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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**
12

13 IN RE JUUL LABS, INC., MARKETING,
14 SALES PRACTICES, AND PRODUCTS
15 LIABILITY LITIGATION
16

Case No. 19-md-02913-WHO

17 **DECLARATION OF DENA C. SHARP IN**
18 **SUPPORT OF MOTIONS FOR FINAL**
19 **APPROVAL OF ALTRIA CLASS ACTION**
20 **SETTLEMENT AND FOR ATTORNEYS’**
21 **FEES AND EXPENSES**

18 This Document Relates to:
19 ALL CLASS ACTIONS
20
21
22

DATE: March 6, 2024
TIME: 2:00 P.M.
LOCATION: Courtroom 2

HON. WILLIAM H. ORRICK III

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I. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE 1

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1 I, Dena C. Sharp, declare as follows:

2 1. I am a partner of Girard Sharp LLP and am admitted to practice in the Northern District
3 of California. I am one of the Court-appointed Co-Lead Counsel in this matter and serve as Class
4 Counsel.

5 2. I make this declaration based on my own personal knowledge. If called upon to testify, I
6 could and would testify competently to the truth of the matters stated herein. I submit this declaration in
7 support of Class Plaintiffs' Motion for Final Approval of the Altria Class Action Settlement and
8 Certification of Settlement Class and Class Counsel's Motion for Attorneys' Fees and Expenses.

9 3. In this declaration, I refer to my firm and myself as "Class Counsel." Lawyers from my
10 firm and other firms that were primarily responsible for class-related issues are referred to as "Class
11 Committee." And all lawyers who worked for the common benefit in this MDL are referred to as
12 "MDL Lawyers."

13 **I. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

14 4. My firm has extensive experience leading multidistrict and complex cases and obtaining
15 favorable results for the clients and classes we have represented. *See* Dkt. 102¹ at 2-3 (Girard Sharp
16 Application for Appointment as Lead Counsel). As the Court knows, the class has already achieved a
17 favorable settlement of \$255 million in this case from Defendant JUUL Labs, Inc. ("JLI") and related
18 persons and entities, which received final approval in September 2023. Dkt. 4138 (granting final
19 approval). In light of that experience and the substantial work performed on this matter over the past
20 several years, Class Counsel² is thoroughly familiar with the relative risks and rewards of settlement in
21 relation to trial and post-judgment appeals, and is well-positioned to evaluate the benefits of settling
22 this case with the remaining Altria Defendants rather than defending the class certification order on
23 appeal and proceeding to trial, and whatever may come after that. *See id.* at 8 (finding that "Class
24 Counsel, who have vigorously prosecuted this action through discovery, motion practice, mediation,
25

26
27 ¹ All references to "ECF No." are to filings in this litigation on the MDL docket unless otherwise noted.

28 ² The capitalized terms are intended to have the same meaning as defined in the Altria Class Settlement Agreement and Plan of Allocation except as otherwise noted.

1 and preparations for trial . . . possessed sufficient information to make an informed decision about
2 settlement”).

3 5. Class Counsel believes the Altria Class Settlement is fair, reasonable, and adequate. The
4 Altria Class Settlement represents a significant recovery for consumers of JUUL Products.

5 6. Aside from providing substantial relief to Class Members, the Altria Class Settlement
6 also avoids the considerable risks that proceeding through trial to verdict would have posed. In addition
7 to establishing that Defendants fraudulently misrepresented and omitted the safety and addiction risks
8 of JUUL Products, and targeted minors in the sale of such products, Class Plaintiffs would have had to
9 convince the jury that the Altria Defendants participated in a RICO conspiracy using JLI as the
10 enterprise. Class Plaintiffs would have had to overcome Altria’s defenses at trial, including that JLI and
11 the Individual Defendants, who previously settled, deserve all the blame for JLI’s actions and the
12 alleged harm. Class Plaintiffs also faced the possibility that class certification would be overturned on
13 appeal, or that they would lose at summary judgment, or that even a favorable trial verdict would be
14 appealed. Despite these risks, Class Counsel was able to secure a recovery for consumers who were
15 harmed by Defendants’ unlawful conduct, harms that were particularly acute as to youth who became
16 addicted to nicotine products.

17 7. While the Altria Class Settlement speaks for itself, the Court, through its close
18 supervision of this litigation and rulings on key issues, is ultimately best positioned to assess the
19 fairness, reasonableness, and adequacy of the Altria Class Settlement. Weighing the size of the
20 recovery against the risk of a reversal on appeal or an unfavorable trial outcome, Class Counsel
21 respectfully submits that the Altria Class Settlement is fair, reasonable, and adequate.

22 **II. WORK PERFORMED FOR THE BENEFIT OF THE CLASS**

23 8. For four years, Class Counsel and the Class Committee actively litigated the Class
24 claims against several leading defense firms who defended the case with skill and vigor. Over the
25 course of the case, Class Counsel and the other Co-Lead Counsel appointed in the MDL led efforts on
26 behalf of the Class to defeat Defendants’ multiple motions to dismiss, pursue discovery of Defendants
27 and non-parties, respond to Defendants’ discovery of the class representatives, review over 33 million
28 pages of documents produced by Defendants, participate in taking over 100 depositions of fact

1 witnesses, depose Defendants' expert witnesses, litigate key discovery disputes, prevail on class
2 certification and related *Daubert* motions, defend the class certification order on appeal, coordinate and
3 work with other MDL Lawyers to obtain favorable rulings on Defendants' motion for summary
4 judgment and *Daubert* motions in personal injury and government entity suits asserting the same or
5 overlapping claims based on the same evidence, and work with Special Master Perrelli toward potential
6 resolution. The Class Committee and MDL Lawyers performed the requisite work despite the stress
7 and strain of actively litigating a nationwide multidistrict case during the height of an unprecedented
8 global pandemic. As Judge Corley observed in this case on December 11, 2020, "these are tough times
9 Everything just takes longer and just seems so much harder right now." 12/11/2020 Hr'g Tr. at 17-
10 18; *see also* Dkt. 1191.

11 9. Each phase of the litigation required the expertise and expenditure of substantial time
12 and resources by Class Counsel and the MDL Lawyers. My prior declaration in support of Final
13 Approval of the JLI Class Action Settlement and Attorneys' Fees, Expenses, and Service Awards, Dkt.
14 4056, recounts in detail the efforts undertaken by Class Counsel, the Class Committee, and the MDL
15 Lawyers in prosecuting this case from inception through the date of the settlement with JLI and related
16 persons and entities. In particular, it described the work performed for the benefit of the class in each of
17 the following stages of the litigation: Investigation and Complaint Filing; Second Round of Motions to
18 Dismiss; Case Management; Discovery of Defendants; Third-Party Discovery; Document Review;
19 Discovery and Privilege Disputes; Discovery of Class Plaintiffs; Class Certification; Defendants' 23(f)
20 Petition and Briefing on Appeal; Experts; Summary Judgment in B.B., the First Personal Injury
21 Bellwether; Submissions and Trial Preparations in Personal Injury and Government Entity Bellwether
22 Cases; and Settlement with JLI. *See id.* at 2-38.

23 10. The work detailed in my prior declaration is also relevant to the prosecution of claims
24 against Altria, and is incorporated into this declaration by reference. Rather than repeat it, this
25 declaration focuses on the post-JLI-settlement work performed for the benefit of the class that was not
26 described in my prior declaration.

1 **A. Defendants’ Appeal of the Class Certification Order**

2 11. On June 28, 2022, the Court granted Class Plaintiffs’ motion to certify four classes—a
3 Nationwide Purchaser Class, Nationwide Youth Class, California Purchaser Class, and California
4 Youth Class—in a 94-page opinion. Dkt. 3327. Altria was a Defendant in the claims asserted by both of
5 the nationwide classes. The Court found that “[t]he individual differences defendants identify or
6 attempt to create do not preclude class certification. Some of the identified differences – for example,
7 differences in advertisements that the named plaintiffs or class members may have seen over time or
8 differences in the amount of JUUL product purchased – are simply not *material*. Given the legal
9 standards applied to plaintiffs’ claims, other identified differences – what an advertisement meant or
10 portrayed to a specific named plaintiff or class member – are not material for purposes of class
11 certification. Still more purported differences hinge on classic ‘battles of the experts’ that must be
12 resolved by the trier of fact.” *Id.*

13 12. On July 12, 2022, Defendants filed with the Ninth Circuit Court of Appeals three
14 petitions for immediate appeal of the Court’s class certification opinion pursuant to Federal Rule of
15 Civil Procedure 23(f). *See* Ninth Circuit Case Nos. 22-80061 (Altria’s petition), 22-80062 (Individual
16 Defendants’ petition), and 22-80063 (JLI’s petition). The Class opposed the petitions, but on November
17 8, 2022, the Ninth Circuit granted permission to appeal the class certification order. *See, e.g., In re: J.*
18 *D. v. Altria Group, Inc., et al*, Case No. 22-16693 (lead case), Dkt. 2. JLI and Director Defendants’
19 appeals were subsequently stayed pending final approval of the JLI Settlement (and subsequently
20 dismissed after final approval). *J. D. v. Hoyoung Huh, et al*, Case No. 22-16694, Dkt. 10 (Jan. 10,
21 2023) (order temporarily closing docket for administrative purposes); *J. D. v. Juul Labs Inc.*, 22-16695,
22 Dkt. 10 (Jan. 10, 2023) (same). But Altria’s appeal of the Class Certification Order continued after the
23 JLI Settlement was reached.

24 13. On February 1, 2023, Altria filed its 63-page opening brief. *In re: J. D. v. Altria Group,*
25 *Inc., et al*, Case No. 22-16693, Dkt. 12. Altria primarily argued that the District Court should not have
26 certified the Classes because Class Plaintiffs should have measured the harm caused only by the
27 portions of the alleged fraud in which (according to Altria) Altria had first-hand involvement and
28 because Class Members’ reasons for purchasing JUUL Products were not identical. Altria emphasized

1 that it was not involved in 2015 or 2016 in the design, manufacturing, or labeling of JUUL products, or
2 in the youth marketing and alleged other misconduct, and that it invested in JLI and provided limited
3 retail services only after JUUL’s historic rise in popularity. Altria also argued that Class Plaintiffs’
4 theory of injury—*i.e.* the payment of a price premium regardless of whether class members were
5 actually deceived—was not cognizable under Ninth Circuit law.

6 14. Class Counsel thoroughly researched the relevant case law and, on April 3, 2023,
7 opposed Altria in a 65-page answering brief. *Id.*, Dkt. 22. The Class responded to Altria’s factual and
8 legal arguments, which required a command of the voluminous record—the Class filed a four-volume
9 Supplemental Excerpts of Record in addition to the six-volume Excerpts filed by Altria. *Id.*, Dkts. 13,
10 23. Just as he led the teams responsible for drafting the briefing on the Class’s motion for class
11 certification and their response to Defendants’ 23(f) petitions, Mr. Grzenczyk of Girard Sharp was
12 primarily responsible for the Class’s answering brief.

13 15. On May 4, 2023, the Ninth Circuit gave the parties notice that the appeal was being
14 considered for oral argument in August 2023. Altria’s appeal was pending when the parties announced
15 the global settlement of the MDL, including the class claims, in May 2023, and has since been
16 administratively closed pending the finalization of the settlement. *Id.*, Dkt. 42 (order temporarily
17 closing docket for administrative purposes).

18 **B. Pretrial Submissions and Trial Preparations in the SFUSD Bellwether Case**

19 16. Class Counsel also participated significantly in the pretrial briefing and trial preparations
20 for two bellwethers in the MDL that ran parallel to the Class case. The first bellwether, a personal
21 injury case, settled before trial as part of the JLI settlement. But trial preparations for the second
22 bellwether, with the government entity plaintiff San Francisco Unified School District (“SFUSD”), had
23 also begun before the JLI settlement was reached and continued afterwards, pivoting to proceeding with
24 Altria as the sole defendant.

25 17. Early in the MDL, Co-Lead Counsel established a Trial Committee comprised of
26 lawyers representing all types of plaintiffs, whose charge was to work together to develop the best
27 evidence to support the various overlapping claims in the MDL at trial, as well as trial themes and
28 strategy, and to prepare for and conduct focus groups, theme development, and jury exercises. Ms.

1 Sharp and Ms. Gliozzo (also of Girard Sharp) served on the Trial Committee and participated
2 extensively in general trial preparations, as well as preparations for the bellwethers with imminent trial
3 dates, including the B.B. case and the SFUSD case. Ms. Sharp served on the trial team and as one of
4 four lead trial counsel for the SFUSD bellwether, in which Ms. Gliozzo was a central player as well.
5 Because of the significant overlap in the SFUSD and class cases—in terms of the relevant evidence,
6 fact and expert testimony, and legal claims asserted—the development and prosecution of the
7 bellwether trials served to develop the Class’s trial claims and provide insight into the strengths and
8 weaknesses of those claims.

9 18. The SFUSD trial team, with support from the Trial Committee as needed, developed an
10 outline of the case-in-chief, the order of proof, and related trial materials. Lawyers were assigned to
11 subject areas based on work they had done in the litigation to date. Trial team members also identified
12 potential admissibility issues associated with plaintiffs’ selected testimony and documents, and
13 developed strategies to overcome those challenges. Members of the core trial team and other attorneys
14 responsible for trial preparation conducted numerous strategy sessions during which the trial team
15 decided how to allocate the time available for their case-in-chief, which attorneys would be responsible
16 for questioning fact and expert witnesses, which fact witness deposition testimony would be designated
17 and played for the jury, and what testimony and exhibits to include (and exclude), among other things.

18 19. SFUSD trial preparations had been underway when the JLI settlement was announced in
19 December 2022, with the parties filing a Joint Pretrial Statement on October 11, 2022. Dkt. 3591. After
20 the JLI settlement, the SFUSD trial team and Trial Committee turned their attention to adjusting
21 outlines and strategies to account for JLI and the Individual Defendants’ absence from the trial as
22 defendants, and how best to present their case against Altria alone. The critical strategic decisions the
23 trial team made also served to develop the Class’s trial claims following JLI and the Individual
24 Defendants’ settlement out of the case.

25 20. The SFUSD trial team also had to adjust their deposition designations after JLI and the
26 Individual Defendants settled. As before in the B.B. case, Ms. Gliozzo played a central role in
27 preparing the depositions designations to be exchanged and submitted, applying the rulings of the
28 Special Master and then the Court, and finalizing the video to be played at trial. Judge Larson had

1 submitted recommended rulings on the B.B. designations on a rolling basis between August and early
2 October 2022, *see* Dkts. 3403, 3432, 3441, 3471, 3568 (Special Master’s Report and
3 Recommendations). After the JLI settlement, the SFUSD trial team had to recalibrate, and endeavored
4 to convert these designations as needed to support SFUSD’s claims against Altria alone, identifying
5 testimony to add to and cut from the designations, asserting and responding to new objections regarding
6 Altria’s status as the only remaining defendant, and strategically deciding which of Judge Larson’s
7 recommended rulings to appeal to Judge Orrick. Nearly all of the testimony and designations that
8 supported SFUSD’s RICO claim would have been equally relevant in the Class’s RICO claims against
9 Altria.

10 21. After adjusting materials as needed to address Altria’s new status as the only trial
11 defendant, the parties exchanged updated versions of their initial proposed pretrial materials—including
12 exhibit lists, witness lists, jury instructions, deposition designations, appeals of the Special Master’s
13 recommended rulings on deposition designations, motions *in limine* (“MILs”), and verdict forms—
14 throughout January and February 2023. *See* Dkt. 3743 (amended order setting agreed schedule for
15 exchange of pretrial materials); 3783 (schedule for exchange of motions in limine). The parties
16 conferred extensively and ultimately filed an updated joint pretrial statement for SFUSD on February
17 24, 2023. Dkt. 3817.

18 22. The set of jury instructions submitted with the pretrial statement in SFUSD addressed
19 important issues that impacted all types of plaintiffs in the MDL. Class Counsel provided input into the
20 proposed instructions and responses to the voluminous instructions proposed by the Defendants. The
21 final set of proposed instructions submitted to the Court for SFUSD included 144 agreed and contested
22 instructions spanning over 340 pages. Dkt. 3817-1. Of those agreed and contested instructions, 50
23 addressed the RICO claim. *Id.*

24 23. The parties also filed MILs addressing a wide range of issues likely to arise at trial,
25 including MILs filed before the JLI settlement and new MILs afterwards, and conferred to stipulate to
26 certain issues and previous rulings on MILs in the B.B. bellwether. The Trial Committee and the
27 SFSUD trial team jointly prepared thirteen MILs, most of which were generally applicable to all cases
28 in the MDL. Dkts. 3552; 3788. SFUSD responded to twenty-one MILs filed by Defendants before the

1 JLI settlement, Dkt. 3556, and four additional MILs filed by Altria alone after the JLI settlement, Dkt.
2 3790. In the B.B. bellwether, the parties had stipulated to exclude twenty-one topics and SFUSD and
3 Altria agreed to largely the same exclusions in the SFUSD case. Dkt. 3783. Class Counsel participated
4 in strategizing about which motions to bring and worked on drafting the motions. Ms. Sharp argued
5 some of the motions before the Court, and Ms. Gliozzo was prepared to argue others. The Court ruled
6 on each side's MILs. Dkts. 3838 (tentative rulings); 3846 (adopting and clarifying tentative rulings);
7 3911 (ruling on remaining MILs). The Court allowed key evidence supporting the RICO claims, and
8 SFUSD and all the other MDL plaintiffs, including the Class, benefited from these rulings.

9 24. Several other key issues were litigated leading up to the SFUSD trial that benefited the
10 Class. For example, at a pretrial hearing on April 5, 2023, the Court resolved a motion to quash a trial
11 subpoena for one of the settled Individual Defendants, ruled on deposition designation objections,
12 considered a motion to exclude evidence of the divestiture of Altria's interest in JLI, and ruled on key
13 disputed jury instructions. Dkts. 3901, 3906 (resolving 3831, 3835, 3854, 3866). Many of these rulings
14 were favorable to SFUSD (and the Class), and others benefited all plaintiffs nonetheless by providing
15 clarity. At another pretrial hearing on April 19, 2023, the Court again resolved key pretrial issues,
16 which were informative to both SFUSD and the Class. Dkts. 3923 (tentative rulings); 3931 (clarifying
17 and adopting tentatives).

18 **C. SFUSD Trial Against Altria**

19 25. Just as Ms. Sharp and Ms. Gliozzo committed significant time and energy to trial
20 preparation, they expended substantial effort during the SFUSD trial in April and May 2023 as
21 members of the trial team, with Ms. Sharp serving as one of the four lead trial counsel for SFUSD.

22 26. Jury selection occurred on April 21, 2023. Trial began on April 24, and SFUSD's case-
23 in-chief continued until May 9, 2023. As members of the SFUSD trial team, Ms. Sharp and Ms.
24 Gliozzo spent significant time on all aspects of trial preparation and strategizing, including conferring
25 with co-counsel on trial strategy, developing trial themes, coordinating with defense counsel on
26 logistical trial issues, drafting the direct and cross examinations of key witnesses, preparing SFUSD
27 witnesses to testify live, and working collaboratively on the opening statement and closing arguments.

28

1 27. All of the trial team’s work to develop the RICO claims and present them to the jury
2 benefited the Class, which would have presented the same claims had the Class case proceeded to trial.
3 The deposition designations that Ms. Gliozzo shepherded played a central role in the presentation of
4 SFUSD’s case, with SFUSD ultimately presenting sixteen witnesses via video deposition at trial.
5 Additionally, Ms. Sharp conducted the examinations of several witnesses during trial, including settling
6 Defendant Nicholas Pritzker, whose conduct was central to the RICO claims; Dr. David Cutler, a health
7 economist from Harvard; as well as two SFUSD administrators and two former SFUSD students.

8 28. On May 10, 2023, after SFUSD had rested and before Altria put on its case, Co-Lead
9 Counsel announced a global settlement with Altria that, combined with the earlier JLI settlement,
10 would resolve the Class claims and nearly all other claims in the MDL.

11 29. In addition to the SFUSD trial team’s work directly helping to prepare the presentation
12 of the Class’s case at a subsequent trial, *all* work on the SFUSD trial, even relating to evidence and
13 issues specific to SFUSD, benefitted all cases in the MDL, including the Class, because the strong
14 presentation of SFUSD’s case-in-chief at trial helped to facilitate the global settlement with Altria. The
15 trial team presented a persuasive case on liability and more, and the settlement was announced the
16 morning after plaintiffs rested.

17 **D. Settlement**

18 30. Early on in this case, the Court issued a Notice of Intent to Appoint Settlement Master
19 Thomas J. Perrelli. Dkt. 523. No party opposed the appointment (*id.*), and Mr. Perrelli was appointed
20 on May 18, 2020 (Dkt. 564). The parties began work with Mr. Perrelli and, as noted in case
21 management statements starting in August 2020, the parties continued to “cooperate with his
22 recommendations and directives” (Dkt. 904) through the announcement of the settlement with JLI, and
23 thereafter (*see e.g.*, Dkt. 3677).

24 31. The Altria Class Settlement now before the Court is the result of extensive discussions
25 conducted under Mr. Perrelli’s supervision. In those settlement negotiations, I served as counsel for the
26 proposed Settlement Class, with the other Co-Lead Counsel representing the interests of personal injury
27 and government entity plaintiffs.

1 32. After the May 10, 2023, announcement of the global settlement, Class Counsel worked
2 with counsel for Altria to draft the final Altria Class Settlement Agreement, which was executed on
3 July 26, 2023.

4 **E. Preliminary Approval and Administration of the JLI and Altria Settlements**

5 33. Following the JLI settlement, Class Counsel moved for preliminary approval, creating a
6 notice plan that informed Class members both of the JLI settlement and the pending litigation claims
7 against Altria. Dkt. 3724. The Court granted preliminary approval of the JLI settlement on January 30,
8 2023. Dkt. 3779.

9 34. Class Counsel coordinated with the Settlement Administrator to implement the JLI
10 notice plan and administer the claims process. The Class moved for final approval and attorney's fees,
11 expenses and service awards on June 23, 2023, and filed a reply responding to various objections to the
12 JLI settlement on July 29, 2023. Dkts. 4054, 4055, 4901. The Court presided over a fairness hearing on
13 August 9, 2023. On September 19, 2023, the Court granted final approval of the JLI settlement, Dkt.
14 4138, and on December 18, 2023, the Court granted the motion for attorney's fees from the JLI
15 settlement. Dkt. 4179.

16 35. Following the Altria settlement, Class Counsel again moved for preliminary approval,
17 creating a notice plan that informed class members that all remaining claims had been resolved and
18 proposing a claims process that would ensure that class members who already submitted claims in the
19 JLI settlement did not need to take additional steps to participate in the Altria settlement. Dkt. 4082.
20 The Court granted preliminary approval of the Altria settlement on September 7, 2023. Dkt. 4130.

21 36. Class Counsel coordinated with the Settlement Administrator to implement the Altria
22 notice plan and they continue to coordinate to administer the claims process.

23 **III. LODESTAR CALCULATIONS**

24 37. Class Counsel, the Class Committee, and MDL Lawyers have prosecuted this litigation
25 solely on a contingent-fee basis and have at all times been at risk that they would not receive any
26 compensation for prosecuting claims against the Defendants. While counsel devoted their time and
27 resources to this matter, they have foregone the option of other opportunities for which they may have
28

1 been compensated. In connection with the Settlement or otherwise, the parties have reached no
2 agreements regarding the amounts of attorneys' fees, expenses, and service awards to be paid.

3 38. As detailed in my prior declaration in support of final approval of the JLI Settlement,
4 through December 6, 2022 (the date of the JLI Class Settlement Agreement), all Plaintiffs' counsel had
5 spent 363,344.10 hours prosecuting this case on behalf of the Class and other plaintiffs in the MDL,
6 with a resulting lodestar of \$199,336,544.05.

7 39. After the December 6, 2022 announcement of the JLI settlement, Plaintiffs' counsel
8 continued to litigate the case and submit their time for review by Judge Andler under the procedures
9 described below. To date, time billed through September 2023 has been reviewed and submitted.

10 40. From December 7, 2022 through September 30, 2023, all Plaintiffs' counsel spent
11 33,412.5 additional hours prosecuting this case on behalf of the Class and other plaintiffs in the MDL,
12 with a resulting lodestar of \$21,707,563.70.

13 41. The lodestar for Plaintiffs' counsel is the result of a multi-step review process. First, the
14 time submissions were reviewed, generally by staff at Co-Lead and Liaison Counsel Lief Cabraser
15 Heimann & Bernstein, LLP ("LCHB"). That initial screening sought to identify objective deficiencies
16 in the time submissions, *i.e.*, lack of detail, block billing, etc. Second, detailed time reports were
17 provided to Common Benefit Special Master Andler on a quarterly basis. Judge Andler then reviewed
18 the time submission to determine whether the time submitted was for the common good. For each
19 submission, Judge Andler found that "the tasks, hours and expenses incurred were appropriate, fair and
20 reasonable and for the common benefit." Those reports, along with a cover letter providing additional
21 information, were provided to the Court on a regular basis. Reports for time through January 2023 were
22 attached to my prior declaration, *see* Dkt. 4056-1, and the report for time between February and
23 September 2023 is attached as **Exhibit 1**.

24 42. As the above overview of the litigation should make clear, the vast majority of work
25 performed in the litigation by all Plaintiffs' counsel provided substantial benefits to the Class, and the
26 time expended by Class Counsel and the Class Committee also benefitted non-class plaintiffs. The
27
28

work performed by all Plaintiffs' counsel (again, from December 7, 2022 to September 30, 2023) can be divided into the following categories:³

Category	Code	Total Lodestar	Total Hours
Investigation/Factual Research	1	\$26,653.00	51.0
Attorney Meetings/Strategy	2	\$607,956.40	793.3
Leadership Case Management Duties (Co-Leads/PSC Only)	3	\$651,868.20	798.3
Case Management (Reports/Filings)	3a	\$18,911.30	35.8
Case Management (Administration)	3b	\$769,199.00	1,535.4
Court Appearances	4	\$16,087.00	13.7
Court Appearances (Preparation for Argument/Presentation)	4a	\$271,187.30	385.1
Court Appearances (Argument/Presentation)	4b	\$68,962.00	86.1
Court Appearances (Attendance at Direction of Court/Leadership)	4c	\$73,345.40	100.7
Pleadings (Complaint/Answer)	5	\$34,305.00	53.7
Discovery (Defendants and Third Parties)	6	\$1,833.00	3.1
Discovery (Written Discovery – Propounding)	6a	\$7,056.00	14.1
Discovery (Dispute – Analysis/Strategy)	6b	\$75,613.30	202.6
Discovery (Dispute – Negotiation)	6c	-	-
Discovery (Dispute – Lead Negotiation)	6d	\$407.50	0.5
Discovery (Third-Party)	6e	\$1,233.00	2.3
Discovery (Third-Party – Lead (Negotiation/Compliance))	6f	-	-
Discovery (Plaintiff Discovery - Responsive)	7	\$46,689.90	86.0
Document Review	8	\$2,299,826.60	3,700.2
Legal Research/Memoranda	9	\$189,476.00	378.9
Scientific Research	10	\$21,638.50	24.1
Motions/Briefs	11	\$3,461.00	3.4
Motions/Briefs (Lead Author)	11a	\$229,712.50	320.8
Motions/Briefs (Other)	11b	\$893,982.60	1,322.4
Fact Depositions	12	\$3,197.50	5.8
Fact Depositions (Notice/Scheduling)	12a	\$7,811.00	19.1
Fact Depositions (Preparation)	12b	\$121,700.00	244.9
Fact Depositions (Questioning)	12c	\$2,790.00	6.2

³ For many categories, much of the time is divided into sub-categories (*i.e.*, codes 6(a) – 6(f)). Because substantial work was performed prior to the creation of the sub-categories, for certain categories a significant amount of time appears in the broader, catch-all category (*i.e.*, code 6).

1	Fact Depositions (Defending)	12d	\$23,620.00	49.4
2	Fact Depositions (Attending at the Direction of Leadership)	12e	\$14,300.00	33.3
3	Class Certification/Notice	13	\$7,159.00	9.2
4	Experts/Consultants	14	\$55.00	0.1
5	Experts/Consultants (Administrative)	14a	\$211,853.90	364.8
6	Experts/Consultants (Lead Deposition Preparation)	14b	\$14,542.30	16.3
7	Experts/Consultants (Deposition Preparation)	14c	\$4,508.00	9.1
8	Experts/Consultants (Defending Deposition)	14d	\$895.00	1.0
9	Experts/Consultants (Taking Deposition)	14e	\$1,750.00	3.5
10	Experts/Consultants (Attending Deposition at the Direction of Leadership)	14f	\$2,440.50	4.1
11	Experts/Consultants (Preparation of Reports)	14g	\$249,392.60	313.0
12	Settlement	15	\$146,740.00	158.1
13	Settlement/Mediation	15a	\$1,230,917.80	1,708.5
14	Settlement Administration	15b	\$901,222.60	1,273.7
15	Bellwether Selection	16	\$28,125.40	36.6
16	Trial Preparation (Prior to Pretrial Conference)	17	\$3,875,881.20	5,294.6
17	Trial	18	\$1,253,442.00	1,634.5
18	Bellwether Trial (Lead Counsel)	18a	\$224,428.00	253.1
19	Bellwether Trial (Oral Argument)	18b	\$9,938.60	14.2
20	Bellwether Trial (Attend at the Direction of Lead Counsel)	18c	\$687,870.30	1,005.7
21	Bellwether Trial (Presentation of Evidence/Cross-Examination)	18d	\$143,286.10	197.0
22	Bellwether Trial (Jury Selection)	18e	\$100,033.50	129.5
23	Bellwether Trial (Administrative)	18f	\$4,546,059.40	8,480.2
24	Bellwether Trial (Lead Negotiations)	18g	\$8,027.50	10.6
25	Bellwether Trial (Witness Preparation)	18h	\$1,350,036.00	1,918.7
26	Appeal	19	\$155,388.50	195.5
27	Client Communications	20	\$31,442.40	57.7
28	Miscellaneous	21	\$37,165.30	50.5
	Internal Presentation - Strategy/Evidence/Analysis (Lead – Presentation)	22a	-	-
	Internal Presentation - Strategy/Evidence/Analysis (Preparation)	22b	\$2,368.40	3.1

43. That the categories with the most hours are trial work, trial preparation, document review, settlement, case management and motions/briefs is not surprising given that the bulk of the

1 work in the December 2022 – September 2023 time frame was spent preparing for trial against Altria,
2 trying the case, and briefing and administering both the JLI and Altria settlements.

3 44. Class Counsel acknowledges that a portion of the reported time was spent on matters
4 that predominantly benefitted personal injury or government entity plaintiffs more directly than the
5 Class Plaintiffs. Other portions of the time (litigating the class certification appeal, for example) most
6 directly benefitted Class Plaintiffs, as discussed above. Given the interrelated nature of the work
7 performed on behalf of and by various plaintiff groups, in my view there is no reliable, sufficiently
8 precise method to isolate the hours expended for the benefit of the Class specifically, or for allocating
9 the hours spent on particular tasks to each plaintiff group based on the extent to which that task
10 benefitted the various groups. Having analyzed the time records and data closely, my Co-Lead Counsel
11 and I have concluded that any attempt to do so would be unreliable and subjective, and would lead to
12 more questions than answers. Given the interrelated nature of the claims and overlapping work that
13 needed to be performed for the successful prosecution of those claims, in general the work performed in
14 this litigation was for the common benefit of each plaintiff group. The overall progress of the
15 litigation—including preparations for trial—produced the necessary pressure that resulted in a global
16 settlement of all claims against Altria. With that said, analyzing the time spent by reference to a variety
17 of available metrics confirms that the requested fee award of \$13,659,375.00 is proportional to, and
18 supported by, the time spent to achieve that result.

19 45. The work performed after the announcement of the JLI settlement includes Class
20 Counsel's time briefing their motion for Attorney's Fees and Expenses from the JLI settlement and
21 responding to an objection to the fee request. To ensure that the lodestar presented in connection with
22 the Altria Fee Application is not based on hours spent pursuing attorneys' fees under Rule 23(h), Class
23 Counsel has identified and excluded from the lodestar calculations below individual time entries
24 reflecting work performed in support of the JLI Fee Motion. The excluded fee time totals 710.9 hours
25 resulting in a \$588,762.50 lodestar. This excluded fee time is overinclusive, as it is difficult to precisely
26 isolate hours spent on such work—in particular, time spent on the Class's prior fee motion overlapped
27 with time spent briefing the Class's final approval motion, as both motions were filed concurrently and
28 both were supported by my earlier declaration. For example, nearly two-thirds of the time in the

1 categories for briefing and legal research in May, June and July 2023 (when final approval briefing was
2 drafted and submitted) is excluded here. The total time after December 6, 2022, excluding fee time, is
3 32,701.6 hours resulting in a \$21,122,551.80 lodestar.

4 46. Various conservative metrics for evaluating the time spent in this litigation are provided
5 below. Metrics for time post-dating the JLI Settlement are based on time incurred between December 7,
6 2022, and September 30, 2023 (time spent after September 2023 was not included because it has not
7 been reviewed by Judge Andler), which was *not* included in the analysis in support of the fee
8 application from the JLI settlement. Each metric exclude the hours spent pursuing attorneys' fees under
9 Rule 23(h), as described above.

10 47. *Total Altria-specific Class Lodestar*: \$11,022,954.79 (1.24 multiplier applicable to
11 Altria fee request). Under the approach taken by Professor Klonoff, the lodestar allocated to the Class is
12 the total lodestar for the MDL divided by three, in recognition of the fact that there are three primary
13 plaintiff groups. Professor Klonoff's declaration in support of the requested fee award is attached as
14 **Exhibit 2**. *See also* Klonoff Declaration in Support of JLI Fee Motion, Dkt. 4056-2 at 53. To isolate the
15 portion of the Class-specific lodestar attributable to the litigation against Altria, Professor Klonoff then
16 further reduces the lodestar here by 85%, because the JLI Settlement represents 85% of the combined
17 value of the Class Settlements and Altria represents 15%. The total lodestar from inception is
18 \$220,459,095.85; the Class-specific one third is \$73,486,365.28, and after an 85% reduction, the Altria-
19 specific Class lodestar is \$11,022,954.79. Under this approach, the requested fee amounts to a 1.24
20 multiplier.⁴

21 48. *Cumulative Lodestar for Combined Class Settlements*: \$73,486,365.28 (1.23 multiplier
22 applicable to combined class fees awarded on JLI settlement and requested on Altria settlement). The
23 total lodestar from the inception of the case, excluding time spent on fee applications under Rule 23(h),
24 is \$220,459,095.85. As noted above, Professor Klonoff's approach to the Class-specific portion divides
25

26 ⁴ This approach, taken by Professor Klonoff, is particularly conservative, because it reduces by 85%
27 the class lodestar from both before and after the JLI Settlement, despite that the time billed after
28 December 6, 2022, includes litigation against Altria only. Alternatively, applying the 85% reduction to
only the time billed from inception to December 6, 2022 (which included litigation against both JLI and
Altria) would yield an Altria-specific class lodestar of \$17 million, with a 0.80 multiplier.

1 the lodestar by three, in recognition of the fact that there are three primary plaintiff groups, yielding
 2 \$73,486,365.28. The combined JLI and Altria settlements total \$300,531,250.00. The Court previously
 3 awarded \$76.5 million in attorneys' fees from the JLI Settlement, and Class Counsel seek 30% (\$13.6
 4 million) in fees from the Altria settlement, which (if granted) would yield a total fee of \$90,159,375.00.
 5 The requested \$90 million fee from the combined settlements would, by Professor Klonoff's analysis,
 6 result in a 1.23 multiplier on the cumulative Class lodestar.

7 49. *Total Lodestar Post-Dating the JLI Settlement*: \$21,122,551.80 (0.65 multiplier
 8 applicable to Altria fee request). In their motion for attorneys' fees based on the JLI Class Settlement,
 9 the lodestar reported by Class Counsel did not include any time after the December 6, 2022, settlement
 10 date with JLI. The vast majority of the time spent by the MDL lawyers after December 6, 2022,
 11 furthered the common interests of all plaintiffs, including the Class Plaintiffs, in prosecuting the claims
 12 against Altria. The requested \$13,659,375.00 fee from the Altria Class Settlement Fund would be a
 13 0.65 multiplier on that time, without reference to any of the time incurred before the JLI settlement.

14 50. *Altria Trial and Appeal Lodestar*: \$12,353,290.70 (1.11 multiplier applicable to Altria
 15 fee request). After the JLI settlement, the time that most directly furthered the interests of the Class's
 16 case against Altria was time spent defending the Class Certification order on appeal, preparing for trial
 17 against Altria, and trying the SFUSD case. In the time after December 6, 2022, the 19,133.6 total hours
 18 billed in categories 17, 18, 18a-h, and 19 capture this work and only this work, resulting in a \$12.3
 19 million lodestar. The requested \$13,659,375.00 fee from the Altria Class Settlement Fund would be a
 20 1.11 multiplier on that time, without reference to any other work done after December 6, 2022, or any
 21 of the time incurred before the JLI settlement.

22 51. Plaintiffs' counsels' lodestar is also based on billing rates commonly utilized in this
 23 District. The following summarizes the range of billing rates for each type of timekeeper, for all the
 24 time billed from the inception of the case:

- 25 • For over 97.1% of partner hours, rates range from \$275 – \$1,200.
- 26 • For over 95.5% of senior counsel hours, rates range from \$325 – \$1,000.
- 27 • For over 94.1% of associate hours, rates range from \$175 – \$800.
- 28 • For over 90.8% of contract or staff attorney hours, rates range from \$100 – \$500.

- For over 84.8% of paralegal hours, rates range from \$50 – \$425.

Capping the hourly rates that exceed the above ranges (*i.e.*, capping all partner rates at \$1,200 and all paralegal rates at \$425) has a minimal effect on the lodestar, reducing the post-JLI settlement lodestar by 1.6% (or \$338,725.70), and reducing the cumulative lodestar from inception by 1.2%. In the Court’s order granting Class Counsel’s fee motion for the JLI settlement, it found that these same hourly billing rates were reasonable. Dkt. 4179 at 5.

52. The billing rates are also similar to the rates that have previously been approved for MDL Lawyers. Below are examples of cases where courts have awarded fees based on the then-current rates of Co-Lead Counsel and the Class Committee:

- Girard Sharp: *In re MacBook Keyboard Litig.*, 2023 WL 3688452, at *15 (N.D. Cal. May 25, 2023); *In re Capacitors Antitrust Litig.*, 2020 WL 6813220, at *4 (N.D. Cal. Sept. 15, 2020), *report and recommendation adopted*, 2020 WL 6544472 (N.D. Cal. Nov. 7, 2020); *In re Nexus 6P Products Liab. Litig.*, No. 17-cv-02185-BLF, Dkt. 225 (N.D. Cal. Nov. 12, 2019); *Weeks v. Google LLC*, No. 18-cv-00801, Dkt. 184 (N.D. Cal. Aug. 30, 2019); *In re Lidoderm Antitrust Litig.*, 2018 WL 4620695, at *2 (N.D. Cal. Sept. 20, 2018).
- Lieff Cabraser: *Gutierrez v. Amplify Energy Corp.*, No. 21-01628, Dkt. 726 at 11-13 (C.D. Cal. April 24, 2023); *Cottle v. Plaid Inc.*, 2022 WL 2829882, at *11 (N.D. Cal., July 20, 2022); *Pulmonary Assocs. of Charleston PLLC v. Greenway Health, LLC*, No. 19-167, Dkt. 137 at 5-8 (N.D. Ga., Dec. 2, 2021).
- Keller Rohrback: *Rollins v. Dignity Health.*, 2022 WL 20184568, at *6 (N.D. Cal. July 15, 2022); *Southern Cal. Gas Leak Cases*, Coord. Proc. No. 4861 (Cal. Super. Ct. Apr. 29, 2022); *Ryder v. Wells Fargo Bank, N.A.*, 2022 WL 223570, at *3 (S.D. Ohio Jan. 25, 2022); *Stringer v. Nissan N. Am., Inc.*, No. 21-cv-00099, Dkt. 126 (M.D. Tenn. Mar. 23, 2022); *Beach v. JPMorgan Chase Bank*, No. 17-cv-563, Dkt. 232 (S.D.N.Y. October 7, 2020); *Holcomb v. Hospital Sisters Health Sys.*, No. 16-441 (C.D. Ill. Feb. 25, 2019).
- Weitz & Luxunberg: *Copley v. Bactolac Pharm., Inc.*, 2023 WL 2470683, at *12 (E.D.N.Y. Mar. 13, 2023); *Baker v. Saint-Gobain Performance Plastics Corp.*, 2022 WL 1025185, at *8-9 (N.D.N.Y. Feb. 4, 2022).
- Berger & Montague: *In re Domestic Drywall Antitrust Litig.*, 2018 WL 3439454, *20 (E.D. Pa. July 17, 2018); *Devlin v. Ferrandino & Son, Inc.*, 2016 WL 7178338, *10 (E.D. Pa. Dec. 9, 2016); *Howell v. Checkr, Inc.*, No. 3:17-cv-04305-SK, Dkt. 82 (N.D. Cal. Dec. 13, 2018); *Douglas v. DHI Group, Inc.*, No. 2018-1-CV-331732, Order (Santa Clara Cnty., Cal. Super. Ct. Aug. 6, 2019); *Lee v. The Hertz Corp.*, No. CGC-15-547520, Order (San Fran. Cnty., Cal Super. Ct. Aug. 30, 2019).

- 1 • Gutride Safier: *Taylor v. Shutterfly, Inc.*, 2021 U.S. Dist. LEXIS 237069, at *25
2 (N.D. Cal. Dec. 7, 2021); *In re The Hertz Corporation, et al.*, Case No. 20-bk-
3 11247-MFW, Dkt. 178 (Bankr. Del.); *McArdle v. AT&T Mobility LLC, et al.*, Case
4 No. CV-09-01117, Dkt. 409 (N.D. Cal.); *Carlotti v. Asus Computer International,*
5 *Inc.*, Case No. 18-cv-03369-DMR, Dkt. 86 (N.D. Cal.); *Fitzhenry-Russell v. The*
6 *Coca-Cola Company*, Case No. 5:17-cv-00603-EJD, Dkt. 95 (N.D. Cal.); *In re*
7 *Arctic Sentinel, Inc., et al.*, Case No. 15-12465, Dkt. 1331 (Bankr. Del.); *Fitzhenry-*
8 *Russell et al. v. Dr Pepper Snapple Group, Inc. et al.* 5:17-cv-00564, Dkt. 350 (N.D.
9 Cal.); *Pettit et al. v. Procter & Gamble Co.*, Case No. 3:15-cv-02150-RS, Dkt. 135
10 (N.D. Cal.); *Koller et al. v. Med Foods, Inc., et al.*, Case No. 3:14-CV-2400-RS, Dkt.
11 169 (N.D. Cal.).
- 12 • Tycko & Zavarei: *Mitchell v. Intero Real Estate Services*, No. 5:18-cv-05623-BLF
13 (N.D. Cal. Oct. 28, 2022), Dkt. 305; *Kumar v. Salov North America Corp.*, 2017 WL
14 2902898 (N.D. Cal. July 7, 2017); *Stathakos v. Columbia Sportswear Co.*, 2018 WL
15 1710075, at *6 (N.D. Cal. Apr. 9, 2018); *Meta v. Target Corp., et al.*, No. 14-cv-
16 0832 (N.D. Ohio Aug. 7, 2018), Dkt. 179; *In re Think Finance, LLC, et al.*, No. 17-
17 bk-33964 (Bankr. N.D. Tex.); *Brown v. Transurban USA, Inc.*, 2016 WL 6909683
18 (E.D. Va. Sept. 29, 2016); *Small v. BOKF, N.A.*, No. 1:13-cv-01125-REB-MJW (D.
19 Colo.); *Soule v. Hilton Worldwide, Inc.*, 2015 WL 12827769 (D. Haw. Aug. 25,
20 2015); *Beck v. Test Masters Educ. Servs., Inc.*, 73 F. Supp. 3d 12 (D.D.C. 2014).

14 IV. LITIGATION EXPENSES

15 53. Class Counsel has reviewed the litigation costs incurred and believe that payment of
16 \$1,000,000 in costs from the Altria Class Settlement Fund is fair and reasonable. In its order granting
17 Class Counsel's fee motion for the JLI settlement, the Court awarded \$4.1 million in expenses from the
18 JLI settlement and acknowledged that "Class Counsel estimates that the expenses that would have been
19 incurred in the litigation would likely have exceeded \$10 million if those claims had been litigated
20 independently instead of along with the personal injury, government entity and tribal claims." Dkt.
21 4179 at 6. The additional \$1,000,000 requested from the Altria settlement would still represent a
22 savings of millions on costs that the Class would have incurred had it proceeded independently.
23 Additional costs in just the same categories cited by the Court in support of the JLI expense award, *see*
24 Dkt. 4179 at 6-7, alone justify the additional expense award requested here. For example, since the JLI
25 expense request was submitted, plaintiffs have incurred over \$188,000 in additional document hosting
26 expenses. Regarding expenses related to depositions, plaintiffs have incurred over \$1,700,000 in
27 expenses that were not included in the JLI expense request, such as additional costs for deposition
28 transcripts, service of subpoenas, fees for Special Master Judge Larson's services resolving disputes

1 during depositions and ruling on objections in deposition designations, expenses for Nextpoint, a
2 technology platform used to prepare, exchange, and review designations, and expenses for technicians
3 to cut the deposition video corresponding to designations as plaintiffs revised and refined their cuts.
4 The \$1.7 million figure does not include the time spent by trial technicians to finalize and present video
5 designations at the SFUSD trial. Deposition costs were particularly high because many key witnesses,
6 particularly ones relevant to Altria, were outside the subpoena range of the Court, and plaintiffs
7 incurred expenses to effectively present their testimony on video via deposition designations.

8 54. In connection with the JLI expense request, Class Counsel also conducted a high-level
9 review of the litigation expenses and conducted an analysis that, for each expense (or group of
10 expenses), allocated 100%, 33.3% or 0% of the cost to the Class, depending on the extent to which the
11 expense benefitted the class. For example, all the expert fees paid to Dr. Singer—whose only role was
12 to provide testimony in support of the Class claims—were allocated 100% to the Class. Dr. Alan
13 Shihadeh, in contrast, provided expert opinions in support of all the plaintiffs' claims, including but not
14 limited to the Class's claims; accordingly, one-third of Dr. Shihadeh's expert fees were allocated to the
15 Class. No expert fees related to expert work specific to the injuries of a particular personal injury or
16 government entity plaintiff were allocated to the Class. This exercise is conservative as it ignores the
17 fact the many costs for which 1/3 of the total was allocated to the class would have been incurred in full
18 by the class in a class-only litigation. As described in my prior declaration, the result of this analysis
19 was a cost allocation to the Class of over \$5 million. The total exceeds the cumulative requested
20 expense award of \$5.1 million, especially once Class Counsel updated that analysis to account for
21 additional expenses incurred since the date of the original review. In Class Counsel's view, the
22 collaborative nature of this litigation has resulted in significant costs savings to the class, which are
23 reflected in the cumulative request of \$5.1 in expenses payments from the combined settlement funds.

24 55. The \$1,000,000 requested is also consistent with the amount that results from applying
25 a 2% cost assessment to the Class (where 2% of the aggregate settlement amount is \$6 million, and
26 \$910,000 of the Altria settlement alone), which is the amount of assessments paid by other plaintiffs in
27 the litigation. *See* Dkt. 586 at 11. Class Counsel has conferred with other Co-Lead Counsel and
28 determined that, in light of their expectation that the 2% cost assessment from the non-class plaintiff

1 groups will provide a significant amount of funds from which to pay costs, it would be appropriate for
2 the Class to contribute an amount consistent with a 2% cost assessment, or \$5.1 million total towards
3 the overall litigation expenses from the JLI and Altria Class Settlements combined. Because Class
4 Counsel sought and the Court awarded \$4.1 million from the JLI settlement already, Class Counsel
5 requests that the Court authorize the payment of the remainder, \$1,000,000, from the Altria Class
6 Settlement Fund for the payment of litigation costs.

7 **V. SETTLEMENT ADMINISTRATION COSTS**

8 56. Epiq is providing ongoing settlement administration for both the JLI and Altria
9 settlements. Epiq has submitted invoices for its expenses incurred in connection with the Altria
10 settlement as of December 2023, totaling \$1,328,733.78. The vast majority of that amount is for
11 processing claims and allocating the settlement proceeds among Eligible Claimants. Additionally,
12 Epiq's invoices for the JLI settlement total \$3,013,218.81 as of December 2023. Epiq's invoices for
13 work related to the Altria Settlement and work related to the JLI Settlement reflect non-overlapping
14 work, for example notice costs and the processing of claims submitted during the claims period
15 applicable to each settlement.

16 57. The costs that Epiq will continue to incur include further claims processing and fraud
17 review, providing support for and contact with Class Members, preparing and distributing payments to
18 Claimants, and handling the various tax reporting obligations required by law. How much these
19 remaining activities will cost will depend primarily on the volume and complexity of the Claims
20 received, and the volume of claims that are ultimately deemed eligible for payment. The February 5,
21 2024, deadline for Class Members to submit Claims is still three weeks out, and Epiq continues to
22 receive Claims at a rapid clip. According to Epiq, as of January 12, 2024, Epiq has received over 7
23 million claims, 179 opt out requests, and zero objections to the Altria Class Settlement. As explained in
24 the accompanying declaration of Cameron Azari (attached as **Exhibit 3**), the notice has apparently been
25 effective, as the number of Claims appears to be very high, although any duplicate claims submitted by
26 class members in both the JLI claims period and the Altria claims period have not yet been identified
27 and removed, and it is expected that after a complete review, a substantial number of the claims
28

1 received to date will likely be determined to be invalid. *See also* Azari Decl. re Notice Completion,
2 Dkt. 4166 ¶ 13.

3 58. Given that the claim period is still open and the ultimate figures are not yet settled, Epiq
4 has reported that at this time, it is not able to provide a reliable estimate of the additional costs it
5 expects to incur to complete the processing of Claims and distribution of money to Eligible Claimants.
6 The main areas of cost uncertainty are (1) determining the final number of claims that will be submitted
7 by the February 5 deadline, particularly given the robust claims-filing rate to date, and (2) assessing the
8 cost associated with the significant effort that will be undertaken once the claims period is closed to
9 determine the potential number of fraudulent claims and appropriate next steps. The total number of
10 claims, and the extent to which fraudulent claims are filed alongside legitimate claims, will have a
11 significant impact on the total costs to complete claims administration.

12 59. Class Counsel continues to work with Epiq on methods for reducing costs and reviews
13 billing statements on a weekly basis. Epiq and Class Counsel both still anticipate that, notwithstanding
14 the very high Claims volume, Epiq will be able to complete the Claims administration work for less
15 than the \$6 million approved by the Court, and if not will seek Court authorization for payment for
16 additional expenses supported by documentation. Class Counsel will not authorize the payment of more
17 than \$6 million to Epiq absent court approval. Class Counsel will be prepared to update the Court on
18 the Claims process before the Final Approval Hearing.

19
20 The undersigned declare under penalty of perjury under the laws of the United States of America
21 that the foregoing is true and correct. Executed this 16th day of January 2024.

22
23 /s/ Dena C. Sharp
24 Dena C. Sharp
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2024, I electronically filed the foregoing document using the CM/ECF system, which will send notification of such filing to all counsel of record registered in the CM/ECF system.

/s/ Dena C. Sharp

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