

EXHIBIT 19

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

In re: NAVISTAR DIESEL ENGINE)	Case No. 11 C 2496
PRODUCTS LIABILITY)	MDL NO. 2223
LITIGATION)	

This Document Relates to: All Cases

**DECLARATION OF CHARLES E. SCHAFFER
IN SUPPORT OF PLAINTIFFS' MOTION FOR AN AWARD
OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES**

I, Charles E. Schaffer, declare as follows:

1. I am a Partner with the law firm of Levin, Fishbein, Sedran & Berman, Class Counsel for Plaintiffs and Class members in the above-entitled action. I have personal knowledge of the matters stated herein and if called upon, I could competently testify thereto. I am submitting this Declaration in support of Class Counsel's application for an award of attorney fees and expenses incurred by this firm related to the investigation, prosecution, and settlement of claims in the course of this litigation. Time expended in preparing the fee petition and related documents is not included. This firm's compensation for services rendered in this case was wholly contingent on the success of the litigation, and was totally at risk.

2. Levin, Fishbein, Sedran & Berman, is one of the nation's preeminent and most experienced plaintiff class-action firms with extensive experience and expertise in consumer protection, product liability, antitrust, securities, financial, commercial and other complex class-action litigation. Levin, Fishbein, Sedran & Berman's firm resume is attached as Exhibit "1", and

the firm has been recognized by its peers and Courts nationwide for its successful class-action leadership.

3. Charles E. Schaffer, a Partner in the Philadelphia office of Levin, Fishbein, Sedran & Berman, has extensive experience leading and prosecuting class-action lawsuits in a wide variety of contexts with a substantial focus on consumer protection, products liability and other complex class-action litigation. Mr. Schaffer has served as lead counsel, co-lead counsel, liaison counsel and in other leadership positions in, *inter alia*, : *Davis . SOH Distribution Company, Inc.*, No. 09-CV-237 (M.D. Pa.); *In re CertainTeed Corporation Roofing Shingles Products Liability Litigation*, MDL No. 1817 (E.D. Pa.); *In Re Chinese-Manufactured Drywall Product Liability Litigation*, MDL No. 2047 (E.D.La.); *In re Vioxx Products Liability Litigation*, MDL No. 1657 (E.D.La.); *In re Orthopedic Bone Screw Products Liability Litigation*, MDL No. 1014 (E.D. Pa.); *In re Diet Drug Litigation*, MDL No. 1203 (E.D. Pa.). He is currently lead counsel in *In re JP Mortgage Modification Litigation*, MDL No, 2290; *In re IKO Roofing Products Liability Litigation*, MDL No. 2104 (C.D.Ill.), a member of the Plaintiffs' Steering Committee in *In re Navistar Diesel Engine Products Liability Litigation*, MDL No. 2223 (N.D. Ill.), a member of the Plaintiffs' Executive Committee in *In re Citimortgage, Inc. Home Affordable Modification ("HAMP")* MDL No. 2274 (C.D. Cal.); *In re Carrier IQ Consumer Privacy Litigation*, MDL 2330 (N.D. Cal.); *In re Dial Complete Marketing and Sales Practices Litigation*; MDL No. 2263 (D.N.H.) ; *In re Colgate-Palmolive Soft Soap Antibacterial Hand Soap Marketing and Sales practice Litigation*, (D.N.H.); and is actively participating in a number of other class actions.

Recently, in the consumer protection filed, Mr. Schaffer and his firm served as liaison counsel in *In re CertainTeed Corporation Roofing Shingles Products Liability Litigation*, MDL No. 1817 (E.D. Pa.). That case involved claims on behalf of 1.8 million homeowners who had

unknowingly purchased roofing shingles that were defectively designed and manufactured thereby causing premature and unreasonable deterioration, cracking blistering, crumbling and leaking. Mr. Schaffer was instrumental in bringing about a settlement which was approved by the Court in 2010 and valued at between \$687 to \$815 million.

4. Levin, Fishbein, Sedran & Berman, actively participated in this litigation, including but not limited to performing the following work:

- a) Pre-complaint investigation including: (1) the alleged business practices of defendant; (2) analysis of the alleged defect; (3) researching and analyzing a multitude of legal and factual issues such as the application of state warranty and consumer protection laws;
- b) Researching and drafting a federal court complaint including a consolidated amended complaint;
- c) Researching and drafting various state court complaints to toll the statute of limitations;
- d) Conducting discovery and assisting in the preparation and conducting of depositions;
- e) Preparing opposition to defendant's summary judgment motions; and
- f) Researching, analyzing and preparing plaintiffs' motion for class certification.

All of the work performed by Levin, Fishbein, Sedran & Berman in this action was a the direction and control of Lead Counsel as detailed in the declaration of Lead Counsel.

5. Levin, Fishbein, Sedran & Berman, has assumed a high degree of risk in bringing and litigating this action. To effectively prosecute this MDL, Levin, Fishbein, Sedran & Berman, had to commit a significant amount of time, personnel and expenses to this litigation on a contingent basis with no guarantee of success and being compensated in the end.

6. The information pertaining to Levin, Fishbein, Sedran & Berman's time and expenses are taken from contemporaneously time and expense records which are maintained by the firm in the ordinary course of business. I oversaw the day-to-day activities in the litigation and reviewed these printouts and backup documentation when necessary. The purpose of the reviews were to confirm both the accuracy of the entries on the records as well as the necessity for, and reasonableness of the time and expenses that my firm committed to the litigation. I believe that the time reflected in the firm's lodestar calculation and the expense for which payment is sought are reasonable in amount and were necessary for the effective and efficient prosecution and resolution of this litigation.

7. Based on this review, the total lodestar for Levin, Fishbein, Sedran & Berman is \$150,550.00, a summary of which is set forth in Exhibit "2".

8. The number of hours that Levin, Fishbein, Sedran & Berman has devoted to pursuing this litigation is reasonable and appropriate, considering, among other factors: (a) the scope and high stake's nature of this large, nationwide MDL proceeding; and b) the novelty and complexity of the claims asserted in the litigation.

9. The hourly rates of Levin, Fishbein, Sedran & Berman are appropriate for complex, nationwide litigation. Levin, Fishbein, Sedran & Berman is a well-respected leader in the fields of consumer and class-action litigation.

10. The Levin, Fishbein, Sedran & Berman rates, which were used for purposes of calculating the lodestar here, are based on prevailing rates for national class-action work, and have been approved by multiple courts across the country. For instance, Levin, Fishbein, Sedran & Berman's rates were approved by courts in the following cases: *In re Vioxx Products Liability Litigation*, MDL No. 1657 (E.D. La. 2011); *In re Propulsid Products Liability Litigation*, MDL No. 1355 (E.D. La.); *In re Wellbutrin SR Antitrust Litigation*, Civil Action No. 04-5525 (E.D. Pa. 2011);

Davis v. SOH Distribution Company, Inc., Civil Action No. 09-CV-237 (M.D. Pa. 2010); *Gwaizdowski v. County of Chester*, Civil Action No. 08-CV-4463 (E.D. Pa. 2012); and *Meneghin, The Exxon Mobile Corporation, et al.*, Civil Action No. OCN-002697-07 (Superior Court, Ocean County, NJ 2012).

11. In October, 2010, after resolving a complex product liability action against CertainTeed Corporation, the United States District Court for the Eastern District of Pennsylvania, in a case titled *In re CertainTeed Corporation Roofing Shingle Products Liability Litigation*, Civil Action No. MDL - 1817 (E.D. Pa. 2010), approved attorney fees based upon a percentage of recovery method with a lodestar cross check. Counsel, including Levin, Fishbein, Sedran & Berman, provided a summary of their time spent on the case, including the nature of every person who worked on the case and his or her current billing rate. The Court approved the entire requested fee, which was based partly on rates of Levin, Fishbein, Sedran & Berman attorneys as follows: Arnold Levin \$900.00; Frederick Longer \$750.00; and Charles E. Schaffer \$600.00.

12. Numerous courts have recently approved significant fee awards for Levin, Fishbein, Sedran & Berman, based on its customary hourly rate. Two recent decisions are: *Melillo, et al. v. Building Products of Canada Corp.*, Civil Action No. 1:12-CV-00016-JGM (D. Vt. Dec. 2012) and *Vought, et al., v. Bank of America, et al.*, Civil Action No. 10-CV-2052 (C.D. Il. 2013). In *Vought*, the United States District Court for the Central District of Illinois (Urbana Division), approved the entire requested fee, including the 2012 rates of Charles E. Schaffer (\$750.00) and Brian Fox (\$400).

13. The Levin, Fishbein, Sedran & Berman current rates are higher than those used to calculate lodestar here. For example, my current rate is \$875.00 and Brian Fox's current rate is \$450.00. However, given the number of firms involved in this matter and that our rates were lower

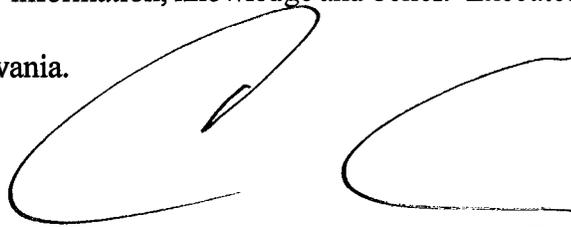
in the earlier years of litigation, we are using lower rates (\$750.00 and \$400.00) for myself and Brian Fox, respectively, that have been approved by multiple federal courts.

14. This firm has expended a total of \$74,920.31 in non-reimbursed expenses in connection with the prosecution of this litigation, a summary of which is set forth in Exhibit "2".

15. The expenses incurred pertaining to this case are reflected in the books and records of this firm and are maintained in ordinary course of business. These books and records are prepared from expense vouchers, invoices, check records and similar items and are an accurate record of expenses incurred.

16. The expenses incurred by Levin, Fishbein, Sedran & Berman, were necessary and reasonable in the prosecution of this action.

I declare under penalty of perjury under the laws of the State of Pennsylvania that the foregoing is true and correct to the best of my information, knowledge and belief. Executed this 8th day of April, 2013, at Philadelphia, Pennsylvania.

A handwritten signature in black ink, appearing to read 'Charles E. Schaffer', is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

CHARLES E. SCHAFFER, ESQUIRE