

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

IN RE AUTOMOTIVE PARTS ANTITRUST LITIGATION	:	Master File No. 12-md-02311 Honorable Sean F. Cox
IN RE: BEARINGS CASES	:	
THIS DOCUMENT RELATES TO: DIRECT PURCHASER ACTIONS	:	2:12-cv-00501-SFC-RSW 2:15-cv-12068-SFC-RSW 2:15-cv-13932-SFC-RSW 2:15-cv-13945-SFC-RSW

ORDER

AND NOW, upon consideration of Direct Purchaser Plaintiffs’ Motion for an Award of Attorneys’ Fees and Litigation Costs and Expenses (the “Motion”), the Memorandum in support thereof, and the declarations and exhibits attached thereto, and following a hearing on the Motion, it is hereby ORDERED that the Motion is GRANTED:

1. The Court has considered the relevant case law and authority and finds that awards of attorneys’ fees and reimbursement of litigation costs and expenses to the Direct Purchaser Plaintiffs and its counsel are appropriate under Fed. R. Civ. P. 23(h) and Fed. R. Civ. P. 54(d)(2).

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

3. The Court has the discretion to select the appropriate method for calculating attorneys’ fees “in light of the unique characteristics of class actions in general, and of the unique

circumstances of the actual cases before them.” *Rawlings v. Prudential-Bache Properties, Inc.*, 9 F.3d 513, 516 (6th Cir. 1993). In common fund cases, the award of attorneys’ fees need only “be reasonable under the circumstances.” *Id.*, 9 F.3d at 516. The Court has also analyzed and weighed the six factors described in *Ramey v. Cincinnati Enquirer, Inc.*, 508 F.2d 1188 (6th Cir. 1974).

4. The Court will award fees to Direct Purchaser Plaintiffs’ 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). The total amount of the settlement funds before the Court is \$37,500,000.

5. The requirements of Fed. R. Civ. P. 23(h)(1) have been satisfied. Notice of the relief requested in the motion before the Court was mailed to 2,416 potential class members. In addition, a summary notice was published in *Automotive News*. Additionally, an Informational Press Release was issued nationwide via PR Newswire’s “Auto Wire,” and via PR Newswire’s “Machinery and Equipment” microlist. Finally, the Notice was (and remains) posted online on the website dedicated to this litigation. There were no objections.

6. The Court grants the Direct Purchaser Plaintiffs' request for reimbursement of litigation expenses in the amount of \$2,692,068.76.

7. Counsel for the Direct Purchaser Plaintiffs request a fee award of one-third of the settlement amount. The one-third 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 Southeastern Milk Antitrust Litig.*, 2013 WL 2155387, at *8 (E.D. Tenn. May 17, 2013); *Skelaxin*, 2014 WL 2946459, at *1; *In re Packaged Ice Antitrust Litig.*, 2011 WL 6209188, at *19; *Thacker v. Chesapeake Appalachia, L.L.C.*, 695 F. Supp. 2d 521, 528 (E.D. Ky. 2010); *Bessey v. Packer and Plainwell, Inc.*, No. 4:06-CV-95, 2007 WL 3173972, *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).

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

9. The settlement amount is \$37,500,000. The settlement in the Direct Purchaser Bearings Distributor case confers a substantial benefit on the members of the Settlement Class and the value of the settlement is immediate and readily quantifiable.

10. Direct Purchaser Plaintiffs' Counsel vigorously and effectively pursued the Direct Purchasers' claims. These efforts included: factual investigation; drafting complaints; successfully opposing multiple motions to dismiss; preparing requests to produce documents, interrogatories and subpoenas; reviewing, analyzing, and coding millions of pages of documents produced by Defendants in multiple languages; reviewing and preparing the named plaintiffs' documents for production to Defendants; preparing for, taking, and defending more than eighty depositions, including of fact (both corporate knowledge and individual) and expert witnesses, over the course of more than one hundred days, in multiple locations in the United States and Japan; preparing class certification motions and replies; reviewing and analyzing Defendants' oppositions to the class certification motions; reviewing and analyzing Defendants' expert reports; working closely with experts in connection with their reports; drafting a Daubert motion against a defense expert; opposing multiple Daubert motions filed against Plaintiffs' experts; preparing for and presenting a class certification motion, and opposing Daubert motions, at a hearing; drafting mediation statements; engaging in extensive settlement negotiations with Defendants' counsel, including at times with two court-appointed mediators; preparing the settlement agreement with the Defendants, and the settlement notices, orders, and the preliminary and final approval motions and memoranda in support of the settlement and allocation and distribution plan; and working with the claims administrator to design and disseminate the class notices and a claim form, and to create and maintain a settlement website.

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. The results achieved provide a clear benefit to the Settlement Class: an immediate and certain payment of \$37,500,000 plus accrued interest, less attorneys' fees, litigation costs and expenses, and notice and claims administration costs.

13. Direct Purchaser Plaintiffs' Counsel represented Direct Purchaser Plaintiffs and the Class on a fully contingent basis with respect to both attorneys' fees and expenses 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. In the absence of these settlements, Direct Purchaser Plaintiffs would have been facing continued litigation against the Defendants.

16. As the Court has previously found, Interim Lead and Liaison Counsel are qualified to litigate class action antitrust claims, and they have performed their duties skillfully.

17. The reaction of the class members was favorable. The Settlement Class is composed of sophisticated distributors who purchased Bearings directly from Defendants. The absence of objections is an indication that an attorneys' fee of one-third of the settlement fund is reasonable.

18. As of April 30, 2021, Direct Purchaser Plaintiff's Counsel had devoted \$76,980,270.50 in professional time at their historical billing rates to pursuing this case for the Direct Purchasers.

19. The Court finds that Direct Purchaser Plaintiffs' Counsel performed their tasks diligently, efficiently, and reasonably, and that their billing rates and lodestar are appropriate.

20. The Court conducted a lodestar “cross-check” with respect to the attorneys’ fee award and determined that the fee requested represents a negative multiple of .16 on Direct Purchaser Plaintiffs’ Counsel’s lodestar.

21. After considering the appropriate factors, the Court finds that attorneys’ fees of one-third of the settlement amount are reasonable and awards a fee of \$12,498,750, which is one-third of the \$37,500,000 settlement fund.

22. Interim Lead Counsel are authorized to allocate among Direct Purchaser Plaintiffs’ Counsel the attorneys’ fees and reimbursed litigation costs and expenses in accordance with each firm’s contribution to the prosecution of the case.

IT IS SO ORDERED.

Dated: June 10, 2021

s/Sean F. Cox

Sean F. Cox
U. S. District Judge