

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____)	
IN RE LIBOR-BASED FINANCIAL)	
INSTRUMENTS ANTITRUST LITIGATION)	MDL No. 2262
_____)	
THIS DOCUMENT RELATES TO:)	Master File No. 1:11-md-2262-NRB
Case No. 12-CV-1025 (NRB))	ECF Case
_____)	

**DECLARATION OF KAREN L. MORRIS AND ROBERT S. KITCHENOFF IN
SUPPORT OF CLASS COUNSEL’S MOTION FOR AWARD OF ATTORNEYS’ FEES,
REIMBURSEMENT OF LITIGATION EXPENSES, AND SERVICE AWARDS FOR
BONDHOLDER PLAINTIFFS**

Pursuant to 28 U.S.C. § 1746, Karen L. Morris and Robert S. Kitchenoff declare:

1. Karen L. Morris is a partner in the law firm of Morris and Morris LLC Counselors At Law (“Morris and Morris”). Robert S. Kitchenoff is a member of the law firm of Weinstein Kitchenoff & Asher LLC (“Weinstein Kitchenoff”).

2. Morris and Morris and Weinstein Kitchenoff serve as the attorneys for Ellen Gelboim and Linda Zacher (“Bondholder Plaintiffs”) and as Court-appointed Class Counsel for the Bondholder Settlement Classes (“Class Counsel”), in the above-captioned action (*see* ECF Nos. 2048, 2769, 3081).¹

3. We submit this declaration in support of the Motion for Award of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards for Bondholder Plaintiffs in connection with the Bondholder Plaintiffs’ settlements with Barclays Bank plc, UBS AG, HSBC Bank plc, Citibank, N.A., Citigroup Inc., JPMorgan Chase & Co., JPMorgan Chase Bank, N.A.,

¹ “ECF No.” refers herein to documents in the docket of the MDL Action, 11-md-2262-NRB.

Bank of America Corporation, Bank of America, N.A., and the Royal Bank of Scotland Group plc (collectively, the “Settlements”).²

4. Class Counsel have actively prosecuted the Bondholder Action from its inception, are familiar with its proceedings, and have personal knowledge of the matters set forth herein. If called as a witness, each declarant could testify thereto, except as to matters which pertain solely to the other’s firm.

5. Class Counsel have significant experience prosecuting complex antitrust class actions, including settlements thereof. A copy of the Morris and Morris firm resume is attached as Exhibit 1. A copy of the Weinstein Kitchenoff firm resume is attached as Exhibit 2.

6. From the inception of this case, Class Counsel have made significant efforts to prepare it for trial, as detailed below.

I. CLASS COUNSEL’S EFFORTS

7. Class Counsel’s total time for professional services devoted to litigating this case from 2011 through September 30, 2020 is 34,743.70 hours. The total lodestar value of these services, derived by multiplying each professional’s hours by his or her current hourly rates (or hourly rates as of departure from the firm), is \$28,558,749.75.

8. Class Counsel have been litigating this case for nearly nine years against highly qualified defense counsel. As discussed in more detail below, the time spent litigating this matter was reasonably necessary and appropriate to prosecute the action. Class Counsel respectfully submit that the combined settlement amount of \$68.625 million is a testament to Class Counsel’s efforts.

² In this declaration we use terms as they are defined in the memorandum supporting the motion, which is being filed contemporaneously herewith.

A. Investigation and Drafting of Pleadings

9. Ellen Gelboim, represented by Class Counsel, filed her original complaint on February 9, 2012. The complaint resulted from public disclosures in 2011 of governmental investigations of alleged U.S. Dollar LIBOR manipulation. Class Counsel commenced drafting the complaint in 2011, and in connection therewith undertook a months-long investigation including, *inter alia*, analysis of news reports regarding pending investigations of LIBOR manipulation by regulatory bodies, academic articles and writings, public filings, and investigation regarding LIBOR and the LIBOR market, the market for debt instruments, the LIBOR setting process and the role of LIBOR panel banks in that process. The Bondholder Action was brought on behalf of a putative class of injured persons and entities who held relevant debt securities with interest payments directly tied to U.S. Dollar LIBOR.

10. By letter dated February 23, 2012, the Court inquired whether the Bondholder Action should be recognized as related to the other actions in the LIBOR MDL. Following a hearing on March 1, 2012, the Court determined the Bondholder Action to be a separate action in the MDL and directed all MDL actions file amended pleadings on April 30, 2012.

11. Bondholder Plaintiffs' amended complaint added a second class representative, Linda Zacher. The amended complaint included additional allegations addressing the conduct of the alleged conspiracy by the Defendants to suppress LIBOR supported by extensive expert analyses of market data and empirical evidence comparing Defendants' LIBOR submissions against relevant alternative interest rate benchmarks. Counsel for the various class plaintiffs in the MDL coordinated with respect to investigatory and expert work to harmonize their pleadings. Class Counsel played a substantial role in this process.

12. Upon Class Counsel's motion, the Court entered Pre-Trial Order No. 2, ECF No. 206, on August 14, 2012, formally appointing Class Counsel as Bondholder Plaintiffs Interim Co-Leads and enumerating their responsibilities related to the Bondholder Action.

13. After the Court dismissed the action by Memorandum and Order dated March 29, 2013 ("*LIBOR I*"), ECF No. 286, Class Counsel drafted a proposed second amended complaint, based on their continuing legal analysis and factual investigation directed to strengthening the pleading in the face of the Court's *LIBOR I* Opinion and with an eye to a possible appeal. The proposed pleading drew on, *inter alia*, then-recently available Federal Reserve and Bank of England documents, regulatory settlements with Barclays Bank, UBS AG, and the Royal Bank of Scotland, and testimony before the UK Parliament. These regulatory settlements disclosed evidence of management directives at UBS and Barclays in the setting of LIBOR. Class Counsel, working with consulting experts and in coordination with plaintiffs in other MDL actions, developed statistical analysis to support allegations that these banks' ability to successfully meet such management directives required collusion. Class Counsel also worked with consulting experts to develop and further advance legal theories in support of the Bondholder Plaintiffs' allegations of a conspiracy to suppress U.S. Dollar LIBOR.

B. Briefing on Motions to Dismiss and Other Relief Sought

14. Over the course of the litigation, Class Counsel have defended against two motions to dismiss in the district court, and appealed, briefed and argued these dismissals to the Second Circuit. Defendants initially moved to dismiss on multiple grounds, including failure to adequately allege a contract, combination or conspiracy, failure to adequately allege any restraint of trade and lack of antitrust standing. The first motion to dismiss was briefed and argued between June 2012 and March 2013. In an extensive Opinion, *LIBOR I*, the Court dismissed the

Bondholder Action antitrust claim, holding that plaintiffs failed to allege any antitrust injury or harm to competition.

15. Following the dismissal, Class Counsel drafted and argued a motion for leave to file the proposed second amended complaint. The Court denied the motion by Order dated August 23, 2013, ECF No. 389, and Class Counsel thereafter undertook legal research and analysis to assess their ability to appeal the dismissal of the Bondholder Action within the context of the MDL pre-trial consolidation.

16. Class Counsel filed a notice of appeal on September 17, 2013. ECF No. 409. The Second Circuit dismissed the appeal *sua sponte* on October 30, 2013, based upon established Circuit precedent. Following that dismissal, Class Counsel identified a circuit split on the appellate jurisdiction issue in the context of an MDL consolidation. At this juncture, Class Counsel sought out counsel with expertise in advocacy before the Supreme Court and for an assessment of the jurisdictional issue Class Counsel had identified. Goldstein & Russell, P.C. (“Appellate Counsel”) concluded the issue had merit and agreed, together with Class Counsel, to act on behalf of the Bondholder Plaintiffs before the Supreme Court.

17. On March 26, 2014, Bondholder Plaintiffs filed their petition for certiorari to the Supreme Court. *Gelboim v. Bank of Am. Corp.*, No. 13-1174 (U.S.S.C.). The Supreme Court granted certiorari on June 23, 2014. *Gelboim v. Bank of Am. Corp.*, 573 U.S. 945 (2014). Briefing to the Supreme Court occurred over a four month period, from July to November 2014, and involved intensive effort by Appellate Counsel and Class Counsel, combining Class Counsel’s knowledge of the case with Appellate Counsel’s expertise in framing issues to the high court. Argument was held before the Supreme Court on December 9, 2014. On January 21,

2015, the Supreme Court unanimously directed the reinstatement of Bondholder's appeal of the dismissal of the antitrust claim before the Second Circuit. *See* 574 U.S. 405.

18. Following the remand to the Second Circuit, Class Counsel engaged in extensive briefing and oral argument between May and November 2015. On May 23, 2016, the Second Circuit reinstated Bondholder Plaintiffs' antitrust claim, holding that plaintiffs had plausibly alleged both antitrust injury and a conspiracy to manipulate LIBOR by Defendants. *Gelboim v. Bank of Am. Corp.*, 823 F.3d 759 (2d Cir. 2016).

19. On October 20, 2016, Bank of America entities, JPMorgan entities, and Citibank entities petitioned the Supreme Court for certiorari to review the Second Circuit's ruling upholding Bondholder Plaintiffs' and other plaintiffs' antitrust claims. Class Counsel, Appellate Counsel, and counsel for other MDL plaintiffs jointly researched and prepared a joint brief in opposition to the petition, which was filed on December 9, 2016. The Supreme Court denied the petition on January 17, 2017. *Bank of Am. Corp. v. Gelboim*, 137 S. Ct. 814 (2017).

20. When the matter returned to this Court following remand from the Second Circuit, the Court directed expedited briefing on renewed motions to dismiss the antitrust claim on antitrust standing and personal jurisdiction grounds. Letter dated June 7, 2016, ECF No. 1441. These motions were fully briefed in July and August 2016 and argued on October 27, 2016. The Court again dismissed Bondholder Plaintiffs' antitrust claim on December 20, 2016, ECF No. 1676 (*LIBOR VI*), and Class Counsel again appealed to the Second Circuit. ECF No. 1982. This appeal, fully briefed and argued on May 24, 2019, is presently *sub judice*.

21. Over the course of the litigation, Class Counsel researched and briefed numerous other motions and pre-motion letters, both in this Court and the Second Circuit. These included motions for leave to amend to this Court and for reconsideration to the Second Circuit. Class

Counsel also submitted correspondence and motions related to, *inter alia*, scheduling orders, Rule 54(b) relief, and jurisdictional discovery.

22. The motion practice in the litigation has required extensive research and analysis of often novel and complex legal and factual issues related to, *inter alia*, whether Bondholder Plaintiffs adequately alleged restraint of trade and antitrust standing, whether they adequately alleged a plausible conspiracy to manipulate U.S. Dollar LIBOR, whether the Court had personal jurisdiction over the foreign Defendants within the context of an alleged international conspiracy, and whether the Second Circuit could properly dismiss the Bondholder Action appeal *sua sponte* based on its pretrial consolidation in the LIBOR MDL.

23. A key feature of this MDL proceeding has been Class Counsel's coordination on common issues with counsel for plaintiffs in other MDL actions, resulting in the crafting of briefs and arguments that, despite their clients' different legal postures, all counsel for the various class plaintiffs could endorse. Class Counsel, together with Appellate Counsel, expended substantial effort to ensure not only that the Bondholder Class was appropriately represented in this process, but, particularly in the case of Appellate Counsel, to ensure the presentation of the appellate arguments was satisfactory to other MDL plaintiffs' counsel. Each of the appellate arguments entailed an extensive moot court process with participation by counsel for plaintiffs in both class and individual MDL cases. Appellate Counsel argued for all of the plaintiff-appellants before the Second Circuit in connection with both the first and second appeals on November 13, 2015 and May 24, 2019, respectively.

C. Consulting Expert Retention and Case Investigation

24. From the earliest point in the litigation, Class Counsel recognized that this case would be expert intensive. Beginning as early as 2011, and continuing over the course of the

litigation, Class Counsel actively investigated potential experts and retained multiple consulting experts in economics and finance, as industry consultants, and in support of the development of legal analysis. Class Counsel worked closely with consulting experts to develop regression analyses and probability studies reflected in various pleadings and cited by the Second Circuit. *See, e.g., Gelboim v. Bank of Am. Corp.*, 823 F.3d 759, 782 and n.20 (2d Cir. 2016).

25. Class Counsel also worked continuously in the development of the factual record in the action. This effort has included the detailed review and analysis, in part noted above, of press reports, information regarding the regulatory investigations, testimony before the UK Parliament, BBA documentation, the Federal Reserve Bank document production, the Bank of England production and documents related to multiple regulatory settlements with various Defendant banks, including with the U.S. Department of Justice, U.S. Commodity Futures Trading Commission, New York Department of Financial Services, U.K. Financial Conduct Authority, Swiss Financial Market Supervisory Authority (FINMA), and German Federal Financial Supervisory Authority (BaFIN), among other documents. Class Counsel vigorously sought access to and developed new information as it became available over the course of the litigation.

D. Review and Analysis of Document and Data Production

26. Following the Second Circuit's reinstatement of Bondholder Plaintiffs' antitrust claim in May 2016, Class Counsel sought and obtained access to Defendants' regulatory productions. Class Counsel had to negotiate separately with each Defendant to gain access to its document and data productions. As a result of these negotiations, Class Counsel gained access to Defendants' regulatory productions in late September 2016.

27. The productions entailed millions of documents. Class Counsel established procedures to review and analyze the productions. Class Counsel had the benefit of attorneys highly skilled in conducting large-scale digital productions, headed by an attorney with a master's degree in computer science and extensive specialized experience managing the review and analysis of digital productions in class litigation. Class Counsel focused their analysis on certain critical periods including periods of high volatility in the debt markets. Over an initial six-month period, from September 2016 to March 2017, the document review team reviewed and identified key pools of information for further review and analysis, including emails, chats and audio files. This process was further assisted, as described below, by information from settling defendants obtained through the cooperation provisions in Settlement Agreements. As the litigation progressed, Class Counsel undertook additional targeted review of Defendants' regulatory productions.

28. Key information from the document review was incorporated into a master chronology, which Class Counsel had begun to compile early in the litigation and continuously updated. The master chronology reflected the results of Class Counsel's analysis of information, documentation, and data as they became available during the course of the litigation. Class Counsel consulted with industry experts to interpret the factual record as it developed. This work added substantially to Class Counsel's understanding of the conduct of Defendants and of other material market participants, including brokers, during the class period.

29. Beginning in September 2016, Class Counsel began working with their consulting experts, technical personnel at Garden City Group ("GCG"), and other MDL plaintiffs' counsel, to interpret and analyze borrowing data produced by Defendants. This process required significant back and forth with counsel for each defendant bank regarding the correct

interpretation of its data fields. Class Counsel further actively coordinated with other plaintiffs' counsel in the MDL in connection with on-going third-party discovery efforts.

30. Separately, Class Counsel negotiated with the London Southwark Crown Court to obtain daily transcripts for both the Tom Hayes criminal trial and the subsequent London brokers criminal trial, as well as attended portions of criminal proceedings in the Southern District of New York related to LIBOR. The London criminal court trial transcripts encompassed months of testimony, spanning May through August 2015 and October 2015 through January 2016, respectively. The review and analysis of these transcripts by Class Counsel revealed important documents and communications not previously made available, adding significantly to the factual record in the case.

31. As early as 2016, cooperation provisions negotiated as part of the settlements yielded critical information regarding Defendants' activities, both in the form of documents and attorney proffers. This information was incorporated into the master chronology and provided an additional basis to evaluate the underlying Defendant communications and activities. As described below, the intensive discovery efforts provided a key predicate of Class Counsel's ongoing settlement discussions as Class Counsel strove to place the conduct of each individual defendant bank in the context of the LIBOR panel activity.

E. Analysis of the Market for Floating Rate Debt Securities, Calculation of Damages, and Work Related to the Bloomberg Bulk Data Analysis

32. Class Counsel undertook detailed and continuing analysis to estimate damages to the Bondholder Class. Class Counsel researched and analyzed the market for floating rate debt by asset class to isolate the characteristics of qualifying securities "expressly tied" to LIBOR. This effort had both factual and legal dimensions, including the examination of underlying debt security documentation.

33. To evaluate the scope of damages, Class Counsel initially researched and reviewed market-wide sources of information regarding the debt market, including information available from the Securities Industry/Financial Market Association (SIFMA), the Financial Industry Regulatory Authority (FINRA), the Market Participants Group on Reforming Interest Rate Benchmarks, Final Report, dated March 2014, as well as other sources.

34. Beginning in early 2016, in conjunction with initial settlement negotiations (discussed below) Class Counsel worked to systematically identify and investigate potential sources for market data related to debt securities which fell within the Bondholder Class definition. After detailed discussions with multiple potential providers, Class Counsel ultimately determined that Bloomberg could provide the most comprehensive data from which to identify affected securities.

35. Over the course of approximately seven months, pursuant to in-person meetings and telephone conferences, Class Counsel, working with both their consulting experts and personnel from GCG, actively communicated with Bloomberg personnel to assess and evaluate the scope and nature of the bulk raw data available.

36. Separate from the detailed assessment of the underlying securities data offered by Bloomberg, Class Counsel also actively negotiated the terms of acquiring access to such data and the scope of use thereof in support of the litigation. Class Counsel finalized negotiations and entered into a contract with Bloomberg for the bulk data on October 31, 2016.

37. Because of the size of the bulk data, GCG was required to design a special computer platform which, when actualized, required nearly a month to download the entire bulk of the extensive financial data. The analysis of the bulk data – entailing most of 2017 – was time intensive and complex, and required significant and continuous communication and coordination

among Class Counsel, their consulting experts, GCG (and later its successor, Epiq), and technical personnel at Bloomberg to ultimately arrive at a list of relevant U.S. Dollar LIBOR-based debt securities that were outstanding over the class period, by asset type, including corporate bonds, asset-backed securities, and municipal bonds.

38. As a result of this extensive analysis, in support of claims administration for the Settlements, Class Counsel have been able to identify U.S. Dollar LIBOR-based debt securities issued and/or outstanding during the class period, whether (and if so, when) relevant debt securities defaulted or stopped paying interest during the class period, and other information directly relevant to determining if a putative Bondholder class member was damaged and if so, quantifying that damage.

39. The Bloomberg data then enabled Epiq, under Class Counsel's direction and with the assistance of consulting experts, to compile a listing of CUSIP numbers of relevant U.S. Dollar LIBOR-based debt securities outstanding during the class period and expressly tied to LIBOR. In turn, these CUSIP numbers have been made available to nominees, brokers, and other relevant third parties pursuant to the Stipulated Protective Order entered by the Court (*see* ECF No. 3102), facilitating the notice administration process for potential Settlement Class members. The Bloomberg data will serve as the basis for the individual damages calculations in the settlement distribution process.

40. Separately, beginning in August 2016, Class Counsel negotiated with Bloomberg to acquire certain historical bid/ask data. Class Counsel worked closely with their consulting expert to review and analyze this and other market data in connection with the determination of appropriate but-for values for use in a plan of allocation. Using this and other relevant data,

Class Counsel worked closely with their consulting expert to develop but-for values for LIBOR during the class period for use in support of settlement administration.

F. The Bondholder Settlements

41. Class Counsel have been actively involved in settlement efforts over a four-year period, from January 2016 to March 2020. In all of the settlement discussions, except those with Barclays Bank plc, the parties negotiated under the auspices of the office of the Honorable Layn Phillips, retired federal judge, as mediator (the “Mediator”).

42. Class Counsel’s on-going and extensive work in developing the factual record, close coordination with industry and consulting experts, and detailed legal research and analysis addressing the various motions over the course of the litigation underpinned Class Counsel’s settlement efforts.

43. Settlement discussions between Bondholder Plaintiffs and, separately, Barclays Bank plc and UBS AG began in earnest in January 2016, following oral argument on the first appeal. As stated above, Class Counsel negotiated directly with Barclays counsel, while the Mediator assisted the UBS negotiations.

44. In March 2016, Class Counsel reached agreement with Barclays on a settlement amount and, critically, Barclays undertook to provide expansive cooperation with Class Counsel in the form of factual and evidentiary development. The documentation and finalization of the settlement were delayed, however, to address the scope of the release in the separate settlement Barclays had reached with the OTC plaintiffs. That release potentially jeopardized the independence of the Bondholder Class. To rectify that potentiality, Class Counsel pursued lengthy negotiations to ensure clarity on all sides, and as a result, OTC plaintiffs’ counsel and Barclays Counsel executed a Joint Declaration of OTC Plaintiffs and Barclays Bank PLC

Regarding the Settlement between OTC Plaintiffs and Defendant Barclays Bank PLC on August 19, 2016. That joint declaration expressly excluded Bondholder Settlement Class claims from the scope of the release in the OTC-Barclays settlement (*see* ECF No. 1947-4) and provided the format and framework for the release language Class Counsel were able to use in future settlement negotiations. The Barclays settlement was finalized in November 2016.

45. Working with the Mediator, over a seven month period, Class Counsel and counsel for UBS held multiple discussions and, following an all-day mediation session in May 2016, finalized a binding term sheet setting forth the monetary consideration and cooperation obligations underpinning their proposed settlement. The parties executed a Settlement Agreement on July 12, 2016.

46. The Barclays and UBS settlement negotiations were supported by the factual analysis performed by Class Counsel, as well as their analysis of the market for floating rate debt instruments and damages estimates undertaken up until that time. In addition, pursuant to these settlements, the settling defendants provided cooperation which included, *inter alia*, attorney proffers and other information which further assisted in developing Class Counsel's factual record in the case.

47. After the Second Circuit decision in May 2016 sustaining the Bondholder Complaint, Class Counsel and counsel for HSBC Bank plc entered into settlement discussions under the auspices of the Mediator. Negotiations extended over a nine-month period, entailing multiple telephonic conferences and in-person sessions, addressing all aspects of the Bondholder claims. The parties executed a settlement agreement encompassing both monetary consideration and cooperation obligations, on March 15, 2017.

48. As detailed in the Declaration of Karen L. Morris and Robert S. Kitchenoff in Support of Bondholder Plaintiffs' Motion for Preliminary Approval of the Settlements with Barclays Bank PLC, UBS AG and HSBC Bank PLC (ECF No. 1947-2), these settlement negotiations were hard fought and arm's-length and resulted in the creation of an aggregate settlement fund of \$36.1 million, as well as providing substantial cooperation obligations on the part of the settling banks. The Court preliminarily approved these settlements on July 5, 2017 (ECF No. 2048).

49. Class Counsel and counsel for Citibank NA and Citigroup Inc. (collectively "Citi") began settlement discussions in July 2017. These discussions, including both telephonic conferences and in-person meetings with the assistance of the Mediator, extended over a seven-month period. The parties executed a Settlement Agreement, documenting both monetary and non-monetary obligations, on January 10, 2018. The Court preliminarily approved this settlement on December 5, 2018. *See* ECF No. 2769.

50. Class Counsel and the respective counsel for Bank of America Corporation and Bank of America, N.A. ("collectively "BOA") and JPMorgan Chase & Co. and JPMorgan Chase Bank N.A. (the latter two collectively "JPM") began settlement discussions in January of 2018. These discussions were extensive. Working with the Mediator, the parties actively negotiated the terms and conditions of a proposed settlement, including cash and cooperation obligations, which were finalized upon the execution of a Settlement Agreement on November 12, 2019.

51. Class Counsel and counsel for The Royal Bank of Scotland Group plc ("RBS") began settlement discussions in May 2019 under the auspices of the Mediator. The parties negotiated over a lengthy period. The parties finalized the RBS settlement, including both monetary and non-monetary benefits, with the execution of a Settlement Agreement on March

25, 2020. The Court preliminarily approved the BOA/JPM and RBS settlements on May 6, 2020. *See* ECF No. 3081.

52. As set forth in the Declaration of Karen L. Morris and Robert S. Kitchenoff in Support of Bondholder Plaintiffs' Motion for Preliminary Approval of the Settlements with Citibank NA and Citigroup Inc. (ECF No. 2764-3), and with Bank of America Corporation, Bank of America, N.A., JPMorgan Chase & Co., JPMorgan Chase Bank N.A. and The Royal Bank of Scotland Group PLC (ECF No. 3059-3), these settlement negotiations were each intensive and arm's-length.

53. Drawing upon their master chronology, Class Counsel created individualized, detailed mediation submissions, with relevant documentary support, specific to each Defendant with which they negotiated. Class Counsel's continual development of the factual record and extensive analysis were essential to preparation of these submissions. Drawing from key elements of the documentary record, together with analysis of day-by-day and even hourly communications, Class Counsel honed their mediation presentations to the conduct of the individual defendant banks.

54. The four settlements with Citi, BOA, JPM, and RBS, together with the prior settlements, have resulted in the creation of the aggregate settlement fund of \$68,625,000 presently before the Court, and likewise included cooperation obligations on the part of the settling banks.

55. Development of the notice program and the plan of allocation, and the drafting of the notice and proof of claim form all required extensive work in close coordination with the Claims Administrator and consulting experts. The Court approved the notice program and preliminarily approved the plan of allocation on June 16, 2020 (ECF No. 3102). Class Counsel

have continued to work closely with the Claims Administrator to oversee implementation of the notice process.

G. Counsel Fees

56. The schedules below are a summary reflecting the amount of time spent by the attorneys and professional support staff of Morris and Morris and Weinstein Kitchenoff, who were involved in this litigation. The lodestar value calculations provided below are based on the current hourly rates for the attorneys and professional support staff of each of the Class Counsel firms, which are the same as the regular rates charged for their services in non-contingent matters and/or which have been accepted in other complex or class action litigation, subject to subsequent annual increases.³

57. The following schedules were prepared from daily time records regularly prepared and maintained by each of the Class Counsel firms, which are available for *in camera* review at the request of the Court. Time expended on the application for attorneys' fees and reimbursement of litigation expenses has been excluded.

(i) Morris and Morris, from inception through September 30, 2020:

Attorneys	Current Rate	Hours	Value
Karen L. Morris	\$975.00	4,834.70	\$4,713,832.50
Patrick F. Morris	\$850.00	8,449.85	\$7,182,372.50
R. Michael Lindsey	\$725.00	9,572.00	\$6,939,700.00
TOTAL LODESTAR		22,856.55	\$18,835,905.00

³ For attorneys and professional staff who are no longer with Morris and Morris or Weinstein Kitchenoff, the hourly rate used is that which applied when the individual left the firm.

(ii) **Weinstein Kitchenoff, from inception through September 30, 2020:**

Attorneys	Current Rate	Hours	Value
Steven A. Asher	\$750.00	60.20	\$45,150.00
Ann Caldwell	\$625.00	482.40	\$301,500.00
Leila E. Ely	\$390.00	5.00	\$1,950.00
Theresa Henson	\$625.00	30.75	\$19,218.75
Robert Kitchenoff	\$850.00	4,454.20	\$3,786,070.00
Angie Poulin	\$240.00	2.00	\$480.00
Christine Quarembo	\$200.00	11.30	\$2,260.00
Mindee J. Reuben	\$650.00	3.30	\$2,145.00
Edward Skipton	\$375.00	40.40	\$15,150.00
Jeremy S. Spiegel	\$675.00	538.70	\$363,622.50
David H. Weinstein	\$940.00	3,744.40	\$3,519,736.00
Roseann Weisblatt	\$625.00	634.50	\$396,562.50
Andrea Wilson	\$675.00	1,880.00	\$1,269,000.00
TOTAL LODESTAR		11,887.15	\$9,722,844.75

58. Class Counsel's total time litigating the case through September 30, 2020 is 34,743.70, resulting in lodestar of \$28,558,749.75.

59. In addition, Goldstein & Russell, P.C. performed work as Appellate Counsel for the benefit of the Bondholder Class. The time and lodestar reported by Goldstein & Russell, based on their current hourly rates, are as follows:

Attorneys	Current Rate	Hours	Value
Thomas Goldstein	\$1,800.00	688.50	\$1,239,300.00
Eric Citron	\$1,050.00	1,083.75	\$1,137,937.50
Kevin Russell	\$1,050.00	29.50	30,975.00
Tejinder Singh	\$1,050.00	211.50	\$222,075.00
Sarah Harrington	\$1,050.00	3.25	\$3,412.50
Charles Davis	\$650.00	69.50	\$45,175.00
Daniel Woofter	\$425.00	1.75	\$743.75
Jeanne Jeong	\$425.00	62.25	\$26,456.25
Erica Evans	\$400	47.75	\$19,100.00
TOTAL LODESTAR		2,197.75	\$2,725,175.00

60. The requested percentage fee is consistent with contingent fees Weinstein Kitchenoff negotiated with sophisticated corporate plaintiffs in antitrust litigation immediately before and during the class period in this case. One of those plaintiffs agreed to pay a contingent attorney's fee of 31% of the first \$50 million recovered and 29% of the incremental recovery from \$50 million to \$100 million. A second plaintiff agreed to pay a contingent fee of 31% of the first \$50 million recovered and 30% of the incremental recovery from \$50 million to \$100 million. These plaintiffs paid contingent fees in accordance with these formulas when they settled their litigation.

II. COUNSEL'S LITIGATION EXPENSES

61. As detailed in the schedule below, Class Counsel collectively incurred a total of \$817,237.03 in unreimbursed litigation expenses in connection with the prosecution of the

Bondholder Action from inception through October 30, 2020. These expenses were reasonably necessary to the prosecution of this action and are of the type that counsel normally incur in litigation and that would be reimbursed by clients under fee arrangements where the client was paying expenses. The following schedule was prepared from accounting records regularly prepared and maintained by each of the counsel firms, which are available for *in camera* review at the request of the Court.

Expense Category	Expenses Incurred
Long Distance and Conference Calls	\$3,716.10
Travel and Meals	\$70,202.36
On-line Research ⁴	\$55,173.68
Parking	\$1,568.72
Printing Services	\$23,504.22
Photocopying	\$5,815.00
Postage and Overnight Delivery	\$710.94
Transcripts	\$4,675.99
Experts	\$442,675.10
Filing Fees	\$2,668.00
Mediation Fees	\$115,079.68
Data Analysis and Licensing	\$14,806.85
Document Review/Hardware Hosting	\$66,779.24

⁴ The charges reflected for on-line research are for out-of-pocket payments to the vendors for research done in connection with this litigation. Online research is billed to each case based on actual time usage at a set charge by the vendor. There are no administrative charges included in these figures.

Investigative Services	\$9,861.15
TOTAL EXPENSES	\$817,237.03

III. CALCULATION OF THE REQUESTED FEE

62. In addition to the \$817,237.03 in unreimbursed expenses detailed above, a total of \$1,306,740.36 has been paid from the Settlement Funds pursuant to the terms of the Settlement Agreements to support notice and administration, including data acquisition and work with consulting experts and the claims administrator in connection with the development of a plan of allocation and the provision of notice and claims review. *See* Declaration of Karen L. Morris and Robert S. Kitchenoff in Support of Bondholder Plaintiffs' Motion for Final Approval of Settlements, ¶ 28 (filed herewith). Class Counsel further seek reimbursement to Epiq for \$375,000, which Epiq paid in connection with the purchase of data from Bloomberg to assist in the administration of the Settlement. *See* Declaration of Cameron R. Azari Regarding Implementation of the Notice Plan (filed herewith), at ¶ 31.

63. When combined with Class Counsel's unreimbursed expenses, expenses to date total \$2,498,977.39. When subtracted from the amount of the aggregate Settlement Funds of \$68,625,000, the net fund, exclusive of interest, is \$66,126,022.61. Applying the requested percentage of 28% to this net fund results in a fee amount of \$18,515,286. This is exclusive of the interest earned on the Settlement Funds of \$1,286,378.26.

IV. SERVICE AWARDS FOR THE BONDHOLDER PLAINTIFFS

64. Class Counsel request a \$25,000 service award each for the Bondholder Plaintiffs, Ellen Gelboim and Linda Zacher. The Bondholder Plaintiffs have each generously contributed time for the benefit of the Bondholder Settlement Classes and, in the opinion of

Class Counsel, each is deserving of the requested incentive award. The Bondholder Plaintiffs' participation in the litigation has included, *inter alia*, providing evidence to assist in the development of the Bondholder Plaintiffs' claims, responding to questions from counsel about documents and data provided, attending the hearing of the matter in the U.S. Supreme Court, staying actively apprised of pleadings, briefing and evolving settlement negotiations, and approving terms and conditions of the Settlements.

V. PROVISION OF NOTICE

65. The Direct Notice sent to potential members of the Settlement Classes informed recipients that any individual or entity who wishes to (i) object to part or all of the proposed Settlements, the Plan of Allocation, the award of attorneys' fees and reimbursement of litigation expenses or service awards to the Bondholder Plaintiffs, or (ii) be excluded from any of the Settlements can do so by mailing a written statement to the Court, Class Counsel and settling defendants' counsel, and that such mailing must be postmarked on or before November 17, 2020.

66. The Notice approved by the Court and disseminated to the Settlement Class members informed them that Class Counsel would ask the Court for an award of attorneys' fees of up to one-third of the aggregate Settlement Funds, along with reimbursement for litigation expenses and award of special service payments of up to \$25,000 to each of the Bondholder Plaintiffs for their service as representatives on behalf of the Settlement Classes. Notice, Question 24.

VI. OBJECTIONS AND REQUESTS FOR EXCLUSION RECEIVED TO DATE

67. As of this filing, Class Counsel have received no objections to the Settlements. Class Counsel have received one request for exclusion from the Settlements.

We each declare under penalty of perjury that the forgoing is true and correct.

Executed on November 2, 2020

/s/ Karen L. Morris
Karen L. Morris

/s/ Robert S. Kitchenoff
Robert S. Kitchenoff