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8 *Class Counsel for Indirect Purchaser Plaintiffs*

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 **IN RE: CAPACITORS ANTITRUST**
13 **LITIGATION**

MASTER FILE NO. 14-cv-03264-JD

14
15 **THIS DOCUMENT RELATES TO:**
16 **ALL INDIRECT PURCHASER ACTIONS**

DECLARATION OF BRIAN D. PENNY
IN SUPPORT OF CLASS COUNSEL'S
APPLICATION FOR ATTORNEYS'
FEES AND REIMBURSEMENT OF
EXPENSES SUBMITTED ON BEHALF
OF GOLDMAN SCARLATO & PENNY,
P.C.

Date: July 6, 2017
Time: 10:00 a.m.
Place: Courtroom 11, 19th Floor

Judge: Hon. James Donato

1 I, Brian D. Penny, declare and state as follows:

2 1. I am a member of Goldman Scarlato & Penny, P.C., Counsel for Indirect Purchaser
3 Plaintiffs (“IPPs” or “Plaintiffs”) in this action. I submit this declaration in support of Class
4 Counsel’s interim application for attorneys’ fees and reimbursement of expenses reasonably
5 incurred in connection with the services rendered in this litigation on behalf of the class. I make
6 this declaration based on my personal knowledge and if called as a witness, I could and would
7 competently testify to the matters stated herein. The time expended preparing this Declaration is
8 not included.

9 2. I have reviewed the Court’s October 31, 2014 Order Appointing Interim Lead Class
10 Counsel (Dkt. 319) (“Order”), including in particular the Order’s provisions regarding fees, costs
11 and expenses. The Firm has adhered to those provisions.

12 3. During the pendency of the litigation, Goldman Scarlato & Penny, acted as class
13 counsel to IPPs. The Goldman Scarlato & Penny firm has prosecuted this litigation solely on a
14 contingent-fee basis, and has been at risk that it would not receive any compensation for
15 prosecuting claims against the defendants. While Goldman Scarlato & Penny devoted its time and
16 resources to this matter, it has foregone other legal work for which it would have been
17 compensated.

18 4. During the course of this litigation, Goldman Scarlato & Penny has been involved in
19 the following activities on behalf of IPPs at the request and under the direction of Lead Counsel:
20 legal research and review and edit draft complaint.

21 5. Attached hereto as **Exhibit A** is my firm’s total hours and lodestar, computed at
22 historical rates, from November 1, 2014 through September 30, 2016. This period reflects the time
23 spent after the appointment of Interim Lead Counsel in this litigation. The total number of hours
24 spent by Goldman Scarlato & Penny during this period of time was 3.10 hours with a
25 corresponding historical lodestar of \$1,928.50. This summary was prepared from
26 contemporaneous, daily time records regularly prepared and maintained by Goldman Scarlato &
27

1 Penny. The lodestar amount reflected in Exhibit A is for work assigned by Lead Counsel, and was
2 performed by professional staff at my law firm for the benefit of the IPP Class.

3 6. All of the services performed by Goldman Scarlato & Penny in connection with this
4 litigation were reasonably necessary in the prosecution of this case. There has been no unnecessary
5 duplication of services for which Goldman Scarlato & Penny now seeks compensation. The
6 lodestar calculations exclude time spent reading or reviewing work prepared by others or other
7 information relating to the case unless related to preparation for or work on a matter specifically
8 assigned to Goldman Scarlato & Penny by Lead Counsel. The hourly rates for the attorneys and
9 professional support staff in my firm included in Exhibit A are the usual and customary hourly
10 rates charged by Goldman Scarlato & Penny, P.C.

11 7. Goldman Scarlato & Penny has expended a total of \$342.04 in unreimbursed costs
12 and expenses in connection with the prosecution of this litigation from November 1, 2014 through
13 September 30, 2016. These costs and expenses are broken down in the chart attached hereto as
14 **Exhibit B**. They were incurred on behalf of IPPs by Goldman Scarlato & Penny on a contingent
15 basis and have not been reimbursed. The expenses incurred in this action are reflected on the books
16 and records of my firm. These books and records are prepared from expense vouchers, check
17 records and other source materials and represent an accurate recordation of the expenses incurred.
18 Expense documentation has been provided to Lead Counsel for review.

19 8. I have reviewed the time and expenses reported by my firm in this case which are
20 included in this declaration, and I affirm that they are true and accurate to the best of my
21 knowledge.

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

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25 Executed on May 16, 2017 at Conshohocken, PA.

26
27 /s/Brian D. Penny
Brian D. Penny

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ATTESTATION

I, Steven N. Williams, hereby attest, pursuant to United States District Court, Northern District of California Civil Local Rule 5-1(i)(3), that concurrence to the filing of this document has been obtained from the signatory hereto.

By: /s/ Steven N. Williams
Steven N. Williams

In re Capacitors Antitrust Litigation
Case No. 14-cv-03264-JD

EXHIBIT A

Goldman Scarlato & Penny, P.C.

Hours Reported and Lodestar on a Historical Basis

November 1, 2014 – September 30, 2016

Timekeeper	Professional Status	Hours	Rate	Total Lodestar
Brian D. Penny	P	.4	\$680	\$ 272.00
Brian D. Penny	P	1.9	\$695	\$ 1,320.50
Douglas J. Bench	A	.8	\$420	\$ 336.00
Grand Total:		3.10		\$1,928.50

In re Capacitors Antitrust Litigation
Case No. 14-cv-03264-JD

EXHIBIT B

Goldman Scarlato & Penny, P.C.

Expenses Incurred

November 1, 2014 – September 30, 2016

EXPENSE CATEGORY	AMOUNT INCURRED
Assessments	\$
Court Costs / Filing Fees	\$ 305.00
Experts / Consultants	\$
Federal Express / UPS / Ontrac	\$
Postage / U.S. Mail	\$
Service of Process	\$
Messenger / Delivery	\$
Hearing Transcripts	\$
Investigation	\$
Lexis / Westlaw	\$ 37.04
Photocopies – In House	\$
Photocopies – Outside	\$
Telephone / Telecopier	\$
Travel – Transportation	\$
Travel - Hotels	\$
Travel – Meals	\$
TOTAL:	\$ 342.04