

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

JEFFREY WORTH AND ROBERT BURNS,
on behalf of themselves and others similarly
situated,

Plaintiffs,

v.

CVS PHARMACY, INC.,

Defendant.

No. 16-cv-00498-SMG

**DECLARATION OF
MATTHEW B. SIMON IN SUPPORT OF
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
MOTION FOR PAYMENT OF CLASS
COUNSEL'S FEES, EXPENSES, AND
PAYMENT OF INCENTIVE AWARD TO
THE CLASS REPRESENTATIVES**

I, Matthew B. Simon, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the Associate Litigation Director at the Center for Science in the Public Interest (“CSPI”). CSPI; Kaplan Fox & Kilsheimer LLP; Mehri & Skalet, PLLC; and Reese LLP (collectively, “Class Counsel”) represent the named plaintiffs and the class in the above-captioned action. I am a member in good standing of the New York and District of Columbia bars, and I am admitted *pro hac vice* before this Court.

2. I respectfully submit this declaration in support of the motion by named plaintiffs Jeffrey Worth and Robert Burns (“Class Representatives”) for Final Approval of the Class Action Settlement and the accompanying motion for payment of Class Counsel’s fees, expenses, and payment of an incentive award to the Class Representatives.

3. The facts set forth in this declaration are based in part upon my personal knowledge and in part on information reflected in CSPI’s contemporaneous time and expense records (“CSPI’s Records”). I would competently testify to the following facts if called upon to do so.

4. As set forth more fully in the Declaration of Michael R. Reese, Class Counsel have been responsible for the prosecution of this action and for the negotiation of the Settlement Agreement. We have vigorously represented the interests of the class throughout the course of the litigation and settlement negotiations. Class Counsel expended significant time and effort pursuing this litigation.

5. According to CSPI’s Records, CSPI has spent more than 504 hours litigating this action, with a lodestar of \$345,850.85. The following CSPI timekeepers, whose credentials are set forth more fully in CSPI’s Firm Profile (Decl. of Michael R. Reese, Ex. 4), were involved in

this matter¹:

- a. Matthew Simon: As noted above, I am CSPI's Associate Litigation Director. I have worked on this action since January 2017. I participated in settlement negotiations and was involved in drafting several letters, briefs, and motions submitted in this action.
- b. Maia Kats: Ms. Kats was CSPI's Litigation Director. Ms. Kats was the lead CSPI attorney on this action from its initiation until January 2019, when she joined the firm Kaplan Fox & Kilsheimer LLP, where she continues to represent the class.
- c. William Thanhauser: Mr. Thanhauser was a litigation associate at CSPI. Mr. Thanhauser worked on this action from its initiation until October 2016. He was heavily involved in investigating this matter and drafting the Complaint.
- d. Andrew Blake: Mr. Blake was a paralegal at CSPI. Mr. Blake provided administrative assistance on this action from October 2017 to June 2018.

6. According to CSPI's Records, CSPI has incurred expenses of \$398.00. These expenses are comprised of filing fees of \$300.00 and travel expenses from Washington, DC to New York of \$98.00.

7. A true and correct summary of CSPI's time and expenses, based on CSPI's Records, is attached hereto as Exhibit 1.

8. The hourly rates for CSPI's timekeepers were arrived at by reference to (1) rates charged by CSPI for similarly experienced timekeepers in a class action that was granted final approval, *see Ackerman v. Coca-Cola Co.*, Case No. 09 Civ. 395 (DLI) (RML) (E.D.N.Y), ECF Nos. 171-6 (Declaration of Maia Kats for CSPI), 182 (Order Granting Final Approval and Entering Final Judgment); and (2) the "Updated Laffey Matrix," *see, e.g., Smith v. D.C.*, 466 F. Supp. 2d 151, 156 (D.D.C. 2006) (finding hourly rates reasonable when consistent with the "Updated Laffey Matrix," a table of hourly billing rates developed to assist courts in determining reasonable rates

¹ CSPI is not seeking any compensation for work performed on this matter by CSPI's current Litigation Director, Lisa Mankofsky, who joined CSPI on August 12, 2019.

in the District of Columbia); *see also* The Laffey Matrix, <http://www.laffeymatrix.com/see.html>.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: September 6, 2019

By: /s/ Matthew B. Simon

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Co-Lead Class Counsel

EXHIBIT 1**CVS ALGAL-900 DHA****CSPI LODESTAR**

Timekeeper	Title	Hours	Hourly Rate	Lodestar
Maia Kats	Litigation Director (Feb. 2016–Jan. 2019)	287.5	\$875.00	\$251,562.50
Matthew Simon	Associate Litigation Director (Jan. 2017–Present)	108.11	\$435.00	\$47,027.85
William Thanhauser	Litigation Associate (Feb. 2016–Oct. 2016)	108.3	\$435.00	\$47,110.50
Andrew Blake	Paralegal (Oct. 2017–June 2018)	0.75	\$200.00	\$150.00
Total		504.66		\$345,850.85

CSPI EXPENSES

Item	Costs
3/07/2016 Filing Fee	\$150.00
1/26/2017 Filing Fee	\$150.00
Travel for 10/18/2018 Mediation	\$98.00
Total	\$398.00