IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DAVID M. LANDAY,

Representative Plaintiff,

v.

DATAVANT, LLC, as successor-in-interest to HEALTHPORT TECHNOLOGIES, LLC,

Defendant.

CIVIL DIVISION
CLASS ACTION

GD-09-012923
Coordinated With:
GD-09-012919; GD-09-012922;
and GD-09-014785

SUPPLEMENTAL DECLARATION OF JOHN WORGUL IN SUPPORT OF THE MOTION FOR APPROVAL OF ATTORNEYS' FEES, COSTS AND CLASS REPRESENTATIVE SERVICE AWARD

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DAVID M. LANDAY, Representative Plaintiff, v. DATAVANT, LLC, as successor-in-interest to HEALTHPORT TECHNOLOGIES, LLC, Defendant.	CIVIL DIVISION CLASS ACTION GD-09-012923 Coordinated With: GD-09-012919; GD-09-012922; and GD-09-014785

SUPPLEMENTAL DECLARATION OF JOHN P. WORGUL, ESQUIRE

I, John P. Worgul, declare as follows:

1. I am one of the Counsel of Record in this matter and submit this supplemental declaration in support of Plaintiff's Motion for Approval of Attorneys' Fees, Costs, and Class Representative Service Award.

2. This declaration supplements my declaration submitted in support of Plaintiff's Consent Motion for Preliminary Approval, Appointment of Class Counsel, Certification of the Settlement Class, and For the Approval of the Form, Manner and Administration of Notice.

3. This declaration is based on my own personal knowledge of the facts stated herein, except those statements made on information and belief, which such statements I believe to be true.

4. I am an attorney and partner at the law firm of Feinstein Doyle Payne & Kravec, LLC ("FDPK"), who are one of the firms retained by Plaintiff David M. Landay in this matter. FDPK has extensive experience in Class Action practice on a local and national level as further detailed herein.

5. I joined FDPK in late October of 2022. On or about November 7, 2022, I entered my appearance in this matter, as well as at approximately the same time entering my appearance in other related and coordinated matters. Since this time, I have worked significantly with David M. Landay, the named plaintiff, Mr. Pietz and Mr. Lagnese on this matter, and other related and coordinated matters, that address the same legal theory of liability of whether Pennsylvania's Medical Records Act, a term of an implied contract between the plaintiffs and defendants in the coordinated matters, was violated, resulting in a breach of contract via the overcharging of fees and expenses for the reproduction of medical records.

6. I, along with named plaintiff David M. Landay, Mr. Pietz, and Mr. Lagnese requested that this Court appoint David M. Landay as the Class representative and myself, Mr. Pietz, and Mr. Lagnese as Class Counsel pursuant to Pennsylvania Rules of Civil Procedure, including Rules 1702, 1708, 1709 and 1714, along with certifying the settlement class, approving the proposed settlement of the parties, and addressing issues attendant thereto.

7. On June 16, 2026, in this matter, David M. Landay vs. Datavant, LLC, as successor-in-interest to HealthPort Technologies, LLC, Case No. GD-09-012923 (the HealthPort matter), the Court entered an "Order Certifying Settlement Class, Preliminarily Approving Class Settlement and Directing the Issuance of Notice to the Class." The order made Class findings, including that the numerosity requirement of Pa. R. Civ. P. 1702(1), the commonality requirement of Pa. R. Civ. P. 1702(2), the typicality requirement of Pa. R. Civ. P. 1702(3), the adequacy requirement of Pa. R. Civ. P. 1702(4), and the requirements of Pa. R. Civ. P. 1702(5) and 1708 were met and satisfied. The order made Class findings that Common issues of law and fact alleged by Plaintiff predominate over any potential individual issues. The order appointed David Landay as representative of the Settlement Class. The order appointed as Settlement Class Counsel me and James M. Pietz, Esquire of Pietz Law Office, LLC; Paul Lagnese, Esquire of Berger, Lagnese, LLC.

8. On June 16, 2026, in the matter of David M. Landay v. Datavant, LLC, as successor-in-interest to IOD Incorporated, Case No. GD-09-012922 (the IOD matter), the Court

entered an “Order Certifying Settlement Class, Preliminarily Approving Class Settlement and Directing the Issuance of Notice to the Class.” The order made Class findings, including that the numerosity requirement of Pa. R. Civ. P. 1702(1), the commonality requirement of Pa. R. Civ. P. 1702(2), the typicality requirement of Pa. R. Civ. P. 1702(3), the adequacy requirement of Pa. R. Civ. P. 1702(4), and the requirements of Pa. R. Civ. P. 1702(5) and 1708 were met and satisfied. The order made Class findings that Common issues of law and fact alleged by Plaintiff predominate over any potential individual issues. The order appointed David Landay as appointed representative of the Settlement Class. The order appointed as Settlement Class Counsel me and James M. Pietz, Esquire of Pietz Law Office, LLC; Paul Lagnese, Esquire of Berger, Lagnese, LLC.

9. The defendants in the HealthPort matter and the IOD matter are collectively referred to as the Datavant defendants, as Datavant is both entities’ successor-in-interest.

EDUCATION, LICENSURES, AND COURT ADMISSIONS

10. I am a graduate of the Duquesne University Bayer School of Natural and Environmental Sciences, obtaining a Bachelor of Science Degree in the spring of 2005. I am a graduate of the Duquesne University Kline School of Law, obtaining my Juris Doctorate in the spring of 2008.

11. During my law studies I passed the United States Patent and Trademark Office’s registration examination, commonly called the patent bar, and became a licensed Patent Agent on December 11, 2006.

12. On December 2, 2008, I was admitted to the State Bar of California. On February 20, 2009, my registration status with the United States Patent and Trademark Office was changed from Patent Agent to Patent Attorney.

13. On April 25, 2018, I was admitted to the State Bar of Pennsylvania.

14. I am admitted to the following Federal Courts: the United States District Court for the Central District of California (2010), the United States District Court for the Southern District of California (2015), the United States Court of Appeals for the Ninth Circuit (2018), the United

States District Court for the Northern District of California (2024), the United States District Court for the Western District of Pennsylvania (2024), and the United States District Court for the Eastern District of California (2025). I am also currently admitted pro hac vice in the United States District Court for the Eastern District of New York in the putative class action matter of *Alan Katz v. Esurance Property and Casualty Insurance Company and National General Insurance Company*, Eastern District of New York Case No. 1:24-CV-00955-DG-JAM.

PROFESSIONAL AND CLASS ACTION EXPERIENCE

15. I began a patent practice in 2006 as a patent agent.

16. I have practiced law since 2008 when I was initially licensed to practice law in the State of California.

17. Since 2008 my legal practice has been focused on representation of both plaintiffs and defendants in trial and appellate Courts, regarding many areas of law. I have nearly two decades of experience litigating. I have worked as an attorney at the following law firms and practices, the Law Office of Lee C. Arter, the firm Kasdan, Weber, and Simonds (now Kasdan, Turner, Thompson and Booth LLP), the firm Donahue & Horrow LLP, the firm Veatch Carlson LLP, and at FDPK.

18. I have tried cases to jury verdict. I have handled appeals through their exhaustion. I have had the honor of representing many individuals, corporations, and government entities. I have worked on litigation and trial teams that have included multiple attorneys employed by multiple firms working in conjunction in the prosecution and defense of litigated matters, including matters deemed "complex." I have litigated in multiple Federal and State Courts. By representing both plaintiffs and defendants throughout my career, I am able to appreciate the challenges and advantages of both sides of a case when evaluating litigation matters.

19. I am a member of the Consumer Attorneys Association of Los Angeles, one of the largest local plaintiff's trial attorney associations in the United States that is located within the jurisdiction of the largest trial court in the country. I have attended the Impact Fund Class Action Training Institute and attended the American Bar Associations Class Action National Institute on

multiple occasions. In recent years I have placed an emphasis on obtaining continuing legal education credits that not only meet the requirements for the California and Pennsylvania State Bar, but that have application to a national complex litigation and class action practice.

20. For a significant portion of my career, I was involved in a sophisticated trial practice, where I was involved in undertaking representation of clients near the eve of trial who were previously represented by other attorneys and firms. This experience developed skills in efficiently and proactively seeking discoverable information with little time available, as well as engaging in significant deposition and law and motion practice. I estimate that I have deposed well in excess of 250 persons in my career and argued more than 250 motions related to discovery matters or summary judgment issues. This required a significant understanding of the rules of evidence for various Court and tribunals and to be able to develop and lay foundations for admissibility of evidence, including addressing the chain of custody of information and things. This also required the attention and recognition to address the spoliations and destruction of evidence and seek remedies related to discovery abuses of my opponents and their clients.

21. Specifically pertinent to the subject matter and legal theory of this matter, my past experiences include significant experience in the area of general liability, personal injury, and medical malpractice litigation which included direct examination, evaluation, and analysis of medical records, reports and documentation.[1] Attendant to such is the process of authenticating medical records and treatment, addressing underlying chain of custody issues, use of data systems, including Electronic Medical Records (EMR) systems, and the business of subpoenaing, copying and paying for such medical records. This included issues attendant to the proving of medical treatment, diagnoses, and the basis for opinions, which requires an understanding of the business of documenting, maintaining, and transmitting medical information. Thus, I have obtained testimony from custodians of medical records as well as interacting with various deposition officers and vendors who obtain reproductions of the medical records and the attendant actions,

[1] For the avoidance of any doubt, I have never been involved with requesting medical records, whether by authorization, subpoena or otherwise, from a Pennsylvania Healthcare provider during the proposed class period.

infrastructure, and personnel involved in maintaining and reproducing medical records. Such is integral to determining the admissibility of evidence and requires a sophisticated understanding of chain of custody issues in the context of the medical industry. My exposure to this industry developed a significant understanding of it as a whole, providing a unique view as to the issues presented in the HealthPort matter and the IOD matter.

22. I have also addressed novel issues of statutory construction and interpretation in my legal career. I have been involved in precedent setting legal issues in the past, namely resolving a federal district court split among the California District Courts regarding the applicability of California's Financial Elder Abuse laws to denial of insurance benefits in the matter of *Rosove v. Cont'l Cas. Co.* (C.D.Cal. June 2, 2014, No. 2:14-cv-01118-CAS(CWx)) 2014 U.S.Dist.LEXIS 84998). As of today, the majority of California's Federal District Court's follow and cite to the *Rosove* matter related to denial of insurance benefits to senior citizens, the matter has been cited with approval by the California First District Court of Appeal (California State Court), and it has been considered by the Ninth Circuit Court of Appeals when addressing Oregon's Elder Abuse laws.

23. My current practice is focused on consumer protection matters. I primarily represent plaintiffs in class actions, consumer protection, or related matters since joining FDPK in 2022.

24. The first class action matter I litigated was the matter of the *Cory Spencer et al v. Lunada Bay Boys et al.*, Central District of California Case No. 2:16-cv-02129, a putative class action filed in 2016. It was litigated in parallel in the California State Courts. I was one of the lead defense counsel for the defendant Brant Blakeman, an alleged member of the "Lunada Bay Boys". The matter involved novel issues of California Law including the application of California's Coastal Act in the class action context to an alleged surfing gang. The matter garnered national and international media attention regarding the subject of surfer localism.

25. In October of 2022, I joined FDPK, which primarily engages in the legal representation of consumers involving complex litigation, including class actions, related to

consumer protection. In addition to working directly with Mr. Pietz when he was a partner with FDPK and since that time, I also work directly with Joseph N. Kravec, Jr., and Wyatt A. Lison, partners at FDPK with extensive and storied complex and class action experience.

26. I am currently counsel in other class action and putative class action matters. This includes the related matters of *Landay v. Datavant, as successor-in-interest to IOD Incorporated*, Allegheny County Common Pleas Case No. GD-09-012922 ("IOD"), *Landay v. UPMC Presbyterian Shadyside*, Allegheny County Common Pleas Case No. GD-09-012919 ("UPMC Presbyterian"); and *Landay v. UPMC Magee-Womens Hospital formerly known as Magee-Womens Hospital of the University of Pittsburgh Medical Center*, Allegheny County Common Pleas Case No. GD-09-014785 ("UPMC Magee"). Each of these matters involves the same legal theory as this matter. The IOD matter also involves the same defendant as this matter, as Datavant, formerly Ciox Health and formerly HealthPort, acquired IOD during the pendency of the litigation along with other companies. The IOD matter will be or is also the subject of a motion for preliminary approval of a class action settlement and being actively litigated in parallel with this matter. The UPMC Presbyterian and UPMC Magee matters are currently stayed.

27. I am also counsel in the unrelated putative class action matter of *Alan Katz v. Esurance Property and Casualty Insurance Company and National General Insurance Company*, Eastern District of New York Case No. 1:24-CV-00955-DG-JAM (NY), and *Wade v. Mercury Insurance Company*, et. al., Los Angeles Superior Court case No. 25STCV32464 (CA).

THE HISTORY OF MY INVOLVEMENT WITH THIS MATTER

28. Upon joining FDPK in October of 2022, I became directly involved in the litigation of this matter along with the IOD, UPMC Presbyterian, and UPMC Magee matters. These matters had been coordinated with three other matters, which those matters were resolved by the time I joined FDPK.

29. This matter was filed in 2009, and as more particularly discussed in Mr. Pietz's supplemental declaration filed concurrently with this declaration and both his and my prior declarations filed in support of preliminary approval of the parties Class Action settlement, was

one of multiple cases filed in 2009 involving the overcharging for the reproduction of medical records based on Pennsylvania's Medical Records Act's limit to the charges for actual and reasonable expenses subject to a capped amount. The related matters were coordinated, although the HealthPort matter was removed to Federal Court initially. Ultimately, multiple preliminary objections were made in this matter and the related matters that involved statutory construction of Pennsylvania's Medical Records Act, namely that the statutory cap was or was not a safe harbor provision for charges that could be made under Pennsylvania's Medical Records Act. This issue was the subject of a multi-level appeal to Pennsylvania's Superior Court and Pennsylvania's Supreme Court in the related matter of *Wayne M. Chiurazzi Law Inc. v. MRO Corp*, Allegheny County Common Pleas Case No. GD-09-012911 ("MRO"). Pennsylvania's Supreme Court determined that the statutory maximum rates in Pennsylvania's Medical Records Act was a cap, and not a safe harbor provision, and thus under the Act charges for the reproduction of medical records must be the lesser of the actual and reasonable expenses incurred for reproducing the medical records or the statutory cap. Upon returning to this Court, the MRO matter resolved by way of settlement, and as previously noted, Mr. Pietz and Mr. Lagnese were appointed Class Counsel, the settlement was approved by the Court, and distributions were made to the MRO class members. Thereafter in this matter, there were continued attacks on the pleadings. Discovery in this matter was not opened to Plaintiffs in this matter or the still pending related and coordinated matters until issuance of this Court's September 29, 2022, Order.

30. At the time I joined FDPK no discovery had occurred in the HealthPort matter or the IOD matter. The pleadings had finally been set after nearly thirteen years, although both HealthPort and IOD by that time were no longer in existence, as later learned in the discovery process having both been succeeded by Ciox Health LLC via various corporate changes including mergers, acquisitions, and name changes.

31. Thus, upon joining FDPK and undertaking the litigation of this matter and related matters with Mr. Landay, Mr. Pietz and Mr. Lagnese, I had to familiarize myself with the history of the HealthPort matter, the IOD matter, and the related matters, both those that were still being

litigated and those that had been resolved. This required intimately familiarizing myself with the history of the related matters and consistent direct interaction with Plaintiff David M. Landay. Evaluating the history of the HealthPort matter, the IOD matter, and the related matters required analyzing multiple dockets spanning a period of approximately thirteen years, understanding the nature of the prior attacks on the pleadings and rulings thereto, and developing a discovery, class certification, and trial plan. This also required an understanding of the interaction of federal and state laws, including the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and its amendments, and its legislative and litigated history of its interaction with state laws regulating medical records, including fees that could be charged for a patient or other person to obtain reproductions of medical records. This required intimately familiarizing myself with the history of similar litigation that occurred throughout the country on similar issues, often involving a state statute regulating the charges and fees associated with the reproduction of medical records, including the similarity and differences between various laws in various jurisdictions compared to Pennsylvania's laws. This included evaluating other class action settlements in the United States involving the overcharging for the reproduction of medical records.

32. I understand that Plaintiff David M. Landay, the proposed representative Plaintiff in this matter, is a seasoned trial lawyer that has practiced law in Pennsylvania since 1981. He engaged in a significant personal injury practice over many decades, primarily representing plaintiffs. Many of the putative class members to this litigation are law firms and lawyers and patients involved in litigation, in addition to other persons that requested the reproduction of Medical Records. Mr. Landay in the past has advocated for lower costs for patients to access their medical information and has on many occasions requested the reproduction of medical records from Pennsylvania Healthcare Providers over the many decades he practiced law.

33. Mr. Landay was consistently engaged in this litigation. I had the opportunity and pleasure of regularly communicating with him about the case status, developments, and preparing during the discovery process, as well as being a primary contact for him about any questions or concerns he had related to the litigation. He made significant efforts to preserve, obtain, and make

available records that were decades old, as well as being involved in the review and analysis of those records. He was unusually sophisticated for a putative class representative in understanding the litigation process as well as the underlying legal issues involved in it.

34. In my opinion, having litigated hundreds of cases involving many clients, parties, and witnesses whose participation and cooperation was needed in the litigation, at every time Mr. Landay's participation was sought related to any issue in this matter, he was reasonably ready, willing, and able to participate and engage on the pertinent issues.

35. The discovery process is often termed the heart and engine of litigation of American civil litigation. Cases are often won, lost, and settled based on what occurs during the discovery phase. It is likely the most important phase of all of civil litigation. Statistics from the Unified Judicial System of Pennsylvania[2] indicate that generally between 2015 and 2024 less than 2% of civil cases that were disposed of were disposed of were by way of a bench or jury trial and less than 5.5% per year disposed of by way of arbitration.

36. It has been recognized for decades that modern discovery statutes in many jurisdictions have had the effect of reducing the need for cases to be tried or otherwise addressed by a finder of fact.[3] As noted in 2012 by one scholar:

> In a procedural system ever more oriented to pretrial resolution, the deposition has in important respects replaced the trial as the primary occasion for probing sworn testimony about matters of fact. In combination with what the litigants learn from discovery of documents and from disclosures in response to interrogatories, deposition testimony provides the litigants a detailed advance view of what the issues and the evidence would be (on both or all sides) were the case to go to trial. In this way the discovery system has transferred into the pretrial process much of the work of eliciting facts and refining legal issues that had formerly been the function of trial. Having seen the dress rehearsal, today's litigants often find that they can dispense with the scheduled performance.[4]

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[2] See Civil Case Load Data https://www.pacourts.us/news-and-statistics/research-and-statistics/dashboard-table-of-contents/statewide-civil-cases

[3] See Langbein, The Disappearance of Civil Trial in the United States, 122 Yale L.J. 522, 2012, https://yalelawjournal.org/pdf/1121_3c4pwzsa.pdf

[4] See id., at p. 551.

37. The discovery phase of this litigation involved significant efforts for the Plaintiffs. Initially in this matter and the IOD matter, Datavant's interests were represented by the law firms K&L Gates LLP (Pittsburgh, PA) and Kirkland and Ellis LLP (New York [Manhattan], NY).

38. Based on information and belief, K&L Gates is a top 100 AM Law firm (the largest grossing law firms in the United States), currently ranked at 48, and Kirkland & Ellis is as well, being ranked number 1 today and for the past 9 years in gross revenue generation. Both firms have storied histories, seasoned litigators, and are believed to provide some of the best legal representation in the United States money can buy. They were significant opponents that advocated zealously for HealthPort Technologies LLC its predecessors and successors until the parties' desired to explore settlement and the defense changed counsel.

39. The Court's September 29, 2022, Order, entered with the consent of the parties, permitted merits and class discovery and set a briefing schedule for Plaintiff's Motion for Class Certification, with the opening brief due on April 21, 2023, and a hearing scheduled for June 13, 2023. The Order applied to this matter, the IOD matter, the UPMC Presbyterian matter, and the UPMC Magee matter. Based on this Order all class-certification discovery in four separate matters had to be completed well before April 21, 2023, leaving less than seven months to complete discovery and prepare a complex class-certification motion in four cases to be presented to the Court.

40. I, along with Mr. Pietz, were the main architects for the discovery process and written discovery in this matter and the IOD, UPMC Presbyterian, and UPMC Magee matters. Development of a discovery plan in the context of this case took into account critical issues related to Class Certification, Motions for Summary Judgment, and Trial, along with the mandates of Pennsylvania Rule of Civil Procedure Rule 1707 that requires plaintiffs to generally move the Court for Class Certification within 30 days of the close of the pleadings, or as soon thereafter as deemed appropriate by circumstances and the Court.

41. I was primarily responsible for the discovery preparation, review, evaluation, and enforcement process to develop admissible evidence in this matter to address the claims and

defenses of the parties. This included both the production of information by Mr. Landay and acquiring and analyzing information from the defendants. This included the review of Plaintiff's significant records and information involving his and his business' interactions with HealthPort Technologies LLC, which information and records he preserved over the years, and were produced in this matter, including the production of a significant number of invoices issued to Mr. Landay from HealthPort Technologies LLC, which notably the defense had lost or destroyed its copies of those invoices, or were otherwise unavailable to be produced by the defendants. This involved significant procedures to digitize information to be produced as well as the complications associated with examining an attorney's records. Thus, significant efforts were made by Mr. Landay based on these circumstances, as well as significant efforts by myself related to addressing the discovery directed to Mr. Landay.

42. In addition to addressing discovery directed to Mr. Landay, I also addressed the discovery directed to and responded to by the Defendant. During the discovery process I would interact with no less than four attorneys from K&L Gates and six attorneys from Kirkland and Ellis.

43. The Discovery process was arduous, with significant complications relating to production of documents and delays by the defense. The defense refused to produce any documents absent a HIPAA qualified protective order being entered, despite its ability to redact information and produce information that was not protected by HIPAA. Such an order was negotiated over a prolonged period and ultimately entered by the Court in March of 2023. The defense did not initially produce documents until March 31, 2023, unilaterally deciding to produce information on an alleged "rolling basis" over seven productions concluding with its productions on September 4, 2024, regarding initial discovery.

44. During discovery more than 7,000 pages of documents were produced and analyzed in this matter and the IOD matter. In both matters, documents were produced by the defendant in both the HealthPort matter and IOD matter that appeared to have been created by HealthPort and IOD when they existed as separate and distinct entities, but appeared to be mixed together among

the different nonexistent entities records by the entities successor in interest. This included electronic files, identified as one page of production, which included various excel spreadsheets with voluminous information. Data from the putative class members was produced, which was voluminous, and later determined to be incomplete. It appears and was later confirmed that significant information had been destroyed or lost by the defense in the HealthPort matter and IOD matter in the period between the inception of this matter and when discovery opened, which was learned in a hard fought discovery enforcement process. A significant undertaking occurred to evaluate data produced by the defense that identified potential class members, their damages, as well as issues relevant to actual and reasonable expenses incurred by HealthPort Technologies LLC and IOD Incorporated in the process of reproducing medical records, namely the search, retrieval, and copying of medical records that fees are capped under Pennsylvania's Medical Records Act.

45. Significant efforts mere made in the discovery process to meet-and-confer with the defense and resolve discovery disputes. I was primarily responsible for the meet-and-confer process, authoring letters and emails, evaluating the process as it unfolded, and enforcing the plaintiffs' discovery rights and the defendants' discovery obligations. This required tremendous efforts based on the significant discovery obstructions caused by the defendants and the number of different counsel on the defense teams. This required authoring multiple consent motions to reschedule Plaintiff's Motion for Class Hearing and the attendant briefing schedule to provide time to accommodate Defendant's delays and to monitor the defenses "rolling production."

46. Significant independent investigative research was required regarding the corporate status of the defendants in the HealthPort matter and IOD matter when it appeared that neither entity existed. This required the evaluation of corporate records in various states including Pennsylvania, Georgia, Delaware, and other states. This exposed that verifications to discovery were being made by entities that did not exist. It exposed that the proper entity that was the successor to HealthPort Technologies LLC and IOD Incorporated was not actively part of the litigation.

47. Based on the discovery process, Plaintiff had to move to strike the Datavant defendants' answers when they refused to substitute HealthPort's successor-in-interest, eventually resulting in Ciox Health LLC's voluntary substitution after requiring full briefing of the motion to strike, which substitution was filed before the hearing of the motion. Measures were required to be taken to obtain verification of past discovery, which had previously been verified by persons working for non-existent corporations. After, motions to compel responses to production and demands and interrogatories were pursued based on the inadequacy of the verified discovery responses and documents produced. The defense appeared to do everything possible to avoid basic discovery and I, being the one primarily addressing the discovery process for Plaintiff, was put to the task to combat and address those issues among many attorneys at two high powered litigation firms.

48. I was heavily involved in the authoring of the motion filings as well as taking the lead in arguing all discovery motions Plaintiff brought, which were all ruled on in Plaintiff's favor. I have also been present for all hearings in this matter since November of 2022, often taking a lead role in those hearings in addressing critical issues to case management of this matter and the related and coordinated matters.

49. After it was established in the law and motion process in August of 2024 that the Datavant defendants lost or destroyed information, as disclosed in the discovery law and motion process, the defense suddenly changed counsel. Orders were issued in August of 2024 compelling further responses to discovery by the defense and production of documents. A final production of documents was made by HealthPort's successor-in-interest, Ciox Health LLC, in early September of 2024. The further responses to discovery and productions ordered by the Court were, in Plaintiff's view, deficient and Plaintiff began to prepare to enforce the prior discovery orders and pursue additional motions to compel until the tide changed.

50. In late September of 2024, Mr. Shermer of Marcus & Shapira became a counsel of record for the defense and based on information and belief undertook the lead management of the defense of this matter and the IOD matter for Ciox Health LLC, HealthPort and IOD's predecessor.

All attorneys from K&L Gates withdrew their appearance on the same date in this matter and the IOD matter. The majority of attorneys from Kirkland and Ellis withdrew their appearance in this matter and the IOD matter by May of 2025.

51. In September of 2024 the defense advised that they wanted to explore resolution of this matter and the IOD matter. Significant interactions occurred between counsel for the parties while the new defense counsel became familiar with the matter and its history. By February of 2025, the parties agreed to proceed to mediate with Magistrate Judge Lisa Pupo Lenihan (ret.).

52. By this time I had expended more than 1001 hours of time litigating this matter and the IOD matter.

53. Significant information, subject to Pennsylvania Rules of Evidence 408, was transmitted voluntarily and outside of the formal discovery process relating to putative Class Member identification and damages. The information was voluminous, as demonstrated by the class size identified in Plaintiff's Motion for Preliminary Settlement. I was the attorney for Plaintiffs primarily involved in the interpretation and analysis of the information voluntarily produced in the mediation phase of this matter and that interacted with the defendant's counsel on such issues.

54. The parties mediated this matter over a period of two days in addition to multiple communications between the parties' counsel and the mediator at other times. I attended all mediations and was involved in the majority of the communications made outside of mediation, directly engaging defendant's counsel along with my co-counsel, and often resolving questions related to the court record, discovery, and data analysis of the information produced voluntarily by the defendant. The parties first resolved the relief available to the HealthPort Class Members in May of 2025 and in July of 2025 addressed issues related to the associated attorneys' fees, with the help of Judge Lenihan. By January of 2026, and in a similar fashion, an agreement to resolve the IOD matter was made. Thereafter the parties agreed upon a Settlement Claims Administrator and have had extensive discussions and negotiations regarding the identity of Class Members, their

damages, and a notice and claims process, resulting in the proposals being made to the Court in Plaintiff's instant motion.

55. I have been intimately involved in all processes since the matter was mediated. This included the preparation of further data analysis and interactions with the potential and later appointed Settlement Administrator, American Legal Claims Services LLC and defense counsel. This included the development of the notice and claims procedures and negotiations attendant thereto.

56. I have been intimately involved in the current claims process and monitoring the matter with other counsel and the Settlement Administrator since notice to the potential class members began being provided in mid-July of this year.

57. I expect and intend to continue to monitor and be involved in all the processes, including reporting to the Court and further motion work that will be required to see the HealthPort matter and IOD matter through its conclusion, should the Court fully and finally approve the parties' settlement.

58. Since September of 2024 and late July of 2026 I have expended an additional 558 hours of work in this matter and the IOD matter.

59. I anticipate spending additional time working on in this matter that may be further represented to the Court at the time of the hearing of this application. After the hearing of this application I anticipate spending additional time working on this matter through the period of any ongoing claims administration and through the time of dismissal of the HealthPort matter and the IOD matter. I estimate the future time I will spend working on this matter through dismissal will be between approximately 50 and 150 hours.

60. I have obtained and reviewed records from FDPK regarding the total hours expended by attorneys and other legal support professionals in the HealthPort matter and the IOD matter as well as expenses incurred by FDPK related to each matter. The total hours expended by legal professionals is more than 1700 hours, of which 1580 are attributable to attorneys at FDPK that worked on the ligation, including more than 1500 hours attributable to my own work. This

includes times where Mr. Kravec and Mr. Lison were involved and consulted regarding legal issues involved in this matter and the related matters. The remainder of time is attributable to paraprofessionals, including paralegals, legal assistants, and interns. FDPK records also indicate that during the pendency of the litigation it has incurred expenses in the HealthPort matter and the IOD matter of at least $49,842.92.

61. The hours identified in the in declaration that relate to all FDPK hours and expenses involving work on this matter and the IOD matter do not include any of the work by James M. Pietz when he was associated with FDPK. Mr. Pietz litigated this case and the related cases before joining FDPK. He litigated it while he was a partner at FDPK. He continued to litigate the matter after he was no longer a partner at FDPK or otherwise employed by FDPK. The amount of work Mr. Pietz did in this matter, and the related matters, including that attributable to work done as a partner or employee of FDPK or otherwise, are further identified in his declarations.

62. A copy of FDPK's firm biography, my biography, Mr. Kravec's biography, and Mr. Lison's biography is attached hereto as Exhibits 1, 2, 3, and 4 respectively.

I declare under penalty of perjury under the law of the Commonwealth of Pennsylvania that the foregoing is true and correct.

Executed this 31st Day of August, 2026, in Pittsburgh, Pennsylvania.

By:______________________________

John P. Worgul

EXHIBIT 1

429 Fourth Avenue
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FEINSTEIN DOYLE PAYNE & KRAVEC, LLC
Class Action Practice

SUMMARY

Feinstein Doyle Payne & Kravec, LLC ("FDPK") is a dynamic plaintiff-side law firm focusing on consumer, insurance and ERISA class actions. The firm is based in Pittsburgh, Pennsylvania with an additional office in New York, New York.

HISTORY OF FIRM

Experienced ERISA class action litigators Edward Feinstein, Ellen Doyle and William Payne founded the firm in 2007. Partner Joseph N. Kravec, Jr. joined the firm in 2010, bringing with him a wealth of experience litigating consumer and insurance class actions. The firm currently consists of 14 attorneys.

Our attorneys have been leaders in protecting the rights of consumers and insureds for decades. For example, the firm is currently litigating a number of consumer protection class actions, including claims for deceptive and unlawful practices by insurance companies involving underpaid total loss auto insurance claims, claims involving unlawfully discriminatory auto insurance premiums, claims against pharmacies selling illegally labeled homeopathic drugs, claims involving consumer products falsely labelled as non-toxic, claims for employees harmed by false credit, background or health screening reports, and claims on behalf of residents harmed by illegally high sulfur emissions from a nearby coke production factory used in the steel production process. The firm also recently helped recover ***$170 million in benefits*** for a class of some 15 million consumers whose social security numbers and other personal data was exposed by one of the largest credit reporting companies. Another recent class action recovered ***$110 million for policyholders*** deprived of dividends by a national life insurer. In 2014, the firm recovered nearly ***$10 million for homeowners*** whose mortgage lender secretly overvalued their homes with inflated appraisals, a practice that struck at the heart of one of the sub-prime mortgage schemes that prompted the recent recession. Similarly, the firm has litigated a class action for student loan borrowers who are being charged exorbitant late fees in violation of applicable law. In 2011, the firm helped homeowners in a forced-placed insurance class action the firm settled on behalf of 550,000 California homeowners providing relief valued at approximately ***$86 million***.

In addition, we are also well-known throughout the country for bringing class actions challenging the termination or reduction of retiree health benefits to former union members, including representing UAW retirees in the litigation that established the health care trust funds for retired GM, Ford and Chrysler workers. The firm also has been involved in representing public sector workers in cases to preserve pension and retiree health care benefits.

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ATTORNEY BIOGRAPHY

JOHN P. WORGUL

John P. Worgul is a Partner with Feinstein Doyle Payne & Kravec, LLC. He has nearly two decades of experience working as a litigator for both Plaintiffs and Defendants. He is admitted to practice before the United State Patent Office (Agent-2006, Attorney-2008), the State Bar of California (2008) and the State Bar of Pennsylvania (2018). He is admitted to the United States District Courts for the Central District of California (2010), the Southern District of California (2014), the Northern District of California (2024), the Eastern District of California (2025), and Western District of Pennsylvania and has been admitted pro hac vice to other District Courts. He is admitted to the United States Court of Appeals for the 9th Circuit (2018). He has litigated matters in State and Federal Courts, including as trial counsel and appellate counsel.

John is a graduate of the Duquesne University Bayer School of Natural and Environmental Sciences, where he obtained a Bachelor of Science degree in Biology (2005). He thereafter attended Duquesne University Kline School of Law and became a patent agent during Law School. He graduated Law School cum laude obtaining appellate moot court and academic distinctions.

John has focused on litigation throughout his entire career. He has litigated matters involving bodily injuries (including catastrophic injuries and wrongful deaths), elder abuse, medical malpractice, professional negligence, large scale construction defects, breach of contracts, insurance bad faith, false advertising, consumer protection laws, and complex issues involving indemnity and insurance coverage. He has represented entities, including private corporations and government entities. He has represented celebrities and been involved in disputes garnering international media attention. He currently focuses his practice on consumer protection issues.

John has litigated hundreds of cases, often being the primary attorney responsible for the management of the litigation. He has written and argued hundreds of motions, including dispositive motions, post-trial motions, and appeals. He has taken hundreds of depositions, including the lead Plaintiff's deposition in a putative class action, *Spencer, et al. v. The Lunada Bay Boys*, Central District of California Case No. 2:16-cv-02129-SJO-RAO. He has tried cases to jury verdict and argued appeals in California's State Courts. He has significant and extensive experience with the California Discovery Act, the California Government Code, the California Code of Civil Procedure, the California Rules of Evidence, the Pennsylvania Rules of Civil Procedure, the Pennsylvania Evidence Code, as well as with the Federal Rules of Civil Procedure and Evidence. Due to the volume and nature of legal representation he has provided to his clients over the years, John often has seen litigation situations many attorneys have not.

Notably, John early in his career resolved a novel issue of law related to California's Financial Elder Abuse in the United District Court for the Central District of California in the matter of *Rosove v. Cont'l Cas. Co.* (C.D.Cal. June 2, 2014, No. 2:14-cv-01118-CAS(CWx)) 2014 U.S.Dist.LEXIS 84998, at *1.) The Court found that California's Welfare and Institutions Code § 15610.30 (Financial Elder Abuse) was applicable to the denial of insurance benefits, overruling a motion to dismiss the Plaintiff's causes of action for Elder Abuse. The *Rosove* matter has since been cited by the California 1st District Court of Appeal for this point of law. (See *Strawn v. Morris, Polich & Purdy, LLP* (2019) 30 Cal.App.5th 1087, 1102, "An insurer's bad faith denial of a claim can support a cause of action for financial elder abuse.") This has also been presented as an authority to the Ninth Circuit Court of Appeals when construing Oregon's similar laws. See *Bates v. Bankers Life & Cas. Co.* (9th Cir. 2017) 849 F.3d 846, 848.) District Court's throughout California continue to cite the *Rosove* matter related to the application of financial elder abuse statutes. See *Crawford v. Cont'l Cas. Ins. Co.* (C.D.Cal. July 24, 2014, No. SACV 14-00968-CJC(JCGx)) 2014 U.S.Dist.LEXIS 185198, at *5; *Am. Gen. Life Ins. Co. v. Valentine* (C.D.Cal. Apr. 13, 2017, No. LA CV16-08097 JAK (JCx)) 2017 U.S.Dist.LEXIS 221045, at *24; *Lamaack v. Rocket Mortg., Inc.* (E.D.Cal. June 23, 2025, No. 1:22-cv-00634-KES-EPG) 2025 U.S.Dist.LEXIS 118769, at *12; *McQuerter v. Jorgan Chase Bank, N.A.* (S.D.Cal. May 15, 2026, No. 26-cv-00007-DMS-JLB) 2026 U.S.Dist.LEXIS 108267, at *7.

John is currently or recently involved in matters being litigated in the complex departments, and other departments, in Alameda County, California, including:

- *Benton, et al. vs CVC Health Corporation*, et al, No. 22CV005828 (Alameda Cty. Sup. Ct., filed January 21, 2022) (Violations of California's Sherman Act)

- *Ison et al. v. Commissioner of the California Department of Insurance*, No. 22CV008022 (Alameda Cty. Sup. Ct., filed March 7, 2022) (Writ of mandate action challenging the California Insurance Commissioner's auto insurance regulations that discriminate based on an insured's marital status)

- *Cheslow, et al. vs Walgreens Boots Alliance, Inc.*, No. 23CV046508 (Alameda Cty. Sup. Ct., filed October 4, 2023) (Violations of California's Sherman Act)

- *Wedge, et al. v. Crayola LLC*, No. 25CV157969 (Alameda Cty. Sup. Ct., filed December 5, 2025)(Violations of Consumer Protection and Advertising laws related to Environmental Marketing Claims)

John is currently involved in litigating complex cases in other jurisdictions, including:

- *Landay v. UPMC Presbyterian Shadyside*, No. GD-09-012919 (Court of Common Pleas Alleg. Co., filed July 15, 2009)(class action for violations of Pennsylvania Medical Records Act regarding overcharges for the reproduction of protected health information)

- *Landay v. Datavant (IOD Inc.)*, GD-09-012922 (Court of Common Pleas Alleg. Co., filed July 15, 2009) (class action for violations of Pennsylvania Medical Records Act regarding overcharges for the reproduction of protected health information)

- *Landay v. HealthPort*, GD-09-012923 (Court of Common Pleas Alleg. Co., filed July 15, 2009) (class action for violations of Pennsylvania Medical Records Act regarding overcharges for the reproduction of protected health information)

- *Landay v. UPMC Magee Womens Hospital*, No. GD-09-012919 (Court of Common Pleas Alleg. Co., filed August 26, 2009) (class action for violations of Pennsylvania Medical Records Act regarding overcharges for the reproduction of protected health information)

- *La Verne Wade v. Mercury Insurance Company, et. al.* No. 25STCV32464 (Los Angeles Superior Court, filed November 5, 2025) (class action for failure to pay fees and taxes regarding total loss automobile insurance claims)

John is also a proud husband and father. He and his wife have three children currently in elementary and middle school. He is an avid baseball fan, surfer, traveler and lover of nature. He volunteers time to help with youth sports and judges local moot court competitions when he is not working or traveling.

EXHIBIT 3

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JOSEPH N. KRAVEC, JR.

Joe is a partner with Feinstein Doyle Payne & Kravec, LLC. He has over 30 years of experience as a class action litigator representing insureds, borrowers, consumers, investors, employees and retirees as lead or co-lead counsel in numerous nationwide, multi-state and statewide class actions in federal and state courts throughout the United States. Joe has ***recovered nearly $3 billion in benefits for millions of class members nationwide*** from some of the largest insurance companies, banks, employers and other multi-national corporations.

Joe has a peer review rating of "AV" from Martindale-Hubbell. That rating is awarded only to experienced attorneys who achieve the highest ratings for legal ability and ethical standards.

Joe was also selected to be one of **The National Trial Lawyers - Top 100** for being part of a premier group of Civil Plaintiff attorneys in Pennsylvania. The National Trial Lawyers is an invitation-only organization, which extends membership to elite attorneys recognized for superior qualifications, trial results and leadership in their respective state.

Joe's experience and abilities as a class action lawyer also have been recognized by numerous courts: "Joseph N. Kravec, Jr. [has] significant experience litigating class actions… [has] been found adequate by other courts… [and has] provided diligent and competent representation." *Zeno v. Ford Motor Company, Inc.*, 238 F.R.D. 173, 188 (W.D. Pa. 2006) (citing *Varacallo v. Massachusetts Mutual Life Ins. Co.*, 226 F.R.D. 207, 233 (D.N.J. 2005); *In re Metropolitan Life Ins. Co. Sales Practices Litigation*, 1999 WL 33957871, at *21 (W.D. Pa., Dec. 28, 1999)). Judge Ronald M. Whyte who presided over a hotly contested class action lasting seven (7) years where Joe was primary counsel arguing to the Court said: "This case was well litigated through multiple motions to dismiss, class certifications, summary judgment, and other motions." *Spears v. First American eAppraiseIT*, 2015 WL 1906126 (N.D. Cal., April 27, 2015).

Joe graduated from the University of Pittsburgh, 1989 *cum laude*, and from the Duquesne University School of Law, 1993. He is admitted to practice law before the Courts of Pennsylvania and New York, the United States District Courts for the Southern District of New York, Eastern District of New York, District of Columbia and Eastern District of Pennsylvania, Western District of Pennsylvania, the United States Court of Appeals for the District of Columbia and the Second, Third, Fourth, Sixth and Ninth Circuits, and the United States Supreme Court. Joe is a member of the Allegheny County Bar Association, the Pennsylvania Bar Association, and the American Association for Justice (formerly the Association of Trial Lawyers of America). He was a recipient of the American Jurisprudence Award.

Joe is the past Chair of the Insurance Law Section for the Association of Trial Lawyers of America. Joe has also served as both a speaker and moderator in numerous educational programs for national and regional audiences conducted by the American Law Institute-American Bar Association, Association of Trial Lawyers of America and American Association for Justice. Joe has authored numerous papers and articles published in a variety of legal publications. Included amongst those published articles are "AT&T Mobility, LLC v. Concepcion's Impact on Compulsory Arbitration in Insurance Cases," published in Insurance Law Section, American Association for Justice, Spring 2012, "Rise of Lender's Force Placed Insurance," American Association for Justice, July 2009, and "Reliance And Consumer Insurance Fraud," published in Insurance Law Section, Association of Trial Lawyers of America, Fall 2001.

Joe's most innovative class actions include:

- **LIFE INSURANCE SALES PRACTICES** - Joe was co-lead counsel for policyholders in a series of deceptive life insurance sales practice class actions involving replacement, vanishing premium and other sales schemes by MetLife, MassMutual and other of the largest life insurers in the United States. These class actions struck at the heart of one of the most massive deceptive sales schemes in life insurance industry history. They spurned numerous market conduct investigations, enforcement actions and hundreds of millions of dollars in fines by insurance regulators.

  The MetLife and MassMutual class actions alone spanned more than a decade with dozens of depositions taken, millions of documents reviewed, multiple appeals argued, and numerous contested motions for summary judgment, class certification, experts and discovery. MassMutual itself lasted nine years and was litigated as a certified class until it was settled just a few weeks before a trial in New Jersey state court was scheduled to start.

  Ultimately, Joe and his co-counsel ***recovered more than $2.4 billion in benefits*** for millions of MetLife and MassMutual policyholders nationwide victimized by these practices. *See Varacallo v. Massachusetts Mutual Life Insurance Company*, 226 F.R.D. 207 (D. N.J. 2005) and 752 A.2d 807 (N.J. App. Div. 2000); *Gaidon v. Guardian Life Insurance Company of America and Russo v. Massachusetts Mutual Life Insurance Company*, 96 N.Y.2d 201 (2001); *In Re Metropolitan Life Insurance Company Sales Practices Litigation*, 1999 WL 33957897 (W.D.Pa.); *Cope v. Metropolitan Life Insurance Company*, 696 N.E. 2d 1001 (Ohio 1998); *Richard v. Metropolitan Life Insurance Company (a/k/a In re Metropolitan Life Insurance Company Policyholders Litigation)*,707 A.2d 512 (Pa. 1998).

- **INFLATED APPRAISALS FOR MORTGAGE BORROWERS** – Joe was co-lead counsel for mortgage borrowers in a class action against eAppraiseIT involving its scheme with Washington Mutual to inflate the value of appraisals to enable Washington Mutual to justify over-valued, sub-prime home loans. This very practice by eAppraiseIT and Washington Mutual was identified by a bi-partisan committee report of the United States Senate as one of the causes of the 2008 sub-prime crisis that was the worst economic crisis since the Great Depression. *Permanent Committee on Investigations, United States Senate, Wall Street and the Financial Crisis: Anatomy of a Financial Collapse*, pp. 187-190 (April 13, 2011). The New York Attorney General and the FDIC also filed enforcement actions against eAppraiseIT for these practices, recovering millions of dollars in fines and penalties, but without compensation for borrowers.

Joe was the primary counsel arguing before the Court in the eAppraiseIT class action, which sought compensation for borrowers. It was hotly litigated for seven (7) years as a certified class with dozens of depositions, hundreds of thousands of documents, dozens of motions and numerous experts. It was settled just before trial was to begin, ***recovering nearly $10 million***. *Spears v. First American eAppraiseIT*, 2014 WL 4647679 and 2015 WL 1906126 (N.D. Cal.).

- **LENDER'S FORCED PLACED INSURANCE –** When a home or auto loan borrower fails to maintain insurance on the home or auto, the lender will force place insurance and charge it to the borrower. Lender forced place insurance covers far less and costs far more, and typically entails kickbacks and other improper charges that the borrower is asked to pay.

  Joe started in the mid-1990s representing classes of borrowers with forced placed auto insurance and, along with Ellen Doyle, recovered millions of dollars for borrowers victimized by these practices. *See Kenty v. Bank One*, 650 N.E. 2d 863 (Ohio 1995) (companion case 92 F.3d 384 (6th Cir. 1996)); *George v. BancOhio National Corporation*, Civil Action No. C2-92-314 (S.D. Ohio); *Regina G. Bates v. National City Bank*, Case No. 279634 (Cuyahoga Co., OH).

  More recently, Joe, along with his partner Jim Pietz, was co-lead counsel representing approximately 550,000 California homeowners against American Security Insurance Company (ASIC) for placing duplicative hazard insurance coverage and charging homeowners for this unnecessary coverage. The Court certified the class which ASIC's lawyers called the largest litigation class ever certified for insurance policyholders. In 2011, the case ***settled for class-wide relief valued at $86 million,*** including prospective relief in the form of reduced premiums. *Wahl v. American Security Insurance Company*, 2010 WL 1881126 (N.D. Cal.).

- **PRODUCT MISLABELING** – Joe was co-lead counsel in several food and cosmetic mislabeling class actions seeking compensation for consumers against some of the largest manufacturers, including Kashi, Trader Joe's, Diamond Foods and Hain Celestial.

  The Kashi class action challenged Kashi's "Nothing Artificial" and "All Natural" labeling. Joe was the primary counsel arguing before the Court for the class. Kashi was the first "All Natural" case certified as a litigation class. Kashi was heavily litigated until weeks before trial, ultimately resulting in a ***$5 million class settlement for California consumers***, which at the time was the largest single state class settlement in a food labeling case. *Astiana v. Kashi Company*, 291 F.R.D. 493 and 295 F.R.D. 490 (S.D. Cal. 2013).

Likewise, Diamond Foods was litigated to the brink of trial and resulted in a ***$2.8 million class settlement*** involving unlawful Omega-3 heart health claims. Diamond Foods was one of only a few nationwide litigation classes certified for food mislabeling. *Zeisel v. Diamond Foods, Inc.*, 2011 WL 2221113 and 2012 WL 4902970 (N.D. Cal.).

Trader Joe's was an "All Natural" mislabeling case that resulted in a ***$3,375,000 nationwide class settlement***. *Larsen v. Trader Joe's Company*, 917 F.Supp.2d 1019 and 2014 WL 3404531 (N.D. Cal.).

In Hain Celestial, Joe was successful in having the Court of Appeals refine the legal standards for federal preemption and primary jurisdiction in cosmetic and food mislabeling cases, arguing before the United States Court of Appeals for the Ninth Circuit in *Astiana v. The Hain Celestial Group, Inc.,* 783 F.3d 753 (9th Cir. 2015).

- **FORCED ARBITRATION AND CLASS ACTION WAIVERS –** In 2011, the United States Supreme Court issued its opinion in *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333 (2011) reversing the Ninth Circuit and creating a new standard heavily favoring the enforceability of forced arbitration and class action waiver clauses in consumer agreements. Joe argued the appeal before the Ninth Circuit where *Concepcion* was joined for oral argument with another class action in which Joe was co-lead counsel, *i.e., Kaltwasser v. Cingular Wireless LLC,* 543 F.Supp.2d 1124 (N.D. Ca. 2008), *aff'd* 2009 WL 3157688 (9th Cir., Oct. 1, 2009). Joe also filed an *amicus curie* brief in support of Concepcion before the Supreme Court.

  The fallout from the Supreme Court's decision has been severe, effectively preventing millions of consumers from vindicating their rights and enabling massive corporate fraud such as the recent Wells Fargo unauthorized accounts scheme to go unchecked for years as recognized by members of the United States Senate committee investigating that scheme. The Consumer Financial Protection Bureau (CFPB) has announced its intention to ban forced arbitration and class action waivers, but that would only apply to consumer financial agreements. Public Justice and others, including Joe, continue to fight to overturn Concepcion or at least limit its harsh application.

- **INSURANCE POLICYHOLDERS** - Joe has fought for policyholders' rights in a variety of other class actions. They include:

A certified class action involving an insurer's failure to pay full sales tax on total loss vehicles in the state of New York. *Buffington v. Progressive Advanced Insurance Company*, 342 F.R.D. 66 (S.D. N.Y. August 23, 2022).

Joe ***recovered $110 million*** for a class of over a half million participating policyholders deprived of a few hundred million dollars of dividend payments withheld in violation of state surplus fund laws. *Harshbarger v. The Penn Mutual Life Insurance Company*, 2017 WL 6525782 and 2014 WL 1409445 (E.D. Pa.).

A class action for failing to pay participating policyholders adequate compensation for the loss of their ownership rights in an insurer's demutualization. *Cranley v. National Life Insurance Company of Vermont*, 318 F.3d 105 (2nd Cir. 2003).

A class action for long-term care policyholders who were victims of massive premium increases and alleged deceptive sales practices. *Taylor v. Bankers Life & Casualty Co.,* Civil Action No. C08-0447 (W.D. Wash.).

Class actions for an insurer's under-reimbursement of out-of-network health care provider charges by using artificially low UCR rates, causing policyholders to make more out-of-pocket payments. *In re: WellPoint, Inc. Out-Of-Network "UCR" Rates Litigation*, 865 F. Supp. 2d 1002 (C.D. Cal. 2011).

A class action for charging non-smoking juveniles smoker-based life insurance rates. *Bethea v. Metropolitan Life Insurance Company*, 2009 WL 690852 (N.J., App. Div.) (reinstated by Appellate Division).

A class action for failing to refund *pro rata* life insurance premiums upon surrender. *Lambros v. Metropolitan Life Insurance Company*, 111 Cal.App. 4th 43, 3 Cal. Rptr. 3d 320 (2003).

A class action recovering millions of dollars for rental car customers purchasing unnecessary, duplicative and high priced insurance products and collision damage waiver from Enterprise. *Delaney v. Enterprise Rent-a-Car Company, Inc. and ELRAC, Inc.*, Docket No. OCN-L-1160-01 (Superior Ct. of NJ, Ocean County).

- **DATA BREACH** – Consumers expect that when their medical, financial, social security numbers and other personal information are entrusted to credit reporting agencies and health insurers that they will take reasonable precautions to prevent hackers from accessing consumers' personal information leading to identity theft or other financial harm to consumers.

  Joe is currently litigating and has litigated class actions to help data breach victims. Joe was a member of the Plaintiffs' Steering Committee in a class action for victims of a credit reporting agency's data breach of identification information for 15 million people, which resulted in a settlement valued at more than ***$170 million for class***

members. *In re: Experian Data Breach Litigation,* Case No. SACV 15-1592 AG (DFMx) (C.D. Cal.). Joe is also Plaintiffs' counsel in class action for victims of a health insurer data breach of insureds' medical and identification information of several million insureds. *In re: Premera Blue Cross Customer Data Security Breach Litigation,* Case No. 3:15-md-2633-SI (D. Oregon).

- **ERISA AND PENSIONS –** Employees expect that when they retire they will receive the pension and health insurance benefits their employer promised. All too often employers try to cut those benefits after you retire. FDPK has and continues to pursue numerous class actions to keep companies from cutting promised retiree benefits. Joe has litigated some of those cases with his partners.

  Joe, along with his partner Bill Payne, were co-lead counsel in a class action that ***recovered $13 million for retirees*** of a church affiliated hospital whose pension plan (a/k/a Church Plan) was underfunded. *Orlowski v. St. Francis Health Systems,* No. GD 02-17811 (Allegheny County, Pa.). Joe, again with his partner Bill Payne, were co-lead counsel in an ERISA class action recovering health insurance premium overcharges from an employee health plan for charging Medicare eligible participants a higher non-Medicare eligible premium rate. *Magliulo v. Metropolitan Life Insurance Company*, 205 F.R.D. 55 (S.D.N.Y. 2002). Joe was also co-lead counsel in an ERISA class action against employer's pension plan for not paying deferred vested retirees the cost-of-living increases "COLA" paid to all other retirees. *Brubaker v. Metropolitan Life Insurance Company*, 482 F.3d. 586 (D.C. Cir. 2007).

- **WAGE AND HOUR –** Employees expect to be paid the wages they earned for hours they worked. Many employers either fail to pay the state required minimum wage or overtime wage. Joe has litigated class actions in multiple states seeking to recover these unpaid wages for employees. *See Baum v. AstraZeneca,* 605 F. Supp. 2d 669 (W.D. Pa. 2009), *Hummel v. AstraZeneca,* 575 F. Supp. 2d 568 (S.D. N.Y. 2008), *Brody v. AstraZeneca,* 2008 WL 6953957 (C.D. Cal., June 11, 2008) (Joe was class counsel in PA, NY and CA state wage and hour class actions for unpaid overtime).

- **ANTITRUST –** Businesses often conspire to fix the price of goods over which they collectively have a monopoly or market dominance. Such a price-fixing conspiracy violates federal and state anti-trust laws causing consumers and other purchasers to pay more than they would in a free market. Joe has litigated several class actions for victims of these price-fixing conspiracies. *Erie Forge and Steel, Inc. v. Cypress Minerals Company*, 1994 WL 485803, 1994 Trade Cases P 70, 653 (W. D. Pa., Jun. 7, 1994) (No. Civ. 94-404) (Joe was class counsel antitrust price-fixing conspiracy that inflated the price of molybdenum used as an additive in steel production and petroleum products); *In re Flat Glass Antitrust Litigation (II),* 2009 WL 331361 (W.D. Pa., Feb. 11, 2009) (Joe was counsel in an antitrust price fixing claims against manufacturers of flat glass used in windows and other products).

- **SECURITES FRAUD AND DERVATIVE** – Joe represented shareholders in securities fraud class actions and derivative actions who lost money or rights from corporate fraud, misrepresentations or non-disclosure. *In Re Tollgrade Communications, Inc. Derivative And Class Action Litigation*, Consolidated Case No. GD-11-003755 (Court of Common Pleas Alleg. Co. 2011) (Joe was co-lead counsel in a derivative and shareholder class action for withholding and concealing information regarding sale of public company to private equity firm); *Warden v. Crown American Realty Trust*, 1998 WL 725946 (W.D.Pa.) and *Bell v. Fore Systems, Inc.*, 17 F. Supp. 2d 433 (W.D. Pa. 1998) (Joe was shareholders' counsel in a securities fraud class action).

Additional class actions in which Joe has or had a leadership or other counsel role are the following:

- **Loan Servicer Overcharges** - Joe was co-lead counsel in a class action for borrower victims of an alleged RICO conspiracy to inflate default service charges on homeowners' loans. *Giotta v. Ocwen Financial Corporation,* Case No. 5:15-cv-00620-BLF (N.D. Cal.).

- **Student Loan Abusive Practices** – Joe was co-lead counsel for student loan borrowers in a class action for unlawful late fees and usury on Sallie Mae (now Navient) student loans. *Ubaldi v. SLM Corp.*, 852 F.Supp.2d 1190 (N.D. Cal. 2012).

- **Auto Manufacturer's Fraudulent Practices –** Joe was co-lead counsel in a series of state-wide class action against Ford for charging for upgraded radiators and not providing them. Ultimately, the class actions settled recovering millions of dollars of overcharges for truck purchasers. *Zeno v. Ford Motor Company*, 238 F.R.D. 173 (W.D. Pa. 2006) and 480 F.Supp.2d 825 (W.D. Pa. 2007). Joe is also counsel in a consolidated class action for owners of vehicles Volkswagen fraudulently marketed as "clean diesel," when Volkswagen knew the vehicles did not meet the EPA's "clean diesel" requirements and deliberately designed the vehicles' computer to evade government emissions testing. *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, Civil Action No. 3:15-md-02672-CRB (N.D. Cal.).

- **Investment Brokerage Fraud** – Joe was co-lead counsel in an investors' class action for failure to properly invest mutual fund dividends held through a Merrill Lynch ROTH IRA or other custodial account. *Payne v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 2003 WL 21940609 (4th Cir. (MD) August 14, 2003).

- **Illegal Credit Card Fees** - Joe represented the State of West Virginia on behalf of credit card consumers who were alleged to have been overcharged due to a variety of illegal and unconscionable practices by Capital One. *West Virginia ex rel. McGraw v. Capital One Bank USA, N.A.*, 2010 WL 2901801 (S.D. W.Va.).

- **Oil and Gas Royalty Underpayments** – Joe served as co-lead counsel in a class action for oil and gas royalty holders who have been underpaid by leaseholder's deducting arbitrary flat rates for "shrinkage" costs rather than using the actual amounts, which settled for $36 million, providing class members 100% compensation for lost royalty payments after payment of attorneys' fees and costs. *Regmund v. Talisman Energy USA, Inc.*, Civil Action No. 4:16-cv-02960 (S.D. Tex.).

EXHIBIT 4

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WYATT A. LISON

Wyatt A. Lison is a partner with Feinstein Doyle Payne & Kravec, LLC. He has 21 years of experience litigating complex, class and mass action cases, often involving highly technical and scientific issues. Wyatt was graduated with a B.S. in Biology from Allegheny College in 1996, studied molecular biology and biochemistry at The Bayer School of Natural and Environmental Sciences at Duquesne University before graduating from law school at the University of Pittsburgh School of Law in 2002. From 2016 through 2019, Wyatt served on the Molecular and Clinical Genetics Devices Advisory Panel for the U.S. Food and Drug Administration (FDA) as the Consumer Representative. During his tenure at FDA, Wyatt served as the Consumer Representative for FDA's Center for Devices and Radiological Health in an advisory committee hearing regarding the Safety of Metals and Other Materials Used in Medical Devices; served as the Consumer Representative in an advisory committee hearing for the Peripheral and Central Nervous System Drugs Advisory Committee; and served as the Consumer Representative in an advisory committee hearing for the Obstetrics and Gynecology Devices Panel; and he remains a consultant to a dozen other advisory panels of the Medical Devices Advisory Committees for the FDA. Wyatt is admitted to practice law before the Supreme Courts of California and Pennsylvania, as well as the United States Court of Appeals for the Second Circuit and Ninth Circuit, and United States District Courts in both California and Pennsylvania. He is also currently a member of the National Association of Consumer Advocates.

Since admission to the bar, Wyatt has spent his legal career representing parties in complex and class action cases. Wyatt has been a complex, mass and class action litigator primarily practicing in consumer litigation. He has also taught continuing legal education (CLE) seminars on class action rules, civil procedure and litigation of complex actions in Federal Court.

Among those class and mass actions in which Wyatt has been involved are the following:

- *Astiana, et al. v. Kashi Company, et al.*, 291 F.R.D. 493, 2013 WL 3943265 (S.D. Ca. 2013) (consumer class action for deceptive "All Natural" and "Nothing Artificial" labeling of food products)

- *Benton v. CVS Pharmacy, Inc.,* 604 F. Supp. 3d 889 (N.D. Cal. 2022) (action to enjoin the unlawful sale of unapproved drugs in California)

- *Thurston, et al. v. Bear Naked, Inc.*, Case No. 3:11-cv-02890-H-BGS (S.D. Ca.) (consumer class action for deceptive "100% Natural" and "100% Pure & Natural" labeling of food products)

- *Zeisel v. Diamond Foods, Inc.*, 2011 WL 2221113 (N.D. Ca.) (Consumer class action for unlawful and deceptive omega-3 heart health claims placed on the packaging of shelled walnuts)

- *Wahl v. American Security Insurance Company*, 2010 WL 1881126 (N.D. Ca.) (Consumer class action for the improper placement of lender-placed property insurance)

- *Spears, et al. v. Washington Mutual Inc. et al.,* 2009 WL 2761331 (N.D. Ca.) (Consumer class action for conspiracy to falsify appraisals on home loans)

- *Ubaldi, et al. v. SLM Corp., et al.,* 852 F.Supp.2d 1190 (N.D. Ca. 2012) (California consumer class action for unlawful late fees and usury on student loans)

- *Kaltwasser v. Cingular Wireless LLC,* 543 F.Supp.2d 1124 (N.D. Ca. 2008), *aff'd* 2009 WL 3157688 (9th Cir. Oct. 1, 2009) (Consumer class action for false advertising and deceptive "fewest dropped calls" advertisements)

- *In Re Tollgrade Communications, Inc. Derivative And Class Action Litigation* (Consolidated Case No. GD-11-003755) (Court of Common Pleas Alleg. Co. 2011) (Derivative and shareholder class action for withholding and concealing information regarding sale of public company to private equity firm)

- *Larsen, et al. v. Trader Joe's Company*, 917 F.Supp.2d 1019, 2013 WL 132442 (N.D. Ca. 2013) (consumer class action for deceptive "All Natural" and "100% Natural" labeling of food products)

- *Sethavanish v. ZonePerfect Nutrition Company*, Case No. 12-cv-02907-SC, 2012 WL 6737800 (N.D. Ca.) (consumer class action for deceptive "All Natural" labeling of food products)

- *In re Flat Glass Antitrust Litigation (II),* 2009 WL 331361 (W.D. Pa., Feb. 11, 2009) (Antitrust price fixing claims on behalf of purchasers of construction flat glass from several national and international companies)

- *In re: Heparin Products Liability Litigation*, MDL No. 1953. (N.D.Ohio 2008) (Pharmaceutical liability litigation on behalf of patients who received a contaminated blood thinner by an upstream manufacturer of the drug API)

- *Balanced Beta Fund v. Southworth, et al.,* (Case No. 11724-11) (Court of Common Pleas Erie Co. 2011) (Derivative and shareholder class action for breach of fiduciary duty in misstatements made in Proxy Statement for sale of public company to private firm)