AND REQUEST FOR  
REIMBURSEMENT OF LITIGATION EXPENSES AND BRIEF IN SUPPORT  
THEREOF**

COMES NOW JAMES BODLEY, KYLE MATSON and RONALD MCCALLUM (“Plaintiffs”) and Class Counsel N. Scott Carpenter and Rebecca Bell-Stanton of Carpenter & Schumacher, P.C., files this Application for Class Representative Service Awards, Attorneys Fees and Expenses and Memorandum in Support of such Application, respectfully requesting this Honorable Court’s Order approving payment of the requested awards, attorneys’ fees and expenses for the successful work done and outstanding result obtained in this case.

Class counsel has succeeded in obtaining cash benefits for aggrieved consumers, establishment of a defined replacement program at no cost to the product owner, and additional non-cash warranty extension benefits affecting hundreds of thousands of tank product (the “Settlement”) for the benefit of the Class in settlement of the above-captioned action (the “Action”); therefore, in support of this Motion, Plaintiffs respectfully submit that the requested attorneys’ fees and reimbursement of costs and expenses are fair and reasonable and should, therefore, be awarded:

## I. INTRODUCTION

The proposed Settlement, which provides for monetary payments coupled with election opportunities for rebate recovery in exchange for the resolution of the Action, is an excellent result for the Settlement Class. In undertaking this litigation, counsel faced numerous challenges to establishing liability, loss causation and damages. The risk of losing was real, and it was greatly enhanced by the fact that Class Counsel would be litigating against a well-financed corporate defendant, represented by highly skilled defense counsel. There was, therefore, an exceptionally strong possibility that the case would yield little or no recovery after many years of costly litigation. Despite these risks, Class Counsel undertook this Action on a fully contingent basis. The only guarantees were that the case would be complex and hard-fought, and that Class Counsel would receive nothing if they lost.

Plaintiffs allege that certain Whirlpool-manufactured dishwashers are defective in that the plastic axel used in the upper rack adjusters becomes brittle when exposed to repeated high temperature wash cycles and can break, causing the dishrack to disconnect from the rail and collapse. (*Burch* ECF No. 13; *Bodley* ECF No. 73.) Plaintiffs contend that they and other similarly situated consumers incurred out-of-pocket costs in purchasing replacement rack adjusters in an attempt to fix the problem with their dishwashers. (*Id.*) Whirlpool contests these allegations.

### A. The “Bodley” Lawsuit<sup>1</sup>

This case was originally filed in the United States District Court, Northern District of California Case No. 3:17-cv-05436. On September 19, 2017, Plaintiffs James Bodley and Kyle

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<sup>1</sup> In *Bodley*, Plaintiffs alleges numerous causes of action unique to California: UCL, CLRA, and breach of express and implied warranty under the Song-Beverly Consumer Warranty Act (“Song-Beverly Act”). Plaintiffs further alleged Texas-specific consumer claims under the Deceptive Trade Practices Act (“DTPA”). Plaintiffs also made claims for breach of express and implied warranty under the Magnuson-Moss Warranty Act and fraudulent concealment.

Matson filed their action against Whirlpool in the Northern District of California. (*Bodley* ECF No. 1.) The first motion to dismiss was filed October 16, 2017 (*Bodley* ECF 10); Plaintiffs Bodley and Matson thereafter filed their First Amended Complaint on November 6, 2017. (*Bodley* ECF No. 24.) On December 15, 2017, Whirlpool moved to dismiss, stay, or transfer the *Bodley* action to this Court in light of the separate *Burch* class action that had previously been filed in this Court. (*Bodley* ECF No. 34.). In addition to the extensive briefing by all parties relating to Whirlpool's Motion to Dismiss, Stay, or Transfer the action, the parties conferred and complied with federal and local rules pertaining to required disclosures under Federal Rule of Civil Procedure 26, submissions regarding ADR elections, and began discussing the timing of potential dispute resolution efforts.<sup>2</sup>

On May 24, 2018, the *Bodley* action was transferred to United States District Court, Western District of Michigan Southern Division and subsequently re-assigned to this Court on May 28, 2018. (*Bodley* ECF Nos. 54 & 55.). On August 9, 2018, Plaintiffs Bodley and Mason filed their Second Amended Complaint, adding another named Plaintiff, Ronald McCallum. (*Bodley* ECF No. 73.) In response, Whirlpool filed a Motion to Dismiss and a Motion for Partial Summary Judgment. (*Bodley* ECF Nos. 77 & 81.) On January 15, 2019, the parties in the *Bodley* action requested a temporary stay on responsive briefing and consideration of Whirlpool's motions in light of the parties' continued negotiation efforts to settle both the *Burch* and *Bodley* actions, which the Court granted. (*Bodley* ECF No. 90.)

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<sup>2</sup> The *Bodley* plaintiffs were unaware of the settlement discussions occurring in the *Burch* action until the docket entry requesting a stay of proceedings in the *Burch* action in light of such discussions. After the transfer of the *Bodley* action to this District, counsel for the *Burch* case reached out to include the *Bodley* plaintiffs and their pleaded claims in the settlement discussion. Class counsel were thereafter included in the substantive settlement discussions.

Delays in finalizing the Settlement Terms thereafter required Class Counsel's engagement in extensive research and briefing to address the pending dispositive summary judgment motion as to Plaintiff McCallum and the dispositive motion to dismiss – on February 28, 2019, Whirlpool filed its Notice of Withdrawal of the Motion to Dismiss and Motion for Partial Summary Judgment one day prior to the deadline for responsive papers. [*Bodley* ECF 92].

B. Negotiations, Settlement, and Consolidation

The *Bodley* action alone involved three motions to dismiss, a motion to transfer or alternatively stay the litigation, a motion for partial summary judgment, voluminous document review, and extensive negotiations with the involvement of a highly experienced and respected mediator. As described in greater detail in Plaintiffs' Application filed by Lead Class Counsel [ECF 46], the Settlement addresses the objectives of the litigation and provides relief to nearly 800,000 consumers nationwide.<sup>3</sup> These benefits to the Class could not have been achieved absent Class Counsel's time, effort, and skill, as well as Plaintiffs' active participation in the litigation.

Under the terms of the Settlement, Whirlpool has agreed to pay these attorneys' fees, litigation expenses, and service awards separately from, and in addition to, any amounts or benefits paid to Class Members. (*Settlement Agreement*). Therefore, these amounts will not reduce the amount of benefits available to Class Members. More specifically, Whirlpool has agreed not to oppose the *Bodley* request of \$2500 in service awards to class representatives or an amount not to exceed \$400,000 for fees and expenses to Class Counsel N. Scott Carpenter or Rebecca Bell-Stanton of Carpenter & Schumacher.

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<sup>3</sup> As discussed in Plaintiff's preliminary approval papers, the Settlement provides substantial class relief tethered to the consumer's damages, including 100% cash reimbursement of repair costs incurred, cash payments ranging from \$15 to \$90, free repairs, and/or rebates ranging from 10% to 30% on the purchase of certain new Kitchen-Aid appliances.

## **AUTHORITY AND ANALYSIS**

The Settlement was the result of extensive motion practice, more than a thousand expended hours, document review, and protracted settlement negotiations conducted at arms' length, all occurring with significant risk to the putative class and Class Counsel.<sup>4</sup> The entirety of the briefing and evidentiary support already submitted regarding the settlement result and the reasonableness of the requested fees is incorporated herein by reference. [ECF 46].

### **I. THE COURT SHOULD APPROVE THE SERVICE AWARD OF \$2500 FOR EACH CLASS REPRESENTATIVE**

Service or incentive payments recognize the time, effort and risks class representatives undertake on behalf of a class. In addition to compensating them for their time, effort, and inconvenience, service awards advance public policy by encouraging individuals to come forward and act to protect the rights of the class. Whirlpool has agreed to pay, subject to Court approval, service awards of \$2,500 to each of the named Plaintiffs, who are representing the Class in the Settlement, for their time and efforts on behalf of the Class.

The service payments sought under the settlement reflect the efforts by the class representatives in gathering and communicating information to counsel and acting as the public face of the litigation. The class representatives assisted with the investigation and preparation of this litigation, gathered documents, participated in the requirements under the CRCLA, UCL and DTPA as precursors to suit, stood ready to appear for deposition and trial, reviewed

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<sup>4</sup> LR CV-7(a)(2) instructs that non-dispositive motions shall not exceed ten pages, excluding attachments. In lieu of seeking additional pages to discuss the background of this litigation in great detail, these Plaintiffs refer to and incorporate the Joint Motion for Preliminary Approval, its exhibits, the Motion and Memorandum filed by Lead Class Counsel [ECF.46], its attachments, and the Declarations attached hereto and incorporated in this Application to avoid needless repetition.

pleadings and correspondence, and assisted counsel in resolving this litigation inclusive of review of the settlement terms as signatories to same. [APPX --]. They stayed abreast of the litigation and performed a valuable service to class members and the public in obtaining the Settlement on behalf of the Class. The named Plaintiffs' efforts warrant the \$2,500 incentive awards requested here. The amount is proportional to Plaintiffs' participation in the litigation and falls within the range of service awards routinely approved in this Circuit. *See, e.g., Griffin v. Flagstar Bancorp, Inc.*, 2013 WL 6511860 (E.D.Mich. December 12, 2013) (finding \$5,000 awards to the two (2) class representatives reasonable); *American Copper & Brass, Inc. v. Lake City Indust.*, 2016 WL 6272094 (W.D.Mich. March 1, 2016) (awarding named plaintiff an incentive fee of \$10,000). The agreed service awards of \$2,500 are well-deserved and Class Counsel respectfully requests that the Court approve same.

**II. CLASS COUNSEL'S ATTORNEYS' FEES, EXPENSES AND COSTS ARE REASONABLE AND CONSISTENT WITH THIS DISTRICT AND SIXTH CIRCUIT PRECEDENT.**

Rule 23(h) of the Federal Rules of Civil Procedure states that, “[i]n a certified class action, the court may award reasonable attorney’s fees and non-taxable costs that are authorized by law or by the parties’ agreement.” FED. R. CIV. P. 23(h). The Parties negotiated a maximum amount for court costs, non-taxable costs, and expenses, which the Court has wide discretion to accept. As set forth herein and in the Declarations provided by Class Counsel, the requested attorneys’ fees are fair and reasonable under the applicable standards and should be awarded by the Court. The costs and expenses requested by Lead Plaintiff and its counsel are likewise reasonable in amount, and they were necessarily incurred in the successful prosecution of the Action.<sup>5</sup> Accordingly, they too should be approved.

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<sup>5</sup> Again, the attachments to this Motion are a core portion of this submission as is the substantive briefing submitted by Plaintiffs and Lead Class Counsel [ECF 46] which are incorporated into this Application by reference along with the attachments to same. Class Counsel respectfully refer the Court to those materials for a detailed description of the factual and procedural history of the litigation, the claims asserted, the thorough and efficient work Class Counsel performed, the settlement negotiations, and the risks and

**A. Standard of Review and Scope of Consideration**

“An award of attorneys’ fees is entrusted to the ‘sound discretion’ of the district court.” In reviewing the reasonableness of the requested award, the Sixth Circuit requires district courts to consider six factors, known as the *Ramey* factors:

- (1) the value of the benefit rendered to the plaintiff class; (2) the value of the services on an hourly basis [the lodestar cross-check]; (3) whether the services were undertaken on a contingent fee basis; (4) society’s stake in rewarding attorneys who produce such benefits in order to maintain an incentive to others; (5) the complexity of the litigation; and (6) the professional skill and standing of counsel involved on both sides.

*Ramey v. Cincinnati Enquirer, Inc.*, 508 F.2d 1188, 1194-97 (6th Cir. 1974); *Swigart*, 2014 WL 3447947, at \*6. These factors support an award of the requested attorneys’ fees.

The significant authority and argumentation already submitted by the Plaintiffs [ECF 46], and the evidentiary attachments to same, are applicable to this separate supplementation. As further detailed in the accompanying Declarations,<sup>6</sup> Class Counsel vigorously pursued this litigation from its outset by, among other things:

- (a) conducting a wide-ranging review and analysis of Whirlpool (the “Company”) and the allegedly fraudulent misrepresentations and omissions concerning Whirlpool’s product warranty and recall liabilities, internal controls and commitment to safety;
- (b) engaging in rigorous factual and legal research, including the review of publicly available information published by and concerning Whirlpool Technical Bulletins, prior dishwasher recalls and related litigation, corporate history,

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uncertainties presented in this litigation.

<sup>6</sup> The Declarations of N. Scott Carpenter and Rebecca Bell-Stanton in Support of the Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (the “Carpenter Decl.” and “Bell-Stanton Decl.” respectively) are an integral part of this submission. For the sake of brevity in this memorandum, the Court is respectfully referred to these Declarations for a detailed description of, *inter alia*: the history of the Action; the efforts involved in the drafting of the Complaint; the nature of the claims asserted; the negotiations leading to the Settlement; the risks and uncertainties of continued litigation; and a description of the services Class Counsel provided for the benefit of the Settlement Class. Additionally, the detail provided by Lead Counsel’s Motion and Memorandum [ECF 46] is incorporated into this Application and Memorandum.

- applicable pleading and other standards in the Ninth Circuit (for original filing), applicable pleading and other standards in the Sixth Circuit (after transfer) and interviews and meetings with numerous potential clients and the Named Plaintiffs and other knowledgeable persons;
- (c) drafting the Class Action Complaint (the “Complaint”);
  - (d) researching the first motion to dismiss;
  - (e) drafting the First Amended Complaint;
  - (f) researching, drafting, and opposing Whirlpool’s second motion to dismiss and motion to transfer;
  - (g) drafting the Second Amended Complaint after transfer;
  - (h) researching and drafting opposition to Whirlpool’s third motion to dismiss;
  - (i) researching and drafting opposition to Whirlpool’s motion for partial summary judgment;
  - (j) consulting with various engineering experts and consultants;
  - (k) engaging in confirmatory discovery that included the review, analysis and coding of over 1000 pages of documents in a period of only two months; and
  - (l) negotiating with Defendants on an arm’s-length basis to resolve the Action.

When “awarding attorney’s fees in a class action, a court must make sure that counsel is fairly compensated for the amount of work done, as well as for the results achieved.” *Gascho v. Global Fitness Holdings, LLC*, 822 F.3d 269, 279 (6th Cir. 2016) (quoting *Rawlings v. Prudential-Bache Props., Inc.*, 9 F.3d 513, 516 (6th Cir. 1993)).

The briefing already submitted by Plaintiffs extensively discusses the relevant authority pertaining to both the lodestar method and percentage method of assessing reasonable attorney fees. To the extent this Court chooses to employ the percentage method in the manner described and requested in such filing [ECF 46] there should be little contention that the fees requested by Carpenter & Schumacher, P.C. fail to meet the analysis. Ultimately, whether used as a

“cross-check” or as the basis for the fee, Plaintiffs’ counsel’s billing documentation more than justifies the reduced award requested.

**B. Fees Under the “Lodestar Method” Are Justified**

The Sixth Circuit has granted trial courts the discretion to utilize either the lodestar or the percentage-of-the-fund method when awarding attorney fees. *Rawlings v. Prudential-Bache Props., Inc.*, 9 F.3d 513, 516 (6th Cir. 1993). The award sought here is based on Class Counsel’s lodestar, which is determined by multiplying the number of hours reasonably expended on the litigation by the timekeeper’s hourly rate.<sup>7</sup> *See Hensley v. Eckerhart*, 461 U.S. 424, 447-49 (1983); [A; B]. The Fifth Circuit described the “lodestar method” as the “most useful starting point for determining the amount of a reasonable fee.” *Rappaport v. State Farm Lloyds*, 2001 WL 1467357, at \*3 (5th Cir. 2001) (per curiam) (quoting *Hensley*, 461 U.S. at 433 (1983)).

With the lodestar method, “the listing of hours spent and rates charged provides greater accountability...[and] also encourages lawyers to assess the marginal value of continuing work on the case, since the method is tied to hours and rates, and not simply a percentage of the resulting recovery.” *Rawlings*, 9 F.3d at 516-517. Class Counsel tracked and calculated the base lodestar of their attorneys and professional support staff in representing Plaintiffs. [A; B]. Counsel was vigilant in the preparation of time reports representing the actual time spent on the case, and assignments were coordinated in such a way so that all time spent on the case was necessary. Additionally, the hourly rates charged are well justified by the firm’s expertise in this type of litigation, reflect the same billing rate charged by Class Counsel in other matters, and are appropriate in this action. [A; B].

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<sup>7</sup> It bears noting again that the fee award, recoupment of expenses, and service awards in this matter are separate from Defendant’s obligations to provide class members the negotiated benefits.

The amount of time a lawyer decides to devote to various tasks in complex litigation is necessarily the product of highly selective judgment-involving questions of strategy and tactics unique to that case-and is ill-suited to hindsight evaluation. *Grant v. Martinez*, 973 F.2d 96, 99 (2d Cir. 1992) (“The relevant issue \* \* \* is not whether hindsight vindicates an attorney’s time expenditures, but whether, at the time the work was performed, a reasonable attorney would have engaged in similar time expenditures.”), *cert. denied*, 506 U.S. 1053 (1993). Only a portion of the extensive work in this case is reflected in the Court’s one-hundred docket entries tracing the events in this cause. The efforts of Class Counsel have not wavered despite nearly two years passing and the significant investment and risk, and the strength of the Settlement on behalf of Class Members reflects time well-spent. Class Counsel continually exercised billing judgment and acted to reduce the hours billed by avoiding duplicative work and worked collaboratively and efficiently. [APPX B]. Assignments were made in a coordinated manner to allocate work to attorneys and professional staff whose talents best fit the tasks. *Id.* This includes the work performed by Co-Counsel David Birka-White and his law firm in California during the pendency of this matter in the California federal courts. In sum, Class Counsel remained sensitive to and worked diligently in avoiding unnecessary duplication of time, effort, and expense. *Id.* The billing documentation reflects a reasonable and controlled number of hours spent by timekeepers with the appropriate levels of experience to accomplish the assigned tasks. The lodestar of Class Counsel is already significantly greater than the amount capped by the Settlement Agreement, and Plaintiffs respectfully request this Court consider same in its Order.

So long as the time expended by counsel in prosecuting the litigation reflected sound legal judgment under the circumstances and produced sufficiently satisfactory results, the time is deemed to have been reasonably expended. *See Hensley*, 461 U.S. at 434.

In complex litigation, reasonable hourly rates may be determined with reference “to national markets, an area of specialization, or any other market [the court believes] is appropriate to fully compensate attorneys in individual cases. *McHugh v. Olympia Entm’t, Inc.*, 37 Fed. Appx. 730, 740 (6th Cir. 2002); *see also Hadix v. Johnson*, 65 F.3d 532, 535 (6th Cir. 1995).

Respectfully, this Court should consider the *Bodley* matter was filed in California, with California and Texas Plaintiffs, and the original retention of counsel licensed and located in those states was both reasonable and necessary. Class counsel accepted such representation opportunity more than a year prior to the transfer of litigation and has seen this matter to its conclusion. Class Counsel’s hourly rates are reasonable considering prevailing market rates for lawyers with comparably high levels of experience and expertise in complex class litigation. [A; B]. Class Counsel’s hourly rates, which range from \$300 to \$695 for attorneys, are comparable for rates charged by other attorneys with similar background and experience in complex class action litigation. Since late-2016, Scott Carpenter spent -- hours in the prosecution of this case. [APPX A]; Rebecca Bell-Stanton spent over -- hours in the prosecution of this case. [APPX B]. The billing documents provided to Class Counsel from the Birka-White firm totals – hours in attorney hours expended in the matter prior to the involuntary transfer of the suit.

Whirlpool has agreed not to oppose an award of \$400,000 (inclusive of fees and litigation expenses) to Carpenter & Schumacher, P.C. Considering the lodestar and amount of expenses incurred in the prosecution of this matter (Carpenter Decl.; Bell-Stanton Decl), Class Counsel respectfully request an award of **\$400,000.00.**

### CONCLUSION

Plaintiffs seek approval of the agreed service awards, reimbursement of all litigation costs and expenses, and an award of attorneys’ fees based on reasonable recorded hours multiplied

by Class Counsel's hourly rates. The requested awards are separate and apart from the class settlement and will not in any way diminish the benefits received by the Class. Were the Court to even further reduce the award of class counsel's fees, this would not confer a greater benefit upon the class, but rather would only benefit Defendant. Plaintiffs, therefore, respectfully request that in connection with granting final approval to the Settlement, the Court further grant this Motion ordering the agreed service payments to the class representatives, the requested award of the base lodestar fee, and an award of all litigation costs and expenses requested herein.

Respectfully submitted,

/s/ Rebecca E. Bell-Stanton  
**REBECCA E. BELL-STANTON**  
State Bar No. 24026795  
**N. SCOTT CARPENTER**  
State Bar No. 00790428  
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*ATTORNEYS FOR PLAINTIFFS AND  
PROPOSED SETTLEMENT CLASS*

**PLAINTIFFS' CERTIFICATE OF SERVICE**

I hereby certify that all counsel in this matter are included for service in accordance with the electronic service requirements of the Western District of Michigan and the Federal Rules of Civil Procedure.

/s/ Rebecca E. Bell-Stanton  
**REBECCA E. BELL-STANTON**

**PLAINTIFFS' CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.3(b)(ii)**

COME NOW, Plaintiffs in the above-styled action and in compliance with Local Rule LCivR 7.3(b)(ii), state as follows:

Filing: *Plaintiffs' Supplement to Motion for Approval of Service Awards, Award of Attorneys' Fees and Request for Reimbursement of Litigation Expenses*

Words: 3682

Software: Microsoft® Word for Office 365 MSO (16.0.11727.20222) 32-bit

*/s/ Rebecca E. Bell-Stanton*  
**REBECCA E. BELL-STANTON**

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
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<b>WHIRLPOOL CORPORATION,</b>	§	
	§	
<b>Defendant.</b>	§	
	§	

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**DECLARATION OF N. SCOTT CARPENTER**

I, N. SCOTT CARPENTER, do hereby declare that I am over the age of eighteen years and not a party to the action herein. My business address is 2701 North Dallas Parkway, Parkway Centre, Suite 570, Plano, Texas 75093, and I am one of the attorneys of record for plaintiffs herein. I have personal knowledge of the facts contained herein and, if called as a witness, I could and would competently testify as follows:

1. That I am an attorney qualified to practice before all State Courts in the State of Texas and admitted to practice law before the Texas Federal District Courts in the Northern, Eastern, Western, and Southern Districts of Texas. I was admitted to the Bar in Texas in 1994 and have practiced as an attorney continually ever since, primarily as a litigation and trial attorney in my own practice. That I have also been licensed and admitted to practice law in the State and Federal Courts in the State of Oklahoma since 2015, and in all State and Federal Courts in the State of Idaho since January, 2019.
2. That, attached hereto as Exhibit A and incorporated herein by reference is a true and correct copy of my professional resume, which sets forth and describes my law career.

3. That, I am currently the Founding Member and Managing Partner of the law firm of Carpenter & Schumacher, P.C. The law firm was originally formed in March, 1995 under the name Law Offices of N. Scott Carpenter. In 2003, the firm's name was changed and remains known today as Carpenter & Schumacher, P.C. Attached hereto as Exhibit B and incorporated herein by reference is a true and correct copy of the Carpenter & Schumacher, P.C. firm resume.
4. That, shortly after opening my boutique litigation firm, and consistently during the past 24 years, I have handled thousands of litigation cases involving product defects. Specifically, I have litigated matters involving alleged product defects, including manufacturing, design, and marketing, against manufacturers such as Ford (speed control deactivation switch), General Motors (heated circuits for washer fluid reservoirs), Mercedes-Benz (electrical circuitry), Hamilton-Beach® (toasters), Krups® (coffee makers), tortierre floor lamp manufacturers, Sunbeam® Products (electric blankets), Corona Porcelana (manufacturing defect in toilet tanks), Whirlpool Corporation (defective dishwashers), Bath & Body Works (exploding candles), BrassKraft® and Dormont® (defective gas appliance connectors), Electrolux® (defective dryers), Watts Water Technology (plastic water filters), Rheem Manufacturing (Rheem® water tanks), and State Industries, Inc. (defective pressure relief valves), to name only a handful.
5. That in addition to the cases mentioned above, continually since 2004 I have litigated cases against manufacturers of the flexible gas tubing systems known throughout the United States as Corrugated Stainless-Steel Tubing (a.k.a. "CSST").
6. That our law firm is currently national litigation plaintiff's counsel for one of the largest insurance companies in the United States. As national litigation counsel we have been

tasked to handle ALL catastrophic fire and explosion cases that occur across the southern half of the United States, from California to Florida, in product liability cases where facts support a lightning-induced CSST failure leading to a fire. The cases that we have handled just in the past two years have occurred in Kansas (\$1.9 million loss, \$2.8 million loss and \$2 million loss), Oklahoma (numerous cases involving losses of \$3.2 million, \$700,000, \$550,000, \$250,000), Florida (cases involving losses of \$1.2 million and \$160,000), Texas (cases involving losses of \$2.8 million, \$3.2 million, \$2 million and \$1.8 million), Georgia (\$250,000 loss), Arkansas (\$1.3 million loss), Mississippi (\$300,000), South Carolina (\$500,000 loss), North Carolina (\$2 million loss), and Missouri (\$400,000 loss).

7. That the above-referenced cases involved numerous product manufacturers and involved allegations and claims of defects including design and manufacturing.
8. That in 2016, along with my law partner, we achieved the award of “Top 100 U.S. Verdicts” after a jury trial involving a construction related fire in State District Court - Tarrant County, Texas.
9. That in each year since 2004, I have litigated and successfully resolved more than 60 fire and explosion cases our clients have filed against ALL of the manufacturers who design, market and sell their brand of CSST in the United States marketplace. The common theme in each case is the fact that whether the case involved a fire or an explosion, factually the cases all involved lightning-induced CSST failures resulting in catastrophic fires and/or explosions causing significant property damage. However, in at least one CSST failure case I have handled, serious personal injury suffered by the homeowners and the death of

their 31-year old male friend who was in the home visiting when lightning struck the home.

The documented failure of CSST was again the cause-in-fact of that fire and explosion.

10. The following represents a non-exhaustive list of recently settled and currently pending product liability cases my firm has/is handling:

*Crockett v. Omega Flex*, Cause No.: 4:16-CV-00387; United States District Court, Eastern District of Arkansas, Little Rock Division

Date Filed: 6/20/2016

Status: Pre-Trial settlement – Feb. 2018

*Isaac v. Titeflex Corporation*, Cause No.: 2016-CV-002294-TX; 18<sup>th</sup> Judicial District Court of Sedgwick County, Kansas

Date Filed: 10/6/2016

Status: Pre-Trial settlement

*Olsen v. Titeflex Corporation*, Cause No.: CJ-2017-151-02; District Court of Garfield County, Oklahoma

Date Filed: 6/2/2017

Status: Pre-Trial settlement – March, 2019

*French v. Titeflex Corporation*, Cause No.: 17-CV-00392-JED-FHM, United States District Court, Northern District of Oklahoma

Date Filed: 6/6/2017 (State Court Action); 7/5/2017 (Removed to Federal Court)

Status: Pre-Trial settlement

*Blacks v. Titeflex Corporation*, Cause No.: 1:17-CV-3147-AT, United States District Court, Northern District of Georgia, Atlanta Division

Date Filed: 6/30/2017 (State Court Action); 8/18/2017 (Removed to Federal Court)

Status: Pre-Trial Settlement

*Gonzales v. Titeflex Corporation*, Cause No.: 3:17-CV-00416-SDD-RLS; United States District Court, Middle District of Louisiana

Date Filed: 5/8/2017 (State Court Action); 6/29/2017 (Removed to Federal Court)

Status: Pre-Trial Settlement

*Graber v. Titeflex Corporation*, Cause No.: 2016-CP-08-3088, Court of Common Pleas of Berkeley County, South Carolina

Date Filed: 12/29/2016

Status: Pre-Trial Settlement

*Trachsel, Sr. v. Techvalco and Metal-Fab Inc.*, Cause No.: 17JE-CC00835, Circuit Court of Jefferson County, Missouri

Date Filed: 11/7/2017

Status: Pre-Trial Settlement

*Polston v. Ward Manufacturing*

Date Filed: 02/2019

Status: Settlement Discussion ongoing

*Council v. Titeflex Corporation*, Cause No.: 1728512; 12<sup>th</sup> Judicial District Court of Walker County, Texas

Date Filed: 11/14/2017

Status: Pre-Trial Settlement

*Malone v. Titeflex Corporation*, Cause No.: 2016CA003200000000, 10<sup>th</sup> Judicial Circuit of Polk County, Florida

Date Filed: 9/21/2016

Status: Pre-Trial Settlement

*Hines v. Pro-Flex*

Jacksonville, Florida

Date Filed: N/A

Status: Pre-Suit Settlement

11. That, I am currently Class counsel in a number of unrelated Federal Class Action cases involving allegations of product defect including a currently filed case in the Eastern District of Texas involving a partial settlement of a nationwide class involving defective toilet tanks manufactured in Mexico; a currently pending case filed in the Western District of Pennsylvania where we are seeking nationwide certification of a class of fuel gas system owners, and; a case filed and currently pending in the Western District of Missouri where we are seeking nationwide certification of a class against flexible gas tubing manufacturers.
12. That in addition to the above Class Action filed matters, I have been involved in other product defect related litigation filed in various parts of the country including the Class Action filed in Arkansas in 2005 involving gas tubing failures. In that case the parties reached an amicable settlement which included an agreement for certification of a nationwide class and payment of \$29 million in attorney fees and costs.
13. That in approximately 2006 I was involved in a case against Sunbeam Corporation wherein we sought certification of a nationwide class for plaintiffs who suffered damages from their

purchase and use of an electric blanket manufactured and sold under the Sunbeam brand of products. That case was settled and included certification of a nationwide class of plaintiffs and payment of attorneys' fees and costs of approximately \$8 million.

14. That in addition to the above-mentioned cases, I have also recently been involved as one of many litigation counsel representing corn farmers across the Midwest against genetically-modified corn producer, Syngenta. Terms of a settlement were recently agreed upon and announced publicly which is to include payment in the approximate amount of \$1.5 billion to approximately 57,000 farmers across the United States. Attorneys' fees awarded by the Federal District Court in that case totaled \$500 million.
15. That, in May, 2019, I requested to be appointed Class Counsel in a case filed in the Western District of Missouri involving Defendants' joint and concerted efforts to market yellow jacketed CSST (known to be unreasonably dangerous) and mislead the public by and through a national campaign of false and deceptive propaganda that demands additional expenditures by the consumer in exchange for an ineffectual "fix."
16. That, as can be seen by my attached resume, I maintain an active and successful litigation practice primarily focused in the area of product defects and consumer-related litigation, both in Texas and in numerous other States coast to coast.
17. As a result of my education, training, and experience, as well as in my professional relationships with practicing attorneys in the Dallas-Fort Worth metroplex and reviewing state and local surveys of attorney's fee rates, as well as testifying as an expert on attorney's fees in the *Dallas Pay Case* filed and decided in Rockwall County, Texas, I have knowledge of the rates charged by law firms handling complex litigation in Federal District

Courts and the legal work reasonably required to prepare, litigate, and resolve complex Class action litigation.

## **II. Work Performed in the Instant Case**

18. During the Fall of 2016, and after meeting with an associate attorney in my office, I identified a systemic problem that was occurring in the Whirlpool dishwasher upper rack assembly. After that initial meeting and analysis, I and Ms. Bell-Stanton met with our associate, reviewed expert reports all related to the failures, and consulted with our own experts, all towards determining if, in fact, there was a systemic problem with upper rack assembly failures and, more importantly, to determine if there was a common root cause of these failures. Once we determined that there existed real problems with the dishwashers, we began our evaluation to determine the breadth and scope of the problems. Shortly after starting, we were able to determine that dishwashers made during 2010-2014 were experiencing the same failure mode, to wit: premature failures of the plastic upper rack V-Rail System wheel assembly.
19. In , my law firm filed a lawsuit against Whirlpool in the Northern District of California. Our case was ultimately transferred to the Western District of Michigan where it remains pending today.
20. During the entirety of this litigation, Ms. Bell-Stanton and I, along with multiple attorneys and support staff in my law firm, have worked enthusiastically, diligently, and continuously on the present matter since and throughout the time this matter has been filed. As a law firm, we have sought to ensure that this case is properly and judicially managed, ethically handled and prosecuted, all while maintaining a high-level of integrity and truthfulness in our dealings with your Honorable Court. It has been of the utmost importance to both Ms.

Bell-Stanton and I that we establish and maintain the highest level of integrity and honor in the handling of this case, both with opposing counsel and in our practice before the Court, despite being contentious and exceedingly adversarial.

21. That we have brought diligence and the highest level of commitment to the case, our Plaintiffs, and the Class Members in all that has been asked of us by both the Court and counsel for the Defendants. As will be shown below, I and my law firm have committed resources, financial and otherwise, to prosecuting this case on behalf of the Plaintiffs and Class Members. For the size of my law firm, this case presented extraordinary risk and a tremendous undertaking to prosecute and to ultimately achieve a settlement that provides an exceptional benefit to the Class.
22. We continue to maintain office facilities and staff in Texas to enable us to do whatever is required to obtain Final approval of the Settlement in order that Class Members are able to finally receive much-needed compensation for failed dishwasher assemblies.
23. That it is my opinion that the issues presented in this class action are issues of law with which I am familiar. I am fully qualified to act, along with Ms. Bell-Stanton, as counsel for the Plaintiffs and Class Members who, have declared, that they are happy with the settlement and that they wish Ms. Bell-Stanton and I to continue our representation of them through and after the date when this Court issues its Final Approval Order.
24. This case has been fully vetted and was complex and time consuming especially as compared to other product liability and consumer-related class action litigation I have been involved in. The Defendant retained and utilized competent, experienced attorneys and support staff at a large and respected Denver, CO based law firm, to defend against Plaintiffs' claims.

25. This case involved numerous complex issues of law and fact including scientific, forensic, and root failure analysis of the materials and manufacturing of plastic materials used to construct the rack assemblies at issue. It required Plaintiffs' counsel to study up on the manufacturing process of plastic products, and the composition of raw materials and how they interacted in an environment that included extreme heat and water.
26. Throughout this case, Carpenter & Schumacher attorneys formulated legal arguments for Plaintiffs' and Class Members' claims; met with and interviewed named plaintiffs and numerous absent class members, many of which own dishwashers with the defective rack assemblies; evaluated and investigated relevant facts and many other circumstances giving rise to this litigation; incorporated knowledge from prior experiences working on complex product liability litigation to bolster the work and efforts in this case; discussed the factual claims and root cause failure analysis with retained experts, including mechanical and plastics experts; worked with experts to prepare a preliminary report and to provide sworn testimony; drafted operative pleadings and motions; managed discovery both received and propounded; drafted and/or reviewed filings including responses to multiple dispositive motions filed by defendants, and a motion to strike class allegations; assisted with the preparation of the arguments to be made in connection with various filings; reported to the Court as to the progress of certain matters including certification, and settlement discussions.
27. That Ms. Bell-Stanton and I have competently and aggressively handled the logistics of legal representation in this case and, to date, participated in numerous days and hours of mediation discussions with the aid of a third-party mediator well-versed in Class Action issues and settlement terms, as selected by and agreed to between Lead Counsel and

Defense Counsel. In preparation for mediation conferences my firm prepared and presented multiple mediation statements, and other documents in an effort to assist the mediator and the parties in their work to reach an agreement, and to inform the mediators of the status of the case, briefing and case management schedules, as well as position statements. That mediation discussions, independently and collectively, at times were complex, protracted, contentious and adversarial, and required decisions to be made by multiple persons on the defense side, both in attendance and not. Ultimately, these settlement conferences resulted in terms being agreed to in a piece-meal fashion for a settlement of Plaintiffs' and Class Members' claims. The proposed Settlement was reached on behalf of the Class was done separate, apart and independently of any discussions between the parties as to Co-class counsels' attorney's fees and expenses.

28. After many months of settlement discussions, my firm committed additional time and attorneys to assist with drafting the Term Sheet, proposed Settlement Agreement, and Motion for Preliminary Approval of the settlement.
29. Soon after the proposed Settlement was agreed to and signed by the parties, I and Ms. Bell-Stanton received and reviewed settlement related documents necessary for the Court to preliminarily approve the settlement.
30. Once the Court granted preliminary approval of the settlement, my law firm undertook efforts to continue to reach out to consumers, directly and indirectly, to notify them of the settlement benefits.

### **III. Lodestar for Work Performed**

31. I have performed significant work and committed financial resources for and on behalf of class members nationwide. The firm's billing documentation and time reports are included

in the Appendix. The information provided herein sets forth, in great detail and description, the work required and time incurred to prosecute this case through July 9, 2019. The billing documentation and time reports reflect a true and correct computation of my time, as well as the time expended in this case by associate attorneys and support staff employed by my firm. I have reviewed, and I am quite familiar with the work and expenditures of time reflected on the firm's billing documentation and time reports, and all the hours performed were reasonable and necessary in representing the Plaintiffs and the Class Members. The time entries for myself and those of my associate attorneys and support staff, all under my supervision, were made contemporaneously, or soon thereafter the work indicated was performed. The time indicated on my firm's billing documentation and time reports reflects actual time expended on the tasks described.

32. My law firm is representing the Plaintiff Representatives at no cost to them. My firm will not receive any additional compensation from the Plaintiff Representatives in achieving the settlement or recovery of the service awards requested, with Court approval.
33. The hourly rates claimed by myself and Ms. Bell-Stanton are extremely reasonable for plaintiffs to engage counsel with qualifications like the attorneys employed by my firm. Many of my contemporaries, who have been practicing law for less time or as long as me, are charging far higher rates. I am personally familiar with attorneys at other firms in and around the country who are handling complex litigation who bill at much higher rates.
34. Carpenter & Schumacher law firm has reproduced a breakdown of the time spent, hourly rates, and lodestar for each C&S lawyer and staffer. These materials were provided to both the mediator in this cause as well as summations of same to counsel for the Defendant.

35. Many of the legal support staff at my firm traditionally perform work normally done by attorneys. The staff at my firm who performed work on this case have knowledge of the legal system, procedures, legal research and writing skills that they used to assist the plaintiffs. They are skilled and competent, and the rates claimed for them are reasonable and typical in this legal market. I believe that the fees requested in Plaintiffs' Fee Application are fair and reasonable under Sixth Circuit precedent, especially considering the relief obtained for Class Members. I also believe that the requested service awards are fair and warranted given the time, focus, and energy the Class Representatives devoted to this case.
36. As part of the proposed Settlement, Defendant's counsel has agreed not to oppose Plaintiffs' attorney fee request of **\$400,000** and we maintain that such sum is a more than reasonable amount of attorneys' fees to be awarded in this case. Further, Defendant has agreed to pay reasonable litigation expenses to Co-Class Counsel, all without reducing the amount to be paid to Class Members. The other terms of the proposed Settlement are in no way contingent on Class Counsels' fees and costs request.
37. As of July 9, 2019, Carpenter & Schumacher, P.C., as Co-Class Counsel, has advanced **\$14,000.13** in unreimbursed litigation expenses directly related to achieving the proposed Settlement and in obtaining a recovery for the Class. The expenses incurred are reflected in the expense spreadsheet and all are based on the actual costs of goods and services necessary for the preparation and prosecution of this case or are based on reasonable market-based rates (such as \$.10/page for copying expenses performed in-house).
38. Attached to Plaintiffs' motion and made a part of the Appendix, incorporated herein, is my law firm's litigation expense spreadsheet which sets forth in fine detail the expenses

incurred in prosecuting this case. We request an expense reimbursement in the amount of \$14,000.13.

39. Given the stellar result achieved for the Plaintiff Representatives and Class Members, the expenses incurred were both reasonable and necessary in the proper handling and prosecution of this highly contentious, hard-fought, and adversarial litigation.
40. In determining that the Attorneys' Fees and litigation expenses were reasonable and necessary, I have considered 1) the nature of the case, 2) the claims and defenses, 3) the fees customarily charged in the relevant marketplace for similar legal services, 4) the likelihood that accepting and handling this case would preclude me and my firm's attorneys from accepting other employment, 5) the results obtained, 6) the amount of time spent litigating this case, 7) the novelty and difficulty of the issues involved, 8) the skill required to perform the legal services properly and promptly, 9) the length of the relationship between counsel and the Plaintiffs, 10) the experience, reputation, and abilities of lawyers performing the services, and 11) whether the fee is fixed or contingent.
41. Expenses advanced by Class Counsel are supported by receipts, expense records, and similar documentation maintained in the ordinary course of business by my firm with specific reference to this case.
42. It is important to note and emphasize that Class Counsel's responsibilities did not end with the Court granting preliminary approval of the proposed settlement. Class Counsel has, and will continue to, expend numerous additional hours monitoring the Settlement Administrator, and fielding calls from Class Members. Class Counsel will continue to expend time and resources over the next few months through the Fairness Hearing, and on through the Claims Period. Class Counsel will be required to respond to any potential



## **CARPENTER & SCHUMACHER, P.C.**

N. Scott Carpenter is the Founding Member and Managing Partner of the law firm of Carpenter & Schumacher, P.C. The law firm was originally formed in March of 1995 under the name Law Offices of N. Scott Carpenter. In 2003, the firm's name was changed and remains known today as Carpenter & Schumacher, P.C.

During the past 24 years, Carpenter & Schumacher, P.C. has handled thousands of cases involving product defects. Examples of product defect litigation undertaken by the firm includes manufacturing, design, and marketing, against manufacturers such as Ford (speed control deactivation switch), General Motors (heated circuits for washer fluid reservoirs), Mercedes-Benz (electrical circuitry), Hamilton-Beach® (toasters), Krups® (coffee makers), torchiere floor lamp manufacturers, Sunbeam® Products (electric blankets), Whirlpool Corporation (defective dishwashers), Bath & Body Works (exploding candles), BrassKraft® and Dormont® (defective gas appliance connectors), Electrolux® (defective dryers), Watts Water Technology (plastic water filters), Rheem Manufacturing (Rheem® water tanks), and State Industries, Inc. (defective pressure relief valves).

Carpenter & Schumacher, P.C. is currently national litigation counsel for one of the largest insurance companies in the United States. As national litigation counsel we have been tasked to handle catastrophic fire damage cases where facts support a defect in gas delivery systems known as Corrugated Stainless Steel Tubing ("CSST"). Since 1996, CSST products installed in homes across the United States have failed when exposed to high voltage electrical current, as well as common household current. The firm has handled more than 100 cases involving fires and explosions caused by a failure of CSST including, the first case involving significant fire and explosion related injuries and a fatality. The firm is currently lead counsel in two Class Action matters against manufacturers of CSST.

Carpenter & Schumacher, P.C. was recently appointed as Class Counsel in a Class Action involving catastrophic failures of toilet tanks made in Mexico. Specifically, the firm has prosecuted cases involving toilet tanks that have spontaneously cracked due to residual stresses created from defects developed during the manufacturing of Vortens™ tanks, all of which have the potential to cause catastrophic water damage. The case involves more than 100,000 consumers who own more than 350,000 affected tanks. The firm recently reached a partial settlement with the manufacturer that provides for significant monetary relief to class members in the form of cash payments.

Along with law partner Rebecca-Bell Stanton, Scott Carpenter is currently lead plaintiffs' counsel in a number of unrelated matters involving allegations of product defect including a case filed in the Western District of Pennsylvania involving allegations of defects in corrugated stainless steel tubing manufactured by Pro-Flex, LLC and Tru-Flex entities, and; a case filed in New Castle, Pa. involving concussion-related allegations against the local state athletic association. Carpenter & Schumacher, P.C. has also recently been involved as one of many litigation counsel representing corn farmers across the Midwest against genetically-modified corn producer, Syngenta. Terms of a settlement were recently agreed upon and announced publicly which is to include payment in the approximate amount of \$1.51 billion to more than 250,000 farmers across the United States.

**Participating Lawyers of Carpenter & Schumacher, P.C.**

**N. Scott Carpenter**

N. Scott Carpenter is the Founding Member and Managing Partner of Carpenter & Schumacher, P.C. He has been a trial attorney since 1994 and since that time has been representing individuals affected by catastrophic fires and explosions, auto defects, construction site negligence, significant product defects, lightning-induced gas piping failures, and construction defect cases.

Mr. Carpenter is an attorney qualified to practice before all State Courts in the State of Texas and admitted to practice law before the Texas Federal District Courts in the Northern, Eastern, Western, and Southern Districts of Texas. He was admitted to the Bar in Texas in 1994 and is licensed and admitted to practice law in the states of Oklahoma and Idaho.

Mr. Carpenter's involvement in product defect related litigation extends nationwide. Continually since 2004, he has litigated and settled cases against numerous manufacturers of the flexible gas tubing systems known throughout the United States as Corrugated Stainless Steel Tubing (a.k.a. "CSST"). His involvement in class action litigation includes obtaining national settlement certification on allegations against multiple manufacturers of CSST product, certification of a nationwide class against Sunbeam Corporation involving electric blankets, and most recently as one of many litigation counsel representing corn farmers against genetically-modified corn producer, Syngenta.

Along with law partner Rebecca Bell-Stanton, Mr. Carpenter is currently lead plaintiffs' counsel in a number of unrelated matters involving allegations of product defect including a case in the Western District of Michigan against Whirlpool Corporation, and a case filed in the Western District of Pennsylvania involving allegations of defects in corrugated stainless-steel tubing manufactured by Pro-Flex, LLC and Tru-Flex entities.

**Rebecca Bell-Stanton**

Rebecca Bell-Stanton is a Partner with nearly twenty years of experience in representing both plaintiffs and defendants. Her primary practice at Carpenter & Schumacher, P.C. is in the class action litigation field, representing clients on a number of product liability and consumer claims across the United States. Prior to joining Carpenter & Schumacher, P.C., Ms. Bell-Stanton was a Partner at the law firm of Fee, Smith, Sharp & Vitullo, LLP, Dallas, Texas.

Ms. Bell-Stanton was admitted to the Bar in Texas in 2000 and have practiced as an attorney continually ever since, primarily as a litigation attorney both in trial and appellate practices. She is also licensed and admitted to practice law in the Commonwealth of Pennsylvania and is admitted to practice law before the Federal District Courts in the Northern, Eastern, Western, and Southern Districts of Texas, Eastern District of Pennsylvania, and Western District of Michigan. She is further admitted to practice law in the United States Court of Appeals for the Fifth Circuit, and the United States Court of Appeals for the Eighth Circuit. Rebecca has handled complex multi-party cases across the United States including Texas, Georgia, Florida, Tennessee, Pennsylvania, Nebraska, and Arizona.

Ms. Bell-Stanton has been actively involved in class action lawsuits against manufacturers such as Pro-Flex, LLC, Tru-Flex, LLC, and Tru-Flex Metal Hose, Corp. (corrugated stainless-steel tubing), Whirlpool Corporation (defective dishwashers), Toshiba (computer hardware), and Sharp (computer components). Additionally, she litigates complex products liability cases against manufacturers such as Bath & Body Works (exploding candles), JLG (aerial work platforms), Terex (skid steer), MQ Power (portable generators), and Bobcat (loaders).

### **Craig Schumacher**

Craig M. Schumacher joined the Carpenter Law Firm in 2003 as an experienced trial attorney. In March, 2010, Mr. Schumacher became a partner and the firm name was changed to Carpenter & Schumacher, P.C. Prior to joining the firm, Mr. Schumacher was an attorney and case manager for the prestigious national personal injury law firm of Baron & Budd, P.C. At Baron & Budd, he specialized in environmental and toxic tort litigation. His experience includes all aspects of representing industry groups and companies on product liability and insurance subrogation matters involving commercial and property and casualty claims. Mr. Schumacher has represented clients before every level of state and federal courts and has tried cases in numerous states around the country including Texas, Ohio and New York.

Following graduation from law school, Mr. Schumacher served as an Assistant District Attorney in the Smith County District Attorney's Office in Tyler, Texas. As an Assistant DA, he prosecuted more than 125 jury trials to verdict, including three capital murder death penalty cases.

### **Doug Heuvel**

Douglas C. Heuvel joined the firm in 2014. Mr. Heuvel's practice focuses on property loss subrogation matters. He has extensive experience in products liability and commercial litigation, and practices in both state and federal courts. His legal expertise also includes representing businesses in complex litigation matters including breach of contract and business tort cases.

Mr. Heuvel began his legal career in 2002 at the international law firm of Thompson & Knight, LLP in Dallas, Texas.

### **Additional Participating Legal Team Members**

#### **Sabina Pincus**

Sabina (Yushkevich) Pincus graduated from the Texas A&M School of Law with Juris Doctor in May 2013 and is licensed to practice in all courts in the State of Texas. Ms. Pincus initially clerked with the Honorable Martin Hoffman from May 2011 – July 2011 and with Jee Law, PLLC from September 2011 through October 2012 as a Law Clerk. She later joined the firm of Fee, Smith, Sharp & Vitullo, LLP, Dallas, Texas as a Law Clerk in June 2012, where she worked a few months prior to becoming a full time litigation associate in September 2013. She continued her work as an associate attorney with Fee, Smith, Sharp & Vitullo, LLP through September 2016, at which

time she became an Account Executive at Courtroom Sciences, Inc. from September 2016 to the present.

Ms. Pincus opened her own law practice in December 2017 and is proficient in multiple languages, including bilingual proficiency in Russian and English as well as elementary proficiency in Spanish and German.

**Bridgette Holley**

Bridgette Holley joined the firm in October 2016 on a temporary basis and became full time in 2017 as a paralegal supporting partners N. Scott Carpenter and Rebecca Bell Stanton. Her previous employment was as a senior paralegal with Kara Hadican Samuels & Associates, LLC (formerly Sangisetty & Samuels, L.L.C. from June 2011 through July 2016.

Her bachelors degree was received from Tulane University in August 2011.

**Enrica Peters**

Enrica Peters joined the firm in July 2018 as a paralegal supporting partners N. Scott Carpenter and Rebecca Bell Stanton. Her previous employment was with Heygood, Orr & Pearson firm of Irving, Texas, where she worked from April 2016 to July 2018. Prior to that time, she resided in the State of Mississippi and worked with the firm McHugh Fuller Law Group on and off from November 2013 to February 2016 and then from November 2013 to February, 2016. The span of time in her tenure with McHugh Fuller Law Group, she worked with the U.S. District Court for the Southern District of Mississippi from April 2010 to November 2013.

Her Bachelor's Degree was received in 1997 from University of Southern Mississippi (Hattiesburg, MS) and she later received a M.S. Degree from William Carey University in May, 2005.



**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

<b>WARREN BURCH, JAMES BODLEY, KYLE MATSON, RONALD McCALLUM,</b>	§	<b>Civil Action File No.</b>
	§	<b>1:17-cv-00018</b>
	§	
<b>Plaintiffs,</b>	§	
	§	
<b>v.</b>	§	<b>Hon. Paul L. Maloney</b>
	§	
<b>WHIRLPOOL CORPORATION,</b>	§	
	§	
<b>Defendant.</b>	§	
	§	

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**DECLARATION OF REBECCA BELL-STANTON**

I, REBECCA BELL-STANTON, do hereby declare that I am over the age of eighteen years and not a party to the action herein. My business address is 2701 North Dallas Parkway, Parkway Centre, Suite 570, Plano, Texas 75093, and I am one of the attorneys of record for Plaintiffs herein. I have personal knowledge of the facts contained herein and, if called as a witness, I could and would competently testify as follows:

1. I am an attorney qualified to practice before all State Courts in the State of Texas and admitted to practice law before the Texas Federal District Courts in the Northern, Eastern, Western, and Southern Districts of Texas as well as the Western District of Michigan. I am further admitted to practice law in the United States Court of Appeals for the Fifth Circuit, and the United States Court of Appeals for the Eighth Circuit.

2. I was admitted to the Bar in Texas in 2000 and have practiced as an attorney continually ever since, primarily as a litigation attorney both in trial and appellate practices. I have also been licensed and admitted to practice law in the Commonwealth of Pennsylvania since 2017.

3. Attached hereto as Exhibit A and incorporated herein by reference is a true and correct copy of my professional resume, which sets forth and further describes my law career.

4. I am currently a Partner of the law firm of Carpenter & Schumacher, P.C., and have been since joining the firm in 2015. Prior to joining Carpenter & Schumacher, P.C., I was a Partner at the law firm of Fee, Smith, Sharp & Vitullo, LLP. I have practiced litigation both as an advocate for the plaintiff and the defense sides of the legal bar.

5. After obtaining a \$10.6 million dollar verdict in Federal District Court in Omaha, Nebraska, I qualified for membership in the Multi-Million Dollar Advocates Forum. Membership in this organization is limited to qualifying trial lawyers; less than 1% of U.S. lawyers are members.

6. Since 2000, I have been actively involved in class action lawsuits against manufacturers such as Pro-Flex, LLC, Tru-Flex, LLC, and Tru-Flex Metal Hose, Corp. (corrugated stainless steel tubing), Whirlpool Corporation (defective dishwashers), Toshiba (computer hardware), Sharp (computer components), and Philadelphia American Life Insurance Company (insurance coverage). Additionally, I have litigated complex products liability cases against manufacturers such as Bath & Body Works (candles), JLG (aerial work platforms), Terex (skid steer), MQ Power (portable generators), and Bobcat (loaders).

7. Carpenter & Schumacher, P.C. is currently national litigation counsel for one of the largest insurance companies in the United States. Our case docket includes catastrophic water damage cases including cases over the past three years where the facts and expert evaluations evidenced a defect in Vortens™ toilet tanks that resulted in spontaneous fracture. As explained in greater detail in the Declaration of my law partner, Founder and Senior Managing Partner N. Scott Carpenter, as national litigation counsel we have been tasked to

handle ALL catastrophic fire and explosion cases that occur across the southern half of the United States, from California to Florida, in product liability cases.

8. I am currently lead plaintiffs' counsel in a number of unrelated matters involving class allegations of product defect including a currently filed case in the Eastern District of Texas involving a partial settlement of a nationwide class involving defective toilet tanks manufactured in Mexico; a recent request for appointment as Class Co-Counsel case filed in the Western District of Missouri (seeking certification of a national class dues to misrepresentations and failure to warn of product defect in design and marketing) and a case filed in the Western District of Pennsylvania involving allegations of defects in corrugated stainless steel tubing manufactured by Pro-Flex, LLC and Tru-Flex entities (design, manufacturing, and marketing class action).

9. My professional resume, incorporated wholly into this Declaration, supports that I have maintained a successful litigation and appellate practice and have appeared for trial and/or appellate arguments in courts within the States of Texas, Arizona, Tennessee, Pennsylvania, California, Missouri, Michigan, Florida, and Nebraska.

10. I have knowledge of the rates charged by law firms handling complex litigation in both the appellate arena (practicing before the Court of Appeals for the Fifth Circuit and well as in the Third and Eighth Circuit Courts) as well as trial counsel in federal and state courts. I further have personal knowledge of the scope and amount of work required to litigate, from the point of investigation through final appeal, complex actions including product liability class actions such as the one styled above.

11. The Declarations of Mr. Carpenter, Mr. Brent Irby, and Mr. Edward Wallace thoroughly detail the work performed in reaching the exceptional Settlement result upon which we as Class Counsel now seek fee and expense recovery. Those details provided by such Declarations



**Carpenter & Schumacher, P.C.**

2701 North Dallas Parkway

Suite 570

Plano, Texas 75093

United States

Phone: (972) 403-1133

**Invoice: 100.0020****Matter: Bodley, et al v. Whirlpool, et. al****Bodley v Whirlpool****Invoice Date: 11/30/2018**

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Los Angeles, CA 94526

United States

**Phone:**

Item Date	Description	Time Keeper	Qty	Type	Price	Total
10/31/2016		Scott Carpenter	14.20	Hours	\$695.000	\$9,869.00
10/31/2016		Anthony LaScalea	27.20	Hours	\$375.000	\$10,200.00
10/31/2016		Bridget Holley	3.90	Hours	\$195.000	\$760.50
11/30/2016		Scott Carpenter	19.40	Hours	\$695.000	\$13,483.00
11/30/2016		Rebecca Bell-Stanton	27.40	Hours	\$675.000	\$18,495.00
11/30/2016		Anthony LaScalea	22.80	Hours	\$375.000	\$8,550.00
11/30/2016		Bridget Holley	9.20	Hours	\$195.000	\$1,794.00
12/31/2016		Scott Carpenter	19.60	Hours	\$695.000	\$13,622.00
12/31/2016		Rebecca Bell-Stanton	22.80	Hours	\$675.000	\$15,390.00
12/31/2016		Anthony LaScalea	29.50	Hours	\$375.000	\$11,062.50
12/31/2016		Bridget Holley	10.90	Hours	\$195.000	\$2,125.50
1/31/2017		Scott Carpenter	32.50	Hours	\$695.000	\$22,587.50
1/31/2017		Rebecca Bell-Stanton	29.60	Hours	\$675.000	\$19,980.00
1/31/2017		Anthony LaScalea	26.70	Hours	\$375.000	\$10,012.50
1/31/2017		Bridget Holley	3.90	Hours	\$195.000	\$760.50
2/27/2017		Scott Carpenter	18.10	Hours	\$695.000	\$12,579.50
2/27/2017		Rebecca Bell-Stanton	21.60	Hours	\$675.000	\$14,580.00

Item Date	Description	Time Keeper	Qty	Type	Price	Total
2/27/2017		Bridget Holley	4.90	Hours	\$195.000	\$955.50
3/30/2017		Scott Carpenter	17.40	Hours	\$695.000	\$12,093.00
3/30/2017		Bridget Holley	4.30	Hours	\$195.000	\$838.50
4/30/2017		Scott Carpenter	19.70	Hours	\$695.000	\$13,691.50
4/30/2017		Rebecca Bell-Stanton	17.90	Hours	\$675.000	\$12,082.50
4/30/2017		Bridget Holley	2.70	Hours	\$195.000	\$526.50
5/31/2017		Scott Carpenter	29.20	Hours	\$695.000	\$20,294.00
5/31/2017		Rebecca Bell-Stanton	27.60	Hours	\$675.000	\$18,630.00
5/31/2017		Bridget Holley	3.20	Hours	\$195.000	\$624.00
6/30/2017		Scott Carpenter	34.80	Hours	\$695.000	\$24,186.00
6/30/2017		Rebecca Bell-Stanton	41.70	Hours	\$675.000	\$28,147.50
6/30/2017		Bridget Holley	2.80	Hours	\$195.000	\$546.00
7/30/2017		Scott Carpenter	28.50	Hours	\$695.000	\$19,807.50
7/30/2017		Rebecca Bell-Stanton	31.20	Hours	\$675.000	\$21,060.00
7/30/2017		Sabina Pincus	28.20	Hours	\$425.000	\$11,985.00
7/30/2017		Bridget Holley	3.30	Hours	\$195.000	\$643.50
8/30/2017		Scott Carpenter	39.30	Hours	\$695.000	\$27,313.50
8/30/2017		Rebecca Bell-Stanton	45.90	Hours	\$675.000	\$30,982.50
8/30/2017		Sabina Pincus	22.90	Hours	\$425.000	\$9,732.50
8/30/2017		Bridget Holley	4.30	Hours	\$195.000	\$838.50
9/30/2017		Scott Carpenter	34.50	Hours	\$695.000	\$23,977.50
9/30/2017		Rebecca Bell-Stanton	38.60	Hours	\$675.000	\$26,055.00
9/30/2017		Bridget Holley	5.70	Hours	\$195.000	\$1,111.50
10/31/2017		Scott Carpenter	45.60	Hours	\$695.000	\$31,692.00
10/31/2017		Rebecca Bell-Stanton	57.20	Hours	\$675.000	\$38,610.00
10/31/2017		Bridget Holley	6.70	Hours	\$195.000	\$1,306.50
11/30/2017		Scott Carpenter	39.10	Hours	\$695.000	\$27,174.50
11/30/2017		Rebecca Bell-Stanton	47.00	Hours	\$675.000	\$31,725.00
11/30/2017		Sabina Pincus	24.20	Hours	\$425.000	\$10,285.00
11/30/2017		Bridget Holley	6.10	Hours	\$195.000	\$1,189.50
12/31/2017		Scott Carpenter	38.10	Hours	\$695.000	\$26,479.50
12/31/2017		Rebecca Bell-Stanton	49.30	Hours	\$675.000	\$33,277.50
12/31/2017		Bridget Holley	7.90	Hours	\$195.000	\$1,540.50
1/31/2018		Scott Carpenter	48.10	Hours	\$695.000	\$33,429.50
1/31/2018		Rebecca Bell-Stanton	67.30	Hours	\$675.000	\$45,427.50

Item Date	Description	Time Keeper	Qty	Type	Price	Total
1/31/2018		Sabina Pincus	19.30	Hours	\$425.000	\$8,202.50
1/31/2018		Bridget Holley	3.40	Hours	\$195.000	\$663.00
2/27/2018		Scott Carpenter	1.90	Hours	\$695.000	\$1,320.50
2/27/2018		Rebecca Bell-Stanton	1.20	Hours	\$675.000	\$810.00
2/27/2018		Bridget Holley	1.40	Hours	\$195.000	\$273.00
3/30/2018		Scott Carpenter	1.50	Hours	\$695.000	\$1,042.50
3/30/2018		Rebecca Bell-Stanton	0.90	Hours	\$675.000	\$607.50
3/30/2018		Bridget Holley	0.90	Hours	\$195.000	\$175.50
4/30/2018		Scott Carpenter	9.50	Hours	\$695.000	\$6,602.50
4/30/2018		Rebecca Bell-Stanton	21.50	Hours	\$675.000	\$14,512.50
4/30/2018		Bridget Holley	2.20	Hours	\$195.000	\$429.00
5/31/2018		Scott Carpenter	17.40	Hours	\$695.000	\$12,093.00
5/31/2018		Rebecca Bell-Stanton	28.80	Hours	\$675.000	\$19,440.00
5/31/2018		Bridget Holley	9.60	Hours	\$195.000	\$1,872.00
6/30/2018		Scott Carpenter	27.90	Hours	\$695.000	\$19,390.50
6/30/2018		Rebecca Bell-Stanton	37.10	Hours	\$675.000	\$25,042.50
6/30/2018		Bridget Holley	5.80	Hours	\$195.000	\$1,131.00
7/31/2018		Scott Carpenter	22.80	Hours	\$695.000	\$15,846.00
7/31/2018		Rebecca Bell-Stanton	33.90	Hours	\$675.000	\$22,882.50
7/31/2018		Bridget Holley	3.70	Hours	\$195.000	\$721.50
8/31/2018		Scott Carpenter	39.20	Hours	\$695.000	\$27,244.00
8/31/2018		Rebecca Bell-Stanton	54.20	Hours	\$675.000	\$36,585.00
8/31/2018		Enrica Peters	7.10	Hours	\$195.000	\$1,384.50
9/30/2018		Scott Carpenter	9.80	Hours	\$695.000	\$6,811.00
9/30/2018		Rebecca Bell-Stanton	24.40	Hours	\$675.000	\$16,470.00
9/30/2018		Enrica Peters	2.60	Hours	\$195.000	\$507.00
10/31/2018		Scott Carpenter	14.60	Hours	\$695.000	\$10,147.00
10/31/2018		Rebecca Bell-Stanton	27.20	Hours	\$675.000	\$18,360.00
10/31/2018		Enrica Peters	4.70	Hours	\$195.000	\$916.50
11/30/2018		Scott Carpenter	22.80	Hours	\$695.000	\$15,846.00
11/30/2018		Rebecca Bell-Stanton	46.60	Hours	\$675.000	\$31,455.00
11/30/2018		Enrica Peters	3.70	Hours	\$195.000	\$721.50

**Total Fees:** \$1,093,615.50

**Total Expenses:** \$0.00

**Invoice Total:**

**\$1,093,615.50**

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Notes: