EXHIBIT C

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA
Miami Division

In re: Takata Airbag Product Liability Litigation
(Economic Loss Track Cases Against BMW, Mazda, Subaru, and Toyota)

MDL No. 2599

DECLARATION OF BRIAN T. FITZPATRICK

I. Background and qualifications

1. My name is Brian Fitzpatrick and I am a Professor of Law at Vanderbilt University in Nashville, Tennessee. I joined the Vanderbilt law faculty in 2007, after serving as the John M. Olin Fellow at New York University School of Law in 2005 and 2006. I graduated from the University of Notre Dame in 1997 and Harvard Law School in 2000. After law school, I served as a law clerk to The Honorable Diarmuid O'Scannlain on the United States Court of Appeals for the Ninth Circuit and to The Honorable Antonin Scalia on the United States Supreme Court. I also practiced law for several years in Washington, D.C., at Sidley Austin LLP. My C.V. is attached as Appendix 1.

2. Like my research at New York University before it, my teaching and research at Vanderbilt have focused on class action litigation. I teach the Civil Procedure, Federal Courts, Complex Litigation, and Comparative Class Actions courses at Vanderbilt. In addition, I have published a number of articles on class action litigation in such journals as the University of Pennsylvania Law Review, the Journal of Empirical Legal Studies, the Vanderbilt Law Review, the NYU Journal of Law & Business, and the University of Arizona Law Review. My work has been cited by numerous courts, scholars, and media outlets such as the New York Times, USA Today, and Wall Street Journal. I have also been invited to speak at symposia and other events

about class action litigation, such as the ABA National Institute on Class Actions in 2011, 2015, 2016, and 2017, and the ABA Annual Meeting in 2012. Since 2010, I have also served on the Executive Committee of the Litigation Practice Group of the Federalist Society for Law & Public Policy Studies. In 2015, I was elected to the American Law Institute.

3. In December 2010, I published an article in the Journal of Empirical Legal Studies entitled *An Empirical Study of Class Action Settlements and Their Fee Awards*, 7 J. Empirical L. Stud. 811 (2010) (hereinafter "Empirical Study"). Unlike other studies of class actions, which have been limited to certain subject areas or have been based on samples of cases that were not intended to be representative of the whole (such as settlements approved in published opinions), my study sought to examine *every* class action settlement approved by a federal court over a two-year period, 2006-2007. *See id*. at 812-13. As such, not only is my study not biased toward particular settlements, but the number of settlements included in my study is several times the number of settlements per year that has been identified in any other empirical study of class action settlements: over this two-year period, I found 688 settlements, including 54 from the Eleventh Circuit alone. *See id*. at 817. This study has been relied upon by a number of courts, scholars, and testifying experts. *See*, *e.g.*, *Silverman v. Motorola Solutions, Inc.*, 739 F.3d 956, 958 (7th Cir. 2013) (relying on article to assess fees); *Good v. W. Virginia-Am. Water Co.,* 2017 WL 2884535, at *23, *27 (S.D.W. Va. July 6, 2017) (same); *McGreevy v. Life Alert Emergency Response, Inc.*, 2017 WL 1534452, at *3 (S.D.N.Y. Apr. 28, 2017) (same); *Brown v. Rita's Water Ice Franchise Co. LLC*, 2017 WL 1021025, at *9 (E.D. Pa. Mar. 16, 2017) (same); *In re: Urethane Antitrust Litig.*, 2016 WL 4060156, at *7 (D. Kan. July 29, 2016) (same); *In re Credit Default Swaps Antitrust Litig.*, 2016 WL 1629349, at * 17 (S.D.N.Y. Apr. 24, 2016) (same); *In re Pool Products Distribution Mkt. Antitrust Litig.*, 2015 WL 4528880, at

*19-20 (E.D. La. July 27, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, 2015 WL 2147679, at *2-4 (N.D. Ill. May 6, 2015) (same); *Craftwood Lumber Co. v. Interline Brands, Inc.*, 2015 WL 1399367, at *3-5 (N.D. Ill. Mar. 23, 2015) (same); *In re Capital One Tel. Consumer Prot. Act Litig.*, 2015 WL 605203, at *12 (N.D. Ill. Feb. 12, 2015) (same); *In re Neurontin Marketing and Sales Practices Litigation*, 2014 WL 5810625, at *3 (D. Mass. Nov. 10, 2014) (same); *Tennille v. W. Union Co.*, 2014 WL 5394624, at *4 (D. Colo. Oct. 15, 2014) (same); *In re Colgate-Palmolive Co. ERISA Litig.*, 36 F.Supp.3d 344, 349-51 (S.D.N.Y. 2014) (same); *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, 991 F.Supp.2d 437, 444-46 & n.8 (E.D.N.Y. 2014) (same); *In re Federal National Mortgage Association Securities, Derivative, and "ERISA" Litigation*, 4 F.Supp.3d 94, 111-12 (D.D.C. 2013) (same); *In re Vioxx Products Liability Litigation*, 2013 WL 5295707, at *3-4 (E.D. La. Sep. 18, 2013) (same); *In re Black Farmers Discrimination Litigation*, 953 F.Supp.2d 82, 98-99 (D.D.C. 2013) (same); *In re Southeastern Milk Antitrust Litigation*, 2013 WL 2155387, at *2 (E.D. Tenn., May 17, 2013) (same); *In re Heartland Payment Sys., Inc. Customer Data Sec. Breach Litig.*, 851 F. Supp. 2d 1040, 1081 (S.D. Tex. 2012) (same); *Pavlik v. FDIC*, 2011 WL 5184445, at *4 (N.D. Ill. Nov. 1, 2011) (same); *In re Black Farmers Discrimination Litig.*, 856 F. Supp. 2d 1, 40 (D.D.C. 2011) (same); *In re AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 792 F. Supp. 2d 1028, 1033 (N.D. Ill. 2011) (same); *In re MetLife Demutualization Litig.*, 689 F. Supp. 2d 297, 359 (E.D.N.Y. 2010) (same).

4. I have been asked by class counsel to opine on whether the attorneys' fees they have requested are reasonable in light of my study and the other empirical studies on class action fees. In order to formulate my opinion, I reviewed a number of documents provided to me by class counsel; I have attached a list of these documents (and noted how I refer to these

documents herein) in Appendix 2. As I explain, based on my study of settlements across the country and in the Eleventh Circuit in particular, I believe the fees here are reasonable.

II. Case background

5. The crisis giving rise to this litigation is well known: for many years, the seven defendant car manufacturers sold vehicles with defective airbags purchased from the eighth defendant, Takata. The airbags were defective because they were made with a propellant that was unstable—so unstable that the airbags sometimes *killed* drivers and passengers when they deployed. The defendant car companies recalled some of the offending vehicles beginning in 2008, but, after the full nature of the problem finally became known to the public in 2014, the federal government insisted that Takata and the car companies recall all the offending vehicles. That recall has now expanded to encompass some 60 million airbags. *See* Third Amendment to the Coordinated Remedy Order, No. NHTSA-2015-055, at ¶ 3 (Dec. 9, 2016) ("NHTSA Third Remedy Order"). Yet, as of last month, only 17 million of those airbags had been replaced. *See* https://www.nhtsa.gov/recall-spotlight/takata-air-bags (reporting "17,777,555 Total Air Bags Repaired"). Takata has now pled guilty to federal criminal charges and declared bankruptcy.

6. In 2014, putative classes of consumers filed lawsuits all over the country against the defendants seeking compensation for the economic harms they suffered by buying vehicles with a lethal airbag. These lawsuits were consolidated in this court under the federal multidistrict litigation statute along with numerous other lawsuits filed by passengers, drivers, and loved ones for physical injuries that resulted from the defective airbags, including, again, deaths.

7. The present lawsuit grew out of this consolidation. It is a nationwide class action on behalf of all current and past owners and lessees of the offending vehicles seeking redress for economic harm. All of the defendants filed motions to dismiss the lawsuit, and all of these motions have now been denied at least in part. For some time now, the parties have been engaged in discovery, which has consisted of reviewing over 10 million pages of documents (many of which are in Japanese) and deposing over 45 witnesses. *See* Preliminary Approval Motion p. 7.

8. Four of the defendants have now agreed to settle their economic-harm liabilities: Toyota, BMW, Mazda and Subaru. Indeed, on June 9, 2017, the court certified four settlement classes and preliminarily approved these settlements. The terms of the settlements are well known to the court and I will not repeat them here. However, because it will figure into my opinion on attorneys' fees, I will recount the redress the settlements provide the settlement classes. To begin with, each of the defendants will pay a certain amount of money into a settlement fund: Toyota $278.5 million, BMW $131 million, Mazda $75.8 million, and Subaru $68.2 million.[1] From this fund, monies will be spent as follows: First, class members will receive cash payments equal to the out-of-pocket expenses (e.g., lost wages, child care, taxis, towing) they incurred in connection with going to the dealership and changing out their airbags. If they do not want to itemize their expenses (or their expenses are not approved by the claims administrator), class members can receive a flat $250. *See, e.g.*, BMW Settlement §§ III.D & III.E. Second, the fund will finance state-of-the-art outreach programs to get class members to dealerships so they actually change out their airbags. *See, e.g.*, BMW Settlement § III.B. As I

[1] The defendants can receive credits equal to 10% of these amounts if they adopt free rental car programs to make sure that the highest priority class members have access to alternative transportation—at the defendants' expense—while their air bags are replaced. *See, e.g.,* BMW Settlement § III.C.3. Class counsel's expert has estimated that, if these programs are adopted, their value to class members will exceed the 10% credits.

noted, under the federal government's recall, not enough people have done so. Third, the fund will pay for settlement administration (which, according to class counsel, is estimated to cost $8 million) and attorneys' fees and expenses. *See, e.g.*, BMW Settlement § III.A.3. All of the settlement fund monies will be spent one way or another; if there is any money left after paying class member claims, attorneys' fees and expenses, settlement administration costs, and for the outreach programs, it will be redistributed in the form of additional cash payments to class members. *See, e.g.*, BMW Settlement § III.E. In addition to these monies, the defendants have also agreed to extend the warranties on the new airbags class members will receive for several additional years and for tens of thousands of additional miles. *See, e.g.*, BMW Settlement § III.G

9. The classes are now moving for final approval of the settlements and class counsel are moving for awards of fees and expenses equal to 30% of each aforementioned settlement fund—but equal to only 22% of the total benefits conferred by each settlement (i.e., when the value of the extended warranties is included). Based on my study of class action settlements across the country and in the Eleventh Circuit in particular—where the median fee award is at least 30%—it is my opinion that the fee requests are reasonable.

III. Assessment of the reasonableness of the request for attorneys' fees

10. At one time, courts that awarded fees in class action cases did so using the familiar "lodestar" approach. *See* Brian T. Fitzpatrick, *Do Class Action Lawyers Make Too Little*, 158 U. Pa. L. Rev. 2043, 2051 (2010) (hereinafter "Class Action Lawyers"). Under this approach, courts awarded class counsel a fee equal to the number of hours they worked on the case (to the extent the hours were reasonable), multiplied by a reasonable hourly rate as well as by a discretionary multiplier that courts often based on the risk of non-recovery and other factors.

See id. Over time, however, the lodestar approach fell out of favor in class actions. It did so largely for two reasons. First, courts came to dislike the lodestar method because it was difficult to calculate the lodestar; courts had to review voluminous time records and the like. Second—and more importantly—courts came to dislike the lodestar method because it did not align the interests of class counsel with the interests of the class; class counsel's recovery did not depend on how much the class recovered, but, rather, on how many hours could be spent on the case. *See id.* at 2051-52. According to my empirical study, the lodestar method is now used to award fees in only a small percentage of class action cases, usually those involving fee-shifting statutes or those where the relief is predominantly injunctive in nature (and the value of the injunction cannot be reliably calculated). *See* Fitzpatrick, *Empirical Study*, *supra*, at 832 (finding the lodestar method used in only 12% of settlements).

11. The more popular method of calculating attorneys' fees today is known as the "percentage" method. Under this approach, courts select a percentage that they believe is fair to class counsel, multiply the settlement amount by that percentage, and then award class counsel the resulting product. The percentage approach became popular precisely because it corrected the deficiencies of the lodestar method: it is less cumbersome to calculate, and, more importantly, it aligns the interests of class counsel with the interests of the class because the more the class recovers, the more class counsel recovers. *See* Fitzpatrick, *Class Action Lawyers, supra,* at 2052.

12. In light of the well-recognized disadvantages of the lodestar method and the well-recognized advantages of the percentage method, it is my opinion that courts should generally use the percentage method whenever the value of the settlement can be reliably calculated and the lodestar method is not required by a fee-shifting statute. Only where the value of the

settlement cannot be reliably calculated (and the percentage method is therefore not feasible) or a fee-shifting statute is applicable is it my opinion that courts should use the lodestar method. This is not just my opinion. It is the consensus opinion of class action scholars. *See* American Law Institute, Principles of the Law of Aggregate Litigation § 3.13(b) (2010) ("[A] percentage-of-the-fund approach should be the method utilized in most common-fund cases.").

13. In this case, I believe a sufficient amount of the settlement can be reliably valued and therefore the percentage method should be used. Moreover, the percentage method has been mandated by the Eleventh Circuit. *See Camden Condominium Ass'n, Inc. v. Dunkle*, 946 F.2d 768, 774 (11th Cir. 1991) ("Henceforth in this circuit, attorneys' fees awarded from a common fund shall be based upon a reasonable percentage of the fund . . . ."). As such, I will assess the reasonableness of the fee requests here using the percentage method.

14. Under the percentage method, courts must 1) calculate the value of the benefits created by class counsel and then 2) select a percentage of that value to award to class counsel. When calculating the value of the benefits, in my opinion courts should include any cash compensation to class members, cash the defendant must pay to third parties, non-cash benefits that can be reliably valued, attorneys' fees and expenses, and administrative costs paid by the defendant; although some of these things do not go directly to the class as compensation, they either facilitate compensation to the class or serve to deter defendants from future misconduct by making defendants pay more when they cause harm. *See, e.g.*, *In re Heartland Payment Systems, Inc. Customer Data Sec. Breach Litigation*, 851 F.Supp.2d 1040, 1080 (S.D. Tex. 2012) (including these items in the denominator of the percentage method). When selecting what percentage to award class counsel, in my opinion courts should hypothesize what class members would have been willing to pay class counsel at the outset of the litigation in order to induce

them to take the case, *see, e.g., Williams v. Rohm & Haas Pension Plan*, 658 F.3d 629, 636 (7th Cir. 2011) ("When attorney's fees are deducted from class damages, the district court must try to assign fees that mimic a hypothetical *ex ante* bargain between the class and its attorneys."), but that is not the Eleventh Circuit's approach. In the Eleventh Circuit, courts start with 25% as the "'bench mark' percentage fee award" and then adjust it upward or downward "in accordance with the individual circumstances of each case." *Camden I*, 946 F.2d at 775. Although "[t]he factors which will impact upon the appropriate percentage . . . in any particular case will undoubtedly vary," the Eleventh Circuit has identified sixteen factors that it has said may be "appropriate[]" or "pertinent" to consider. *Camden I*, 946 F.2d at 775. These factors include "[1] the time required to reach a settlement, [2] whether there are any substantial objections . . ., [3] any non-monetary benefits conferred upon the class . . ., and [4] the economics involved in prosecuting a class action," *id*., as well as the twelve factors from *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974): "[5] the time and labor required; [6] the novelty and difficulty of the questions involved; [7] the skill requisite to perform the legal service properly; [8] the preclusion of other employment by the attorney due to acceptance of the case; [9] the customary fee; [10] whether the fee is fixed or contingent; [11] time limitations imposed by the client or the circumstances; [12] the amount involved and the results obtained; [13] the experience, reputation, and ability of the attorneys; [14] the 'undesirability' of the case; [15] the nature and length of the professional relationship with the client; [and] [16] awards in similar cases." *Camden I*, 946 F.2d at 772 n.3. In this declaration, I will follow the Eleventh Circuit's approach and try to situate this case relative to others within the Eleventh Circuit's factors in light of my empirical study and other empirical studies.

15. Let me begin with the first step under the percentage method: calculating the value of the benefits created by class counsel. To fund the various payments and programs in the settlement, we know Toyota will pay $278.5 million in cash, BMW $131 million, Mazda $75.8 million, and Subaru $68.2 million—unless they adopt free rental car programs, in which case their cash obligations will be reduced by 10%. But, as I noted above, the rental car programs are *worth even more* to the class than those 10% credits. Nonetheless, to be as conservative as possible, I will value the defendants' cash-or-rental-car obligations at the figures I cited above. The defendants have also agreed to extend class members' warranties on their new airbags. According to class counsel's expert, these extensions will be worth some $110 million to the Toyota class, $32 million to the BMW class, and $22 million each to the Mazda and Subaru classes. Thus, the total benefits conferred by class counsel in these four settlements are *conservatively* estimated to be: $388 million to the Toyota class, $163 million to the BMW class, $98 million to Mazda class, and $90 million to the Subaru class.

16. Before I get to the next step under the percentage method—selecting the percentage—I want to emphasize why I believe it is reasonable to include in the above benefits the monies the defendants will pay to fund the outreach programs to get class members into dealerships to replace their airbags. After all, the defendants are already obligated to replace these airbags per order of the federal government—and, indeed, obligated to do so pursuant to a timetable imposed by the federal government, *see, e.g.*, NHTSA Third Remedy Order at ¶ 35—wouldn't the defendants have to spend this money anyway to meet the federal government's timetable? It turns out that the answer to this question is no. The federal government's timetable does not require the defendants to spend any particular amount of money to meet it; indeed, all the law requires is that they mail a letter to vehicle owners, *see, e.g.,* 49 C.F.R. 577.7. These

settlement agreements, by contrast, *require* hundreds of millions of dollars to be spent on state-of-the-art outreach. Indeed, not only do the settlement agreements *require* this money to be spent, but they *require* that this money go *above and beyond* the outreach efforts for the federal government's timetable. *See, e.g.*, BMW Settlement § B.1 ("The Outreach Program shall [consist of] outreach efforts beyond those currently being used by BMW in connection with the NHTSA's November 3, 2015 Consolidated Remedy Order and amendments thereto . . . .").

17. Let me turn to the second step of the percentage method: selecting the percentage. Class counsel are seeking fees of 30% of the cash-or-rental-car portion of each of the four settlements, but only 22% of the combined value of the settlements when the value of the extend warranty is included. Moreover, it should be noted that these fee requests are *inclusive* of expenses; class counsel will *not* separately seek reimbursement for their out-of-pocket costs. In light of my and other empirical studies as well as the Eleventh Circuit's factors, it is my opinion that it would be reasonable to award class counsel these fee percentages.

18. Consider first the factors that go to the fee awards in other cases: "[9] the customary fee" and "[16] awards in similar cases." The fee requests here are all *lower* than the typical Eleventh Circuit fee awards and *much lower* when the extended warranties are included. According to my empirical study, there were 35 class action cases in 2006 and 2007 in which district courts in the Eleventh Circuit used the percentage method to award attorneys' fees. *See* Fitzpatrick, *Empirical Study, supra*, at 836. The average fee awarded in these cases was 28.1% and the median fee awarded was 30%.[2] *See id.* This can be seen clearly from Figure 1, which

[2] In their nationwide study of class action fees, Ted Eisenberg and Geoff Miller found mean and median fee awards in the Eleventh Circuit somewhat lower than those found in my study: 21% and 22%, respectively. *See* Theodore Eisenberg & Geoffrey P. Miller, *Attorneys' Fees and Expenses in Class Action Settlements: 1993-2008*, 7 J. Empirical L. Stud. 248, 260 (2010). It should be noted, however, that their study was based on settlements dating back to 1993, and, as such, their data are older than mine. Moreover, their study examined only a fraction of the

shows the distribution of all of the Eleventh Circuit percentage-method fee awards in my study. In particular, the figure shows what fraction of fee awards (y-axis) fell within each five-point range of fee percentages (x-axis). As the figure shows, more than half (i.e., .5) of all Eleventh Circuit fee awards have been 30% or more. Indeed, class counsel's fee requests are *even more modest* than the Figure suggests because the data from my empirical study was *exclusive* of class counsel's expenses. *See* Fitzpatrick, *Empirical Study, supra*, at 833. Here, as I noted, the fee requests are *inclusive* of class counsel's expenses. This means that the fee requests here are all *below*—and, indeed, *well below* when the extended warranties are included—most Eleventh Circuit fee awards. As such, these factors clearly weigh in favor of class counsel's request.

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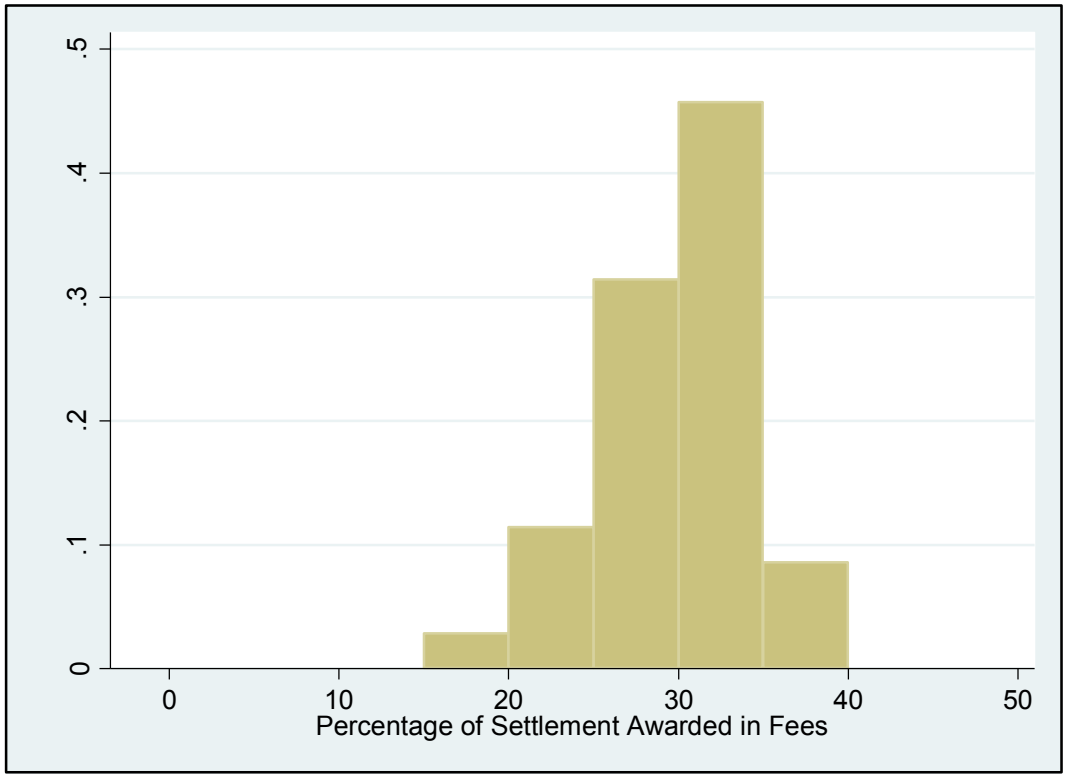
settlements over this period, and the fraction examined was not designed to be representative of the whole. *See id*. at 253 ("[O]ur data include only opinions that were published in some readily available form. Obviously, therefore, we have not included the full universe of cases . . . . [P]ublished opinions are not necessarily representative of the universe of all cases."). In particular, one of the reasons their study may have found lower numbers than mine is because it oversampled larger cases (where the fee percentages awarded are often smaller than in other cases). *See* Fitzpatrick, *Empirical Study, supra*, at 829 (discussing the unrepresentative sampling in the Eisenberg-Miller studies). In this regard it should be noted that, in an update to their study (which has not yet been published), Professor Miller and new co-authors (Professor Eisenberg passed away) examined more recent years (2009-2013) and more representative settlements (because the electronic databases have become more complete) and came to numbers closer—and *even higher*—than the ones I found. *See* Ted Eisenberg, Geoff Miller & Roy Germano, *Attorneys' Fees in Class Actions: 2009-2013*, *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2904194, p. 12 (finding mean fee award of 30% and median of 33% in the Eleventh Circuit).

Figure 1: Percentage-method fee awards in the Eleventh Circuit, 2006-2007



19. It should be noted that the nationwide data in my empirical study shows that settlement size had a statistically significant but inverse relationship with the fee percentages awarded by federal courts—*i.e.*, that some federal courts awarded lower percentages in cases where settlements were larger. *See id*. at 838, 842-44. The Eisenberg-Miller studies show the same thing. *See* Eisenberg & Miller, *supra*, at 263-65. This is notable because two of the settlements here (Toyota and BMW) are on the larger side: in my empirical study, only 41 settlements nationwide (less than 7%) exceeded $100 million. *See* Fitzpatrick, *Empirical Study, supra*, at 828. Even so, the fee requests here only slightly above the mean and median fee percentages awarded in the settlements in my dataset above $100 million. *See id.* at 839 (finding means and medians under 20% for settlements above $100 million). As I explain below, I do not

believe these slight variations detract from my opinion that the percentages requested here are reasonable.

20. First, although some district courts in other circuits may be lowering fee percentages as settlement amounts increase, I have found no evidence that district courts in the Eleventh Circuit are doing so. In particular, when I separated the fee awards in other circuits from the 35 percentage-method fee awards in my dataset from district courts in the Eleventh Circuit, I found no statistically significant relationship between settlement size and fee percentage.[3]

21. Second, the practice among other district courts to decrease fee percentages as settlement amounts increase has been criticized by many scholars (and even courts), and, in my opinion, courts in the Eleventh Circuit should not begin emulating this practice in cases such as these here. In particular, courts and commentators have worried that lowering percentages as settlement sizes increase will blunt the incentives of class counsel to fight for the largest settlement, and, indeed, might incentivize class counsel to settle cases earlier for smaller sums.

[3] It is possible that the reason there was no statistically significant relationship in the Eleventh Circuit between settlement size and fee percentage is because there were so few large settlements in the Eleventh Circuit in 2006 and 2007. Indeed, in my dataset there is only one settlement over $100 million: the $1 billion settlement in *Allapattah Servs. Inc. v. Exxon Corp.*, 454 F.Supp.2d 1185 (S.D.Fla. 2006), where the court awarded 31.33% in fees. On the other hand, after I collected my data, a district court in the Eleventh Circuit awarded fees in another large ($445 million) class action settlement in my dataset. *See In re Healthsouth Corporation Securities Litigation*, No. CV-03-BE-1500-S (N.D.Ala., Feb. 12, 2008). This settlement was included in the portion of my empirical study that described settlements, but, because the fees had not yet been awarded at the time I collected my data, it was excluded from the portion of my study that described fee awards. *See* Fitzpatrick, *Empirical Study*, *supra*, at 831 (notes to Table 7). Although it is difficult to calculate the fee percentage actually awarded by the court *Healthsouth*—because it depended on the number of claims filed by different classes of plaintiffs—some of the filings in the case suggest that the total fee award would have been around 18% of the settlement. *See In re Healthsouth Corporation Securities Litigation, supra* (awarding 17.5% and another 4% to attorneys for the Stockholder Class and 10% to the attorneys for the Bondholder Class); Bondholder Lead Counsel's Memorandum in Support of Application for An Award of Attorneys' Fees and Litigation Expenses and Reimbursement of Costs to Class Representatives 5 n. 5 (Jan. 24, 2008). Even when this 18% data point is added to the 35 other Eleventh Circuit settlements, there was still no statistically significant relationship between settlement size and fee percentage.

See, e.g., *In re Cendant Corp. Litigation*, 264 F.3d 201, 284 n. 55 (3d Cir. 2001) ("Th[e] position [that the percentage of a recovery devoted to attorneys fees should decrease as the size of the overall settlement or recovery increases] . . . has been criticized by respected courts and commentators, who contend that such a fee scale often gives counsel an incentive to settle cases too early and too cheaply." (alteration in original)). As a judge in this very District put it, "[w]hile some reported cases have advocated decreasing the percentage awarded as the gross class recovery increases, that approach is antithetical to the percentage of the recovery method adopted by the Eleventh Circuit . . . . . By not rewarding Class Counsel for the additional work necessary to achieve a better outcome for the class, the sliding scale approach creates the perverse incentive for Class Counsel to settle too early for too little." *Allapattah*, 454 F.Supp.2d at 1213. *See also In re Checking Account Overdraft Litig.*, 830 F. Supp. 2d 1330, 1367 (S.D. Fla. 2011) (quoting *Allapattah*). Consider the following example: if courts award class action attorneys 30% of settlements if they are under $100 million but only 20% of settlements if they are over $100 million, then rational class action attorneys will prefer to settle cases for $90 million (*i.e.*, a $27 million fee award) rather than $125 million (*i.e.*, a $25 million fee award). Such incentives are obviously perverse. Although it is true that class actions can decrease the per capita cost of representation, and that there are arguments that these economies of scale should be passed along to class members in the form of lower fee percentages, *see* Fitzpatrick, *Class Action Lawyers*, *supra*, at 2066, the amount of money for which a class action settles does not necessarily reflect the number of people in the action (and, therefore, the per capita cost of the representation). Moreover, even when larger settlements do reflect larger class sizes (and lower per capita costs of representation), it is difficult to justify decreasing fee percentages as settlements increase in cases where class members have only small amounts of money at stake,

which is true here. As scholars have long recognized, in these so-called "small stakes cases," the most important function of the class action device is not compensation of class members but deterrence of wrongdoing. *See id*. at 2069 (citing David Shapiro, *Class Actions: The Class as Party and Client*, 73 Notre Dame L. Rev. 913 (1998)). In order to deter wrongdoing, lawyers must be given incentives to invest their own time and money in class actions despite the risk of earning nothing if they are unsuccessful. Yet, these incentives are blunted for the very cases offering the greatest deterrence (*i.e.*, larger cases) when courts award lower fee percentages as settlements become larger. Although trading away deterrence for other ends may be justifiable in some cases, it is difficult to justify it in small-stakes cases like this one, where deterrence is the paramount consideration. *See id.* at 2069-74.

22. Third, lower average and median fee percentage numbers in large settlements do not mean, of course, that courts do not award higher fee percentages in such cases when the facts and circumstances justify it. Indeed, there are a number of examples from all across the country of fee awards at or above 30% in large settlements, including awards from judges of this very Court. *See, e.g.*, *Allapattah Servs. Inc. v. Exxon Corp.*, 454 F.Supp.2d 1185, 1218 (S.D.Fla. 2006) (31.33% of $1.075 billion); *In re Checking Account Overdraft Litigation*, 830 F.Supp.2d 1330, 1358 (S.D.Fla. 2011) (30% of $410 million); *In re Vitamins Antitrust Litig.*, 2001 WL 34312839, at *10 (D.D.C. July 16, 2001) (34% of $365 million); *In re Linerboard Antitrust Litig*., 2004 WL 1221350, at *1 (E.D.Pa., June 2, 2004) (30% of $202 million); *In re Combustion Inc*., 968 F.Supp. 1116, 1142 (W.D.La. 1997) (36% of $127 million); *Kurzwell v. Philip Morris Companies*, 1999 WL 1076105, at *1 (S.D.N.Y., Nov. 30, 1999) (30% of $123 million); *In re Ikon Office Solutions, Inc. Securities Litig.*, 194 F.R.D. 166, 197 (E.D.Pa. 2000) (30% of $111 million).

23. Consider next some of the factors that go to the results obtained by class counsel in light of the risks class counsel faced: "[4] the economics involved in prosecuting a class action," "[6] the novelty and difficulty of the questions involved," "[10] whether the fee is fixed or contingent," "[12] the amount involved and the results obtained," and "[14] the 'undesirability' of the case." Here, class counsel informs me that the cash-or-rental-car portions of the settlements represent roughly half of the damages the class might have collected at trial if the trier of fact had accepted all of its legal and factual contentions. That is an excellent recovery compared to most class action cases.[4] It is especially impressive compared to the risks class counsel faced. To begin with, Takata has declared bankruptcy; thus, if the class is to recover anything, it is probably going to have to come from the car manufacturer defendants. Yet, it is obviously more difficult to pin responsibility on them for Takata's defective airbags. Although class counsel have argued the car manufacturers knew of the defective airbags and did nothing about them, this is hotly disputed by all of the defendants, including Takata, which refuted any such notion in its plea agreement. Then, of course, there are risks associated with establishing damages. How much have class members been injured by owning a car with a lethal airbag? There are various approaches to answering that question, and the defendants, no doubt, would have contested all of them. Finally, even if the class had prevailed on all of these matters at summary judgment *and* at trial, the defendants no doubt would have taken appeals, introducing even more risk. Recovering 50% of possible damages in light of these risks is remarkable

[4] The best studies of class member recoveries come from securities fraud cases. *See, e.g., Recent Trends in Securities Class Action Litigation: 2014 Full-Year Review*, *available at* http://www.nera.com/content/dam/nera/publications/2015/PUB_2014_Trends_0115.pdf at 9, 33 (finding that the median securities fraud class action between 1996 and 2015 settled for between 1.3% and 7.0% of a measure of investor losses, depending on the year).

compared to most of the cases I have seen. As such, these factors, too, weigh in favor of class counsel's fee request.

24. Consider next the factor "[3] any non-monetary benefits conferred upon the class." Although some of the benefits class counsel conferred on the class here are non-monetary in nature—such as the extended warranty on the new airbags—class counsel's expert has quantified the monetary value of these benefits and I have included them in the denominator of the percentage method. Thus, like most class action settlements, there are no unvalued settlement benefits here that should be considered as additional reason to boost class counsel's fee percentage and this factor is inapplicable. *See* Fitzpatrick, *Empirical Study, supra*, at 824 (finding that only one quarter of class action settlements include injunctive relief). I will note, however, that, if the court chooses not to accept class counsel's expert's quantifications and instead chooses to base class counsel's fee percentage on only the cash-or-rental-car obligation figures I cited above, it would then be appropriate to consider any benefits not included in the denominator of the percentage method as reason to increase class counsel's percentage of the benefits that are included.

25. Consider next the factors that go to the time it took to litigate and resolve these lawsuits: "[1] the time required to reach a settlement" and "[5] the time and labor required." This case has transpired about as long as the typical class action case does before it reaches settlement. *See* Fitzpatrick, *Empirical Study, supra*, at 820 (finding average and median times to final settlement approval of around three years). Yet, class counsel have accomplished a great deal during that time: they have thwarted numerous motions to dismiss, reviewed 10 million documents (many of which were in Japanese), deposed 45 witnesses, and spent countless hours

with their own experts and in settlement negotiations. As such, these factors, too, weigh in favor of class counsel's fee request.

26. Consider finally the other *Camden* factors. One of these factors is inapplicable at least as of yet—"[2] whether there are any substantial objections"—because the deadline for objection as not yet passed,[5] but the other factors go to the skills of class counsel and their relationship with the plaintiffs: "[7] the skill requisite to perform the legal service properly," "[8] the preclusion of other employment by the attorney due to acceptance of the case," "[11] time limitations imposed by the client or the circumstances," "[13] the experience, reputation, and ability of the attorneys," and "[15] the nature and length of the professional relationship with the client." Although I was not privy to the attorney-client relationships here, I can say that class counsel count among their number some of the most experienced and highly regarded lawyers in the United States. These are not mere "benchmark" lawyers.

27. For all these reasons, I believe the fee awards requested here are reasonable.

28. My compensation in this matter has been $795 per hour.

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[5] Although there are not yet any objectors, the court in my opinion should be on guard against certain objectors who file objections for the purpose of taking an appeal to delay the effective date of the settlement in order to extract a side payment from class counsel while the appeal is pending. I chronicled this unfortunate practice in a law review article: Brian T. Fitzpatrick, *The End of Objector Blackmail?*, 62 Vand. L. Rev. 1623 (2009). The practice can be so lucrative that it has given rise to "professional objectors," lawyers who travel from settlement to settlement to file objections with the purpose of delay and the hope of inducing class counsel into a side deal. *See id*. at 1637-38. One popular countermeasure that can be deployed against objector blackmail is the one used in these settlement agreements: a so-called "quick pay provision," a clause that enables class counsel to receive their fee awards as soon as they are approved by the court and without waiting for any appeals from the settlement to be resolved. *See id.* at 1641 (finding quick-pay provisions in over one-third of class action settlements). By eliminating the delay in the receipt of fee awards that is caused by an appeal, quick-pay provisions mitigate the leverage blackmail-minded objectors have over class counsel, and, in doing so, mitigate the incentives that blackmail-minded objectors have to file appeals in the first place. *See id*. at 1641-42. By mitigating these incentives, quick-pay provisions can hasten the effective date of the settlement, something that benefits not only class counsel, but also the class—which is all the more critical in this case because time is of the essence to replace the lethal airbags in class members' vehicles. For these reasons, it is my opinion that the quick-pay provisions in the settlement agreements here are both wise and appropriate.

Nashville, TN

September 8, 2017

Brian T. Fitzpatrick

Appendix 1

BRIAN T. FITZPATRICK

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ACADEMIC APPOINTMENTS

VANDERBILT UNIVERSITY LAW SCHOOL, *Professor*, 2012-present

- *FedEx Research Professor*, 2014-15; *Associate Professor*, 2010-12; *Assistant Professor*, 2007-10
- Classes: Civil Procedure, Federal Courts, Complex Litigation
- Hall-Hartman Outstanding Professor Award, 2008-2009
- Vanderbilt's Association of American Law Schools Teacher of the Year, 2009

EDUCATION

HARVARD LAW SCHOOL, J.D., *magna cum laude*, 2000

- Fay Diploma (for graduating first in the class)
- Sears Prize, 1999 (for highest grades in the second year)
- *Harvard Law Review*, Articles Committee, 1999-2000; Editor, 1998-1999
- *Harvard Journal of Law & Public Policy*, Senior Editor, 1999-2000; Editor, 1998-1999
- Research Assistant, David Shapiro, 1999; Steven Shavell, 1999

UNIVERSITY OF NOTRE DAME, B.S., Chemical Engineering, *summa cum laude*, 1997

- First runner-up to Valedictorian (GPA: 3.97/4.0)
- Steiner Prize, 1997 (for overall achievement in the College of Engineering)

CLERKSHIPS

HON. ANTONIN SCALIA, Supreme Court of the United States, 2001-2002

HON. DIARMUID O'SCANNLAIN, U.S. Court of Appeals for the Ninth Circuit, 2000-2001

EXPERIENCE

NEW YORK UNIVERSITY SCHOOL OF LAW, Feb. 2006 to June 2007
John M. Olin Fellow

HON. JOHN CORNYN, United States Senate, July 2005 to Jan. 2006
Special Counsel for Supreme Court Nominations

SIDLEY AUSTIN LLP, Washington, DC, 2002 to 2005
Litigation Associate

ACADEMIC ARTICLES

An Empirical Look at Compensation in Consumer Class Actions, 11 NYU J. L. & BUS. 767 (2015) (with Robert Gilbert)

The End of Class Actions?, 57 ARIZ. L. REV. 161 (2015)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, 98 VA. L. REV. 839 (2012)

Twombly *and* Iqbal *Reconsidered*, 87 NOTRE DAME L. REV. 1621 (2012)

An Empirical Study of Class Action Settlements and their Fee Awards, 7 J. EMPIRICAL L. STUD. 811 (2010) (selected for the 2009 Conference on Empirical Legal Studies)

Do Class Action Lawyers Make Too Little?, 158 U. PA. L. REV. 2043 (2010)

Originalism and Summary Judgment, 71 OHIO ST. L.J. 919 (2010)

The End of Objector Blackmail?, 62 VAND. L. REV. 1623 (2009) (selected for the 2009 Stanford-Yale Junior Faculty Forum)

The Politics of Merit Selection, 74 MISSOURI L. REV. 675 (2009)

Errors, Omissions, and the Tennessee Plan, 39 U. MEMPHIS L. REV. 85 (2008)

Election by Appointment: The Tennessee Plan Reconsidered, 75 TENN. L. REV. 473 (2008)

Can Michigan Universities Use Proxies for Race After the Ban on Racial Preferences?, 13 MICH. J. RACE & LAW 277 (2007)

BOOK CHAPTERS

Civil Procedure in the Roberts Court in BUSINESS AND THE ROBERTS COURT (Jonathan Adler, ed., Oxford University Press, 2016)

Is the Future of Affirmative Action Race Neutral? in A NATION OF WIDENING OPPORTUNITIES: THE CIVIL RIGHTS ACT AT 50 (Ellen Katz & Samuel Bagenstos, eds., Michigan University Press, 2016)

ACADEMIC PRESENTATIONS

The Next Steps for Discovery Reform: Requester Pays, Lawyers for Civil Justice Membership Meeting, Washington, DC (May 5, 2015)

Private Attorney General: Good or Bad?, 17th Annual Federalist Society Faculty Conference, Washington, DC (Jan. 3, 2015)

Liberty, Judicial Independence, and Judicial Power, Liberty Fund Conference, Santa Fe, NM (Nov. 13-16, 2014) (participant)

The Economics of Objecting for All the Right Reasons, 14th Annual Consumer Class Action Symposium, Tampa, Florida (Nov. 9, 2014)

Compensation in Consumer Class Actions: Data and Reform, Conference on The Future of Class Action Litigation: A View from the Consumer Class, NYU Law School, New York, New York (Nov. 7, 2014)

The Future of Federal Class Actions: Can the Promise of Rule 23 Still Be Achieved?, Northern District of California Judicial Conference, Napa, California (Apr. 13, 2014) (panelist)

The End of Class Actions?, Conference on Business Litigation and Regulatory Agency Review in the Era of Roberts Court, Institute for Law & Economic Policy, Boca Raton, Florida (Apr. 4, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, University of Missouri School of Law (Mar. 7, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, George Mason Law School (Mar. 6, 2014)

Should Third-Party Litigation Financing Come to Class Actions?, Roundtable for Third-Party Funding Scholars, Washington & Lee University School of Law (Nov. 7-8, 2013)

Is the Future of Affirmative Action Race Neutral?, Conference on A Nation of Widening Opportunities: The Civil Rights Act at 50, University of Michigan Law School (Oct. 11, 2013)

The Mass Tort Bankruptcy: A Pre-History, The Public Life of the Private Law: A Conference in Honor of Richard A. Nagareda, Vanderbilt Law School (Sep. 28, 2013) (panelist)

Rights & Obligations in Alternative Litigation Financing and Fee Awards in Securities Class Actions, Conference on the Economics of Aggregate Litigation, Institute for Law & Economic Policy, Naples, Florida (Apr. 12, 2013) (panelist)

The End of Class Actions?, Symposium on Class Action Reform, University of Michigan Law School (Mar. 16, 2013)

Toward a More Lawyer-Centric Class Action?, Symposium on Lawyering for Groups, Stein Center for Law & Ethics, Fordham Law School (Nov. 30, 2012)

The Problem: AT & T as It Is Unfolding, Conference on *AT & T Mobility v. Concepcion*, Cardozo Law School (Apr. 26, 2012) (panelist)

Standing under the Statements and Accounts Clause, Conference on Representation without Accountability*,* Corporate Law Center, Fordham Law School (Jan. 23, 2012)

The End of Class Actions?, Washington University Law School (Dec. 9, 2011)

Book Preview Roundtable: Accelerating Democracy: Matching Social Governance to Technological Change, Searle Center on Law, Regulation, and Economic Growth, Northwestern University School of Law (Sep. 15-16, 2011) (participant)

Is Summary Judgment Unconstitutional? Some Thoughts About Originalism, Stanford Law School (Mar. 3, 2011)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, Northwestern Law School (Feb. 25, 2011)

The New Politics of Iowa Judicial Retention Elections: Examining the 2010 Campaign and Vote, University of Iowa Law School (Feb. 3, 2011) (panelist)

The Constitutionality of Federal Jurisdiction-Stripping Legislation and the History of State Judicial Selection and Tenure, Washington University Law School (Oct. 1, 2010)

Twombly *and* Iqbal *Reconsidered,* Symposium on Business Law and Regulation in the Roberts Court, Case Western Reserve Law School (Sep. 17, 2010)

Do Class Action Lawyers Make Too Little?, Institute for Law & Economic Policy, Providenciales, Turks & Caicos (Apr. 23, 2010)

Originalism and Summary Judgment, Georgetown Law School (Apr. 5, 2010)

Theorizing Fee Awards in Class Action Litigation, Washington University Law School (Dec. 11, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, 2009 Conference on Empirical Legal Studies, University of Southern California Law School (Nov. 20, 2009)

Originalism and Summary Judgment, Symposium on Originalism and the Jury, Ohio State Law School (Nov. 17, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, 2009 Meeting of the Midwestern Law and Economics Association, University of Notre Dame Law School (Oct. 10, 2009)

The End of Objector Blackmail?, Stanford-Yale Junior Faculty Forum, Stanford Law School (May 29, 2009)

An Empirical Study of Class Action Settlements and their Fee Awards, University of Minnesota School of Law (Mar. 12, 2009)

The Politics of Merit Selection, Symposium on State Judicial Selection and Retention Systems, University of Missouri Law School (Feb. 27, 2009)

The End of Objector Blackmail?, Searle Center Research Symposium on the Empirical Studies of Civil Liability, Northwestern University School of Law (Oct. 9, 2008)

Alternatives To Affirmative Action After The Michigan Civil Rights Initiative, University of Michigan School of Law (Apr. 3, 2007) (panelist)

OTHER PUBLICATIONS

Lessons from Tennessee Supreme Court Retention Election, THE TENNESSEAN (Aug. 20, 2014)

Public Needs Voice in Judicial Process, THE TENNESSEAN (June 28, 2013)

Did the Supreme Court Just Kill the Class Action?, THE QUARTERLY JOURNAL (April 2012)

Let General Assembly Confirm Judicial Selections, CHATTANOOGA TIMES FREE PRESS (Feb. 19, 2012)

"Tennessee Plan" Needs Revisions, THE TENNESSEAN (Feb. 3, 2012)

How Does Your State Select Its Judges?, INSIDE ALEC 9 (March 2011) (with Stephen Ware)

On the Merits of Merit Selection, THE ADVOCATE 67 (Winter 2010)

Supreme Court Case Could End Class Action Suits, SAN FRANCISCO CHRONICLE (Nov. 7, 2010)

Kagan is an Intellect Capable of Serving Court, THE TENNESSEAN (Jun. 13, 2010)

Confirmation "Kabuki" Does No Justice, POLITICO (July 20, 2009)

Selection by Governor may be Best Judicial Option, THE TENNESSEAN (Apr. 27, 2009)

Verdict on Tennessee Plan May Require a Jury, THE MEMPHIS COMMERCIAL APPEAL (Apr. 16, 2008)

Tennessee's Plan to Appoint Judges Takes Power Away from the Public, THE TENNESSEAN (Mar. 14, 2008)

Process of Picking Judges Broken, CHATTANOOGA TIMES FREE PRESS (Feb. 27, 2008)

Disorder in the Court, LOS ANGELES TIMES (Jul. 11, 2007)

Scalia's Mistake, NATIONAL LAW JOURNAL (Apr. 24, 2006)

GM Backs Its Bottom Line, DETROIT FREE PRESS (Mar. 19, 2003)

Good for GM, Bad for Racial Fairness, LOS ANGELES TIMES (Mar. 18, 2003)

10 Percent Fraud, WASHINGTON TIMES (Nov. 15, 2002)

OTHER PRESENTATIONS

The New Business of Law: Attorney Outsourcing, Legal Service Companies, and Commercial Litigation Funding, Tennessee Bar Association, Nashville, TN (Nov. 12, 2014)

Hedge Funds + Lawsuits = A Good Idea?, Vanderbilt University Alumni Association, Washington, DC (Sep. 3, 2014)

Judicial Selection in Historical and National Perspective, Committee on the Judiciary, Kansas Senate (Jan. 16, 2013)

The Practice that Never Sleeps: What's Happened to, and What's Next for, Class Actions, ABA Annual Meeting, Chicago, IL (Aug. 3, 2012) (panelist)

Life as a Supreme Court Law Clerk and Views on the Health Care Debate, Exchange Club of Nashville (Apr. 3, 2012)

The Tennessee Judicial Selection Process—Shaping Our Future, Tennessee Bar Association Leadership Law Retreat, Dickson, TN (Feb. 3, 2012) (panelist)

Reexamining the Class Action Practice, ABA National Institute on Class Actions, New York, NY (Oct. 14, 2011) (panelist)

Judicial Selection in Kansas, Committee on the Judiciary, Kansas House of Representatives (Feb. 16, 2011)

Judicial Selection and the Tennessee Constitution, Civil Practice and Procedure Subcommittee, Tennessee House of Representatives (Mar. 24, 2009)

What Would Happen if the Judicial Selection and Evaluation Commissions Sunset?, Civil Practice and Procedure Subcommittee, Tennessee House of Representatives (Feb. 24, 2009)

Judicial Selection in Tennessee, Chattanooga Bar Association, Chattanooga, TN (Feb. 27, 2008) (panelist)

Ethical Implications of Tennessee's Judicial Selection Process, Tennessee Bar Association, Nashville, TN (Dec. 12, 2007)

PROFESSIONAL ASSOCIATIONS

Referee, Journal of Empirical Legal Studies
Reviewer, Oxford University Press
Reviewer, Supreme Court Economic Review
Member, American Law Institute
Member, American Bar Association
Fellow, American Bar Foundation
Member, Tennessee Advisory Committee to the U.S. Commission on Civil Rights, 2009-2015
Board of Directors, Tennessee Stonewall Bar Association
American Swiss Foundation Young Leaders' Conference, 2012
Bar Admission, District of Columbia

COMMUNITY ACTIVITIES

Board of Directors, Nashville Ballet; Nashville Talking Library for the Blind, 2008-2009

Appendix 2

Documents Reviewed:

- Plaintiffs' Preliminary Report per Court's Order Setting Status Hearing (document 15, filed 2/17/15)
- Plaintiffs' Status Report (document 510, filed 4/24/15)
- Plaintiffs' Status Report (document 581, filed 6/17/15)
- Order Denying in part Motions to Dismiss by Defendants Takata Corporation, TK Holdings, and Honda (document 871, filed 12/2/15)
- Plaintiffs' Status Report Preceding February 16, 2016 Status Conference (document 925, filed 2/10/16)
- Order Granting to Dismiss Count 104-106 (document 975, filed 3/11/16)
- Order Granting in Part Motion to Dismiss Automotive Recyclers Association's Claims and Denying Motion to Stay (document 979, filed 3/11/16)
- Order Granting Motion to Dismiss Automotive Recyclers Association's Claims and Denying Motion to Stay (document 977, filed 3/11/16)
- Plaintiffs' Status Report Preceding April 14, 2016 Status Conference (document 1012, filed 4/8/16)
- Order Granting in Part and Denying in Part Mazda Motor of America, Inc. d/b/a Mazda North American Operations' Motion to Dismiss (document 1099, filed 6/15/16)
- Order Granting in Part and Denying in Part Toyota Motor Sales U.S.A. Inc. and Toyota Motor Engineering & Manufacturing North America, Inc.'s Motion to Dismiss (document 1202, filed 9/21/16)
- Order Granting in part and Denying in part BMW of North America, LLC's and BMW Manufacturing Company, LLC's Motion to Dismiss (document 1256, filed 10/14/16)
- Plaintiffs' Status Report Preceding November 9, 2016 Hearing (document 1299, filed 11/4/16)
- Joint Report on Related Cases (document 1383, filed 2/14/17)

- Automotive Defendants' Status Report (document 1407, filed 2/23/17)
- Plaintiffs' Status Report Preceding February 28, 2017 Hearing (document 1414, filed 2/27/17)
- Order Granting in part and Denying in part Ford Motor Company's Motion to Dismiss (document 1417, filed 2/27/17)
- Takata Defendants' Status Report (document 1418, filed 2/27/17)
- Plaintiffs' Unopposed Omnibus Motion for Preliminary Approval of Class Settlements, Preliminary Certification of Settlement Classes and Approval of Class Notices and Incorporate Memo of Law (document 1724, filed 5/18/17), including the exhibits thereto, such as the Settlement Agreements with BMW ("BMW Settlement"), Mazda, Subaru, and Toyota
- Declaration of Kirk D. Kleckner Regarding Valuation of Customer Support Program and Rental Car/Loaner Program (drafts)