

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

In Re: AUTOMOTIVE PARTS ANTITRUST LITIGATION	:	Case No. 12-md-02311 Honorable Sean F. Cox
In Re: SMALL BEARINGS CASES	:	
THIS DOCUMENT RELATES TO: ALL DIRECT PURCHASER ACTIONS	:	2:17-cv-04201-SFC-RSW 2:17-cv-10853-SFC-RSW

ORDER

AND NOW, upon consideration of Direct Purchaser Plaintiff’s Motion for Final Approval of Plan of Distribution of Minebea Settlement Fund and Requests for Attorneys’ Fees, Reimbursement of Litigation Expenses, and Class Representative Service Award (the “Motion”), the Memorandum in support thereof, the Notice Report and declaration and exhibits attached thereto, it is hereby ORDERED that the Motion is GRANTED.

1. The requirements of Fed. R. Civ. P. 23(h)(1) have been satisfied. Notice of the relief requested in the Motion was mailed to all potential class members. In addition, a summary notice was published in *Automotive News*, and an Informational Press Release was issued nationwide via PR Newswire’s “Auto Wire,” which targets auto industry trade publication. The Notice is also posted online on the website dedicated to this litigation.

2. There were no objections to the relief requested in the Motion. The absence of objections is an indication that the proposed plan for distribution of the Minebea Settlement Fund, and the requests for attorneys’ fees, reimbursement of litigation expenses, and service award are fair and reasonable.

3. The Court approves the proposed pro-rata plan for distribution of the Minebea Settlement Fund as a fair and reasonable method to allocate the net Minebea Settlement Fund among the Class members.

4. The Court has considered the relevant case law and authority and finds that an award of attorneys' fees and reimbursement of litigation expenses to the Direct Purchaser Plaintiff and its counsel are appropriate under Fed. R. Civ. P. 23(h) and Fed. R. Civ. P. 54(d)(2).

5. The Court engages in a two-part analysis when assessing the reasonableness of a petition seeking an award of attorneys' fees. *In re Cardinal Health Inc. Sec. Litig.*, 528 F. Supp. 2d, 752, 760 (S.D. Ohio 2007). The Court first determines the method of calculating the attorneys' fees: it applies either the percentage of the fund approach or the lodestar method. *Id.*; *Van Horn v. Nationwide Prop. And Cas. Inc. Co.*, 436 Fed. Appx. 496, 498 (6th Cir. 2011).

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

7. The Court will award fees to Direct Purchaser Plaintiff's counsel using the percentage-of-the-fund approach. This method of awarding attorneys' fees is preferred in this district because it eliminates disputes about the reasonableness of rates and hours, conserves judicial resources, and aligns the interests of class counsel and the class members. *Rawlings*, 9 F.3d at 515; *Shane Group, Inc. v. Blue Cross Blue Shield of Michigan*, No. 10-cv-14360, 2015 WL 1498888, at *15 (E.D. Mich. Mar. 31, 2015); *In re Packaged Ice Antitrust Litig.*, 08-MDL-01952,

2011 WL 6209188, at *16 (E.D. Mich. Dec. 13, 2011); *In re Delphi Corp. Sec. Derivative & ERISA Litig.*, 248 F.R.D. 483, 502 (E.D. Mich. 2008); *Cardinal*, 528 F. Supp. 2d at 762 (the Sixth Circuit has “explicitly approved the percentage approach in common fund cases.”); *In re Skelaxin (Metaxalone) Antitrust Litig.*, 2014 WL 2946459, *1 (E.D. Tenn. Jun. 30, 2014).

8. Counsel for the Direct Purchaser Plaintiff request a fee award of just under 32% of the Mineabea Settlement Fund. The fee requested is within the range of fee awards made by courts in this Circuit. *In re Prandin Direct Purchaser Antitrust Litig.*, 2015 WL 1396473 (E.D. Mich. Jan. 20, 2015) (awarding one-third of the fund); *In re Packaged Ice Antitrust Litig.*, 2011 WL 6209188, at *19; *Skelaxin*, 2014 WL 2946459, at *1; *In re Southeastern Milk Antitrust Litig.*, 2013 WL 2155387, at *8 (E.D. Tenn. May 17, 2013); *Thacker v. Chesapeake Appalachia, L.L.C.*, 695 F. Supp. 2d 521, 528 (E.D. Ky. 2010); *Bessey v. Packer and Plainwell, Inc.*, No. 4:06-CV-95, 2007 WL 3173972, at *4 (W.D. Mich. 2007); *Delphi*, 248 F.R.D. at 502-03; *In re National Century Financial Enterprises, Inc. Investment Litig.*, 2009 WL 1473975 (S.D. Ohio May 27, 2009); *Kogan v. AIMCO Fox Chase, L.P.*, 193 F.R.D. 496, 503 (E.D. Mich. 2000).

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

10. The results achieved provide a clear benefit to the Settlement Class: a certain payment of \$9,750,000, plus interest, less attorneys’ fees, litigation costs and expenses, a service award, and notice and claims administration costs.

11. The settlement amount constitutes a “common fund.” It has long been recognized that attorneys who recover a common fund for others are entitled to reasonable attorneys’ fees from that fund.

12. Direct Purchaser Plaintiff’s counsel vigorously and effectively pursued the Direct Purchasers’ claims. These efforts included factual investigation, drafting complaints, reviewing, and analyzing documents, taking a deposition, negotiating the terms of the settlement, preparing the settlement documents, preparing the notice documents, and overseeing the administration of the settlement.

13. The Direct Purchaser Plaintiff’s counsel pursued this litigation on a contingency basis and bore a significant risk of non-payment in pursuing these claims.

14. Antitrust actions are inherently complex. The legal and factual issues are complicated and highly uncertain in outcome. This case is no exception.

15. As the Court has previously found, Direct Purchaser Plaintiff’s counsel are qualified to litigate class action antitrust claims, and they have performed their duties skillfully.

16. The reaction of the class members has been favorable. The Settlement Class is composed of sophisticated direct purchasers of Small Bearings, including parts suppliers and manufacturers of motor vehicles. The absence of objection is an indication that an attorneys’ fee award of just under 32% is reasonable.

17. The Court previously awarded Direct Purchaser Plaintiff’s counsel attorneys’ fees in the amount of \$2,919,457.36 and \$18,475.47; the fee award constituted 30% of the Minebea Settlement Fund after deducting the reimbursed expenses. Direct Purchaser Plaintiff is now requesting an additional award of attorneys’ fees and litigation expenses in the amount of \$200,000 for their time and expenses related to preparing the notice documents and pleadings in connection

with obtaining the Court's approval of the proposed plan for distribution of the Minebea Settlement Fund and to the ongoing administration, approval, and payment of claims. An award of \$200,000, when combined with the fees previously awarded, would amount to a total fee award of \$3,119,457.36, which would be just under 32% of the Minebea Settlement Fund. As noted above, such an award is consistent with fee awards in this Circuit. It is also consistent with fee awards previously approved as reasonable by the Court in other Direct Purchaser Automotive Parts cases. *See, e.g., In Re: Shock Absorbers*, 2:15-cv-03301-SFC-RSW (June 15, 2023) (ECF No. 88) (33% fee award); *In Re: Oxygen Sensors*, 2:15-cv-03101-SFC-RSW (September 22, 2022) (ECF No. 105) (33% fee award); *In Re: Bearings Cases*, 2:12-cv-00501-SFC-RSW (June 10, 2021) (ECF No. 515) (33 1/3%).

18. After considering the appropriate factors, the Court finds that the requested attorneys' fees are reasonable and awards attorneys' fees to Direct Purchaser Plaintiff's counsel in the amount of \$200,000.

19. Interim Lead Counsel are authorized to allocate the attorneys' fee award amount among Direct Purchaser Plaintiff's counsel in accordance with each firm's contribution to the prosecution of the case.

20. The Court finds that the Class Representative is deserving of a service award in view of the time and effort expended by it in furtherance of the case and hereby awards McGuire Bearing Company a service award of \$25,000.

IT IS SO ORDERED.

Dated: October 4, 2023

s/Sean F. Cox

Sean F. Cox
U. S. District Judge