

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

LESLIE URLAUB, MARK PELLEGRINI, )  
and MARK FERRY, on behalf of themselves )  
and all others similarly situated, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
CITGO PETROLEUM CORPORATION, et )  
al., )  
 )  
Defendants. )  
\_\_\_\_\_ )

Case No. 21-cv-4133  
Honorable Matthew F. Kennelly

**DECLARATION OF MICHELLE C. YAU IN SUPPORT OF PLAINTIFFS’ MOTION  
FOR ATTORNEYS’ FEES, LITIGATION AND SETTLEMENT ADMINISTRATION  
EXPENSES, AND SERVICE AWARDS**

I, Michelle C. Yau, respectfully submit this Declaration in Support of Plaintiffs’ Motion for Attorneys’ Fees, Litigation and Settlement Administration Expenses, and Service Awards.<sup>1</sup> Pursuant to 28 U.S.C. § 1746, I declare as follows:

**I. INTRODUCTION**

1. I am a partner in the law firm of Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein”), and am one of the counsel approved by the Court as Class Counsel.<sup>2</sup> I am a member in good standing of the Bars of Massachusetts, the District of Columbia, and the Northern District of Illinois. I have led the prosecution of this Action on behalf of the class since it was filed in August 2021, together with co-counsel from Feinberg, Jackson, Worthman and Wasow LLP and Stris &

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<sup>1</sup> Capitalized terms not otherwise defined in this Declaration shall have the same meaning ascribed to them in the Parties’ Class Action Settlement Agreement, filed at ECF 158-3.

<sup>2</sup> See Order Granting Class Certification (ECF 139) and Order Preliminarily Approving Class Action Settlement (ECF 160).

Maher LLP. I have personal knowledge of the facts set forth below and, if called as a witness, I could and would testify competently thereto.

2. I have litigated several class action ERISA cases similar to this one. My qualifications and experience are set forth in detail in my prior declarations in support of class certification (ECF 95-5) and preliminary approval of the Settlement (ECF 158-2).

3. For the reasons previously explained, I believe strongly that the Settlement is fair and reasonable and should receive final approval at the upcoming Final Approval Hearing. If the case had not settled, Class Counsel were prepared to proceed to trial.

## **II. WORK OF CLASS COUNSEL AND REQUESTED ATTORNEYS' FEE AWARD**

4. As discussed in my declaration in support of preliminary approval of the Settlement, Cohen Milstein and our co-counsel litigated this Action vigorously and invested significant time and effort on behalf of the Class.

5. Prior to reaching a settlement, we successfully defeated a motion to dismiss, successfully moved for class certification and defeated a Rule 23(f) petition, and defeated Defendants' motion for summary judgment in substantial part.

6. We also aggressively and diligently pursued discovery in the case. During discovery, we propounded numerous document requests and subpoenaed Defendants' third-party actuary, Mercer. We also met and conferred repeatedly with defense counsel, and carefully negotiated protocols on discovery for electronically stored information. In response to Plaintiffs' discovery requests, Defendants and Mercer collectively produced over 64,000 pages of documents.

7. Together with our co-counsel, we also took or defended eight fact depositions (four defense witness depositions, one third-party deposition, and the depositions of all three named plaintiffs). In addition, Class Counsel also took the deposition of Defendants' actuarial expert and

defended the deposition of Plaintiffs' expert, Ian Altman, following an exchange of expert reports and rebuttal reports (as well as a Supplemental Report from Mr. Altman).

8. In addition to the substantial work Class Counsel performed in connection with the litigation, we have also undertaken considerable work in connection with the Settlement and settlement administration. This has included: (a) participating in two separate mediation sessions (an initial mediation in August 2022 that was unsuccessful and a later mediation on September 10, 2024 that was successful); (b) drafting and negotiating the Settlement Agreement and exhibits thereto; (c) drafting and filing Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and supporting papers; (d) drafting, editing and reviewing the final drafts of the Notice of Settlement and ensuring that it was timely disseminated; (e) working with the Settlement Administrator, Analytics Consulting, LLC ("Analytics"), to create a settlement website and telephone support line for Class Members; (f) communicating with the Settlement Administrator and defense counsel about settlement administration issues; and (g) working with Plaintiffs' expert to prepare a preliminary Increased Benefits Appendix (as called for under § III.B of the Settlement) and exchanging the same with defense counsel.

9. Class Counsel's work on this matter remains ongoing. Prior to the conclusion of the Action, Class Counsel will: (a) communicate with the Independent Fiduciary and provide it with information in connection with its review of the proposed Settlement and release on behalf of the Plans; (b) prepare the final approval motion and all related papers; (c) respond to questions from Class Members; (d) attend the Final Approval Hearing on January 27, 2025 and address any objections from Class Members or questions from the Court; and (e) if final approval is granted, supervise the effectuation of the Settlement. In addition, Class Counsel will continue to take any other actions necessary to support the Settlement until it is final and effective.

10. The work summarized above required the efforts of numerous attorneys and professional staff (“Timekeepers”) from Cohen Milstein. I supervised all work completed by Cohen Milstein attorneys on this case and supervised my team in reviewing our fee and expense records to support this Declaration and ensure its accuracy.

11. As of December 6, 2024, Cohen Milstein attorneys and professional staff have expended 3,282.8 hours in connection with this action, with a lodestar value of \$2,255,693.50 at our firm’s standard billing rates. The table below reflects the hours and lodestar for each Timekeeper:

<u>Timekeeper</u>	<u>Title</u>	<u>Hours</u>	<u>Lodestar</u>
Bortscheller, Mary, J.	Partner	319.5	\$ 255,600.00
Bressman, Caroline	Associate	13.7	\$ 8,905.00
Frisch, Eleanor	Associate	73.8	\$ 55,719.00
Greenman, Sydney	Paralegal	825.45	\$ 315,305.00
Hadar, Doron	Paralegal	5.95	\$ 2,261.00
Luebesmier, Liz	Paralegal	71.4	\$ 27,132.00
Older Rockmore, Laura	Associate	21.4	\$ 11,770.00
O’Neill, Ciara	Paralegal	21.05	\$ 7,367.50
Pincus, Jillian	Paralegal	25.7	\$ 9,766.00
Richter, Kai	Of Counsel	307.5	\$ 325,950.00
Selesnick, Julie	Of Counsel	4.75	\$ 3,681.25
Sutter, Daniel	Associate	155.8	\$ 115,292.00
Wallace, Melita	Fellow	133.2	\$ 83,970.00
Wheeler, Ryan	Associate	719.4	\$ 445,904.00
Yau, Michelle, C.	Partner	584.2	\$ 587,070.75
<b>Total</b>		<b>3282.8</b>	<b>\$2,255,693.50</b>

The reported amounts do not include time entries that were removed based on billing judgment.

12. The hourly rates for the Timekeepers listed above are their standard rates.<sup>3</sup> Our firm’s hourly rates are largely based upon a combination of the Timekeeper’s title, cost to the firm, and the specific years of experience for each attorney, as well as market rates for practitioners in

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<sup>3</sup> The rates reflected in the above chart are Cohen Milstein’s 2024 rates. However, if a Timekeeper left the firm, the rate shown is the historic rate as of the individual’s departure date.

the field. These hourly rates are the same rates we have charged hourly clients, and/or comparable to rates submitted by Cohen Milstein in other ERISA class actions and approved by courts.

13. Courts have reviewed the reasonableness of Cohen Milstein's billing rates for purposes of "cross-checking" lodestar against a proposed fee based on the percentage of the fund method, as well as determining a reasonable fee under the lodestar method. Courts have found that the hourly rates used to calculate Cohen Milstein's lodestar were reasonable given our experience. *See, e.g., Ahrendsen v. Prudent Fiduciary Servs., LLC*, 2023 WL 4139151, at \*7 (E.D. Pa. June 22, 2023); *Becker v. Wells Fargo & Co.*, No. 0:20-cv-02016, ECF 285 (D. Minn. Sept. 1, 2022); *Baird v. BlackRock Institutional. Tr. Co.*, 2021 WL 5113030, at \*7 (N.D. Cal. Nov. 3, 2021).

14. In my professional opinion and based on my personal knowledge of the work that was performed and the requirements of this case and similar cases, the time expended on this Action by Cohen Milstein's attorneys and professional staff was reasonable and necessary.<sup>4</sup> Moreover, as noted above, Class Counsel will continue to incur additional time going forward in responding to any Class Member inquiries or objections, preparing for and participating in the Final Approval Hearing, and otherwise effectuating the Settlement.

15. Concurrent with this Declaration, our co-counsel are also submitting declarations reporting the lodestar value of their time. The combined lodestar value of all time reported for all Class Counsel (and their professional staff) on this matter is \$4,384,085.50.

16. In connection with the present motion, Class Counsel are seeking a single combined award of \$4,750,000 for attorneys' fees, litigation and settlement administration expenses, and class representative service awards, as provided by Section IV.A of the Settlement Agreement.

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<sup>4</sup> Details supporting the time records referenced in this Declaration are available upon the request of the Court.

Exclusive of the requested litigation expenses (\$304,291.95), settlement administration expenses (\$3,800) and service awards (\$75,000 total), this represents a net attorneys' fee award of \$4,366,908.05.

17. The net requested attorneys' fee is less than the total value of Class Counsel's reported lodestar to date, and represents approximately 29.6% of the Settlement's total monetary value of \$14.75 million (\$10 million in increased benefits, plus reimbursement by CITGO of up to \$4.75 million toward attorneys' fees, expenses, and service awards). Inclusive of expenses and service awards, the requested \$4.75 million lump sum still represents less than one-third (32.2%) of the Settlement's total value.

18. The retainer agreements that my firm entered into with the named Plaintiffs in this Action were contingent fee agreements, which provided that counsel could seek reasonable attorneys' fees up to one-third (1/3) of any common fund recovery on behalf of the Class, plus expenses. These contingency-fee retainer agreements are consistent with retainers that Cohen Milstein has entered into in similar ERISA class actions. If Plaintiffs had lost the case, Class Counsel would have received neither fees nor reimbursement of their expenses.

19. Before representing the named Plaintiffs in this action, neither I nor my firm had any prior relationship with any of them. We do not represent them, and have not represented them, in any other matters.

### **III. LITIGATION AND SETTLEMENT ADMINISTRATION EXPENSES**

#### **A. Litigation Expenses**

20. In connection with this Action, an expense account was set up by Class Counsel to facilitate the payment of expenses related to the litigation. Together, Cohen Milstein, Stris & Maher and Feinberg, Jackson, Worthman and Wasow funded the expense account from which \$269,419.66 in litigation expenses were paid as of December 6, 2024. I have personally overseen

the payments from and deposits into this expense account. The expenses paid from the expense account are grouped by category below:

<b>Description of Expense</b>	<b>Amount</b>
Court Reporter and Transcripts Fees & Costs	\$2,428.30
Westlaw, Lexis, Pacer and other online research	\$271.36
Experts Witnesses (all fees & costs)	\$248,970.00
Mediation (Fees & Costs)	\$17,750.00
<b>TOTAL</b>	<b>\$269,419.66</b>

21. In addition to the expenses paid from the litigation expense account, Cohen Milstein independently advanced certain expenses as summarized below:

<b>Description of Expense</b>	<b>Amount</b>
Air Courier & Postage	\$1,569.67
Court Filing Fees	\$1,302.00
Process Server Fees & Costs	\$957.75
Court Reporter and Transcripts Fees & Costs	\$6,728.80
Westlaw, Lexis, Pacer and other online research	\$12,840.30
Travel (airfare, ground travel, meals, lodging)	\$6,237.99
Duplication Audio/Video Tape	\$1,000.00
Mediation (Fees & Costs)	\$1,350.00
Overtime meals + local travel	\$74.62
Miscellaneous	\$374.64
<b>TOTAL</b>	<b>\$32,435.77</b>

22. The above expenses (in paragraphs 20 and 21) were tracked in Cohen Milstein's accounting system that details the date of the expense, the purpose, and the payee. As detailed above, such expenses included, *inter alia*, court filing fees, process server fees, courier and postage

expenses, online legal research fees, mediation fees and costs, expert fees, transcript and related expenses for depositions, and travel expenses in connection with the litigation. The above expenses, however, do not include expenses of settlement administration, which are discussed separately below.

23. In my professional opinion, and based on my experience prosecuting this litigation and similar ERISA class actions, the expenses set forth above were reasonably and necessarily incurred in connection with this case and helped to achieve a successful result for the Class.<sup>5</sup>

24. Concurrent with this Declaration, partners from Stris & Maher and Feinberg, Jackson, Worthman and Wasow are submitting declarations reporting certain additional expenses they independently advanced outside of the litigation expense fund. The combined expenses for all Class Counsel on this matter are \$304,291.95.

25. To date, Class Counsel have not been compensated for any of these expenses, or for any of the time and effort expended on this case.

26. Class Counsel do not seek additional compensation for these expenses outside the requested lump sum award of \$4.75 million.

**B. Settlement Administration Expenses**

27. Settlement administration expenses in this Action have been exceedingly modest in comparison to other ERISA actions that I am familiar with. This is, in part, due to the fact that Defendants distributed the Notice of Settlement at Defendants' expense, pursuant to Section II.B.2 of the Settlement Agreement. In addition, Defendants distributed the CAFA Notice at their own

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<sup>5</sup> Further details supporting Class Counsel's expense reimbursement request are available upon request of the Court.



expense (*id.* § II.B.1), will pay the costs of the Independent Fiduciary (*id.* § II.E.1), and also will pay the costs of the escrow account.

28. The only settlement administration expenses that Plaintiffs are seeking are the costs of the Settlement Administrator, Analytics Consulting LLC (“Analytics”).<sup>6</sup> Pursuant to Section II.B.3-4 of the Settlement, Analytics is responsible for establishing a settlement website, telephone support line, and email address for receiving and responding to inquiries from Class Members. Relatedly, Analytics is responsible for responding to inquiries from Class Members, and communicating with counsel regarding the status of settlement administration. Analytics has extensive experience providing these services in connection with other class action settlements, and has agreed to perform these services for \$3,800. In my experience handling other settlements, this is a reasonable fee for such services. The settlement website ([www.citgoerisasettlement.com](http://www.citgoerisasettlement.com)), telephone support line (888-973-9870), and email address ([info@citgoerisasettlement.com](mailto:info@citgoerisasettlement.com)) have all been operational since Notice was disseminated to the Class. A copy of the Notice is attached as Exhibit 1.

#### **IV. CONTRIBUTIONS OF THE CLASS REPRESENTATIVES**

29. The Class Representatives have faithfully represented the Class during the course of the Action.

30. Each of the Class Representatives previously submitted declarations in support of both class certification (ECFs 95-2 through 95-4) and preliminary approval of the Settlement (ECFs 158-7 through 158-9).

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<sup>6</sup> A small amount of expert fees were incurred in connection with the preparation of the preliminary Increased Benefits Appendix, which are included in the expert expenses reported above.

31. As stated in their prior declarations, the Class Representatives actively participated in this Action. Among other things, the Class Representatives: (a) reviewed the allegations in the Complaints bearing their names; (b) provided information to counsel in connection with the lawsuit; (c) responded to discovery requests, including interrogatories and requests for the production of documents; (d) attended their depositions and prepared for those depositions in advance; (e) communicated with counsel regarding the litigation and Settlement; and (f) reviewed the Settlement Agreement.

32. Moreover, each of the named Plaintiffs understood their responsibilities as class representatives and were prepared to testify at trial, if necessary.

33. Given the risks and expense of ERISA litigation, it is highly unlikely that any individual participant would bring this case on an individual basis.

34. Based on the time and assistance that the named Plaintiffs have provided as Class Representatives, and their initiative in pursuing this action, I believe that the requested class representative service awards are reasonable and appropriate. As noted in our motion papers, the amount that the Class Representatives are seeking is consistent with other ERISA cases.

#### **V. RESPONSE OF THE CLASS TO DATE**

35. Cohen Milstein has received one inquiry to date concerning the Settlement. The Class Member informed Cohen Milstein that they had updated their mailing address with Analytics and asked about the Settlement value. Cohen Milstein promptly responded to the inquiry. The Class Member did not express any concerns about the Settlement terms.

36. To date, no Class Members have articulated concerns to Class Counsel with any aspect of the Settlement or the negotiated amount for attorneys' fees, expenses, and class representative service awards. I also have been advised by Analytics that no Class Members have

articulated concerns to Analytics regarding the Settlement or the negotiated award for fees, expenses, and service awards.

37. All the Named Plaintiffs approve of the proposed Settlement, as does Class Counsel.

38. As of the date of this Declaration, no objections have been filed with the Court regarding the Settlement or the negotiated amount of attorneys' fees, expenses, and service awards. Class Counsel have received zero objections to date, and have been advised by defense counsel and Analytics that they are also unaware of any such objections.

39. Pursuant to Section II.B.4 of the Settlement Agreement, Plaintiffs' Motion for Attorneys' Fees, Litigation and Settlement Administration Expenses, and Class Representative Service Awards and supporting papers will be posted to the settlement website ([www.citgoerisasettlement.com](http://www.citgoerisasettlement.com)) shortly after filing.

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

Executed this 16th day of December, 2024.

By: /s/ Michelle C. Yau  
Michelle C. Yau