

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

In re:	§	MDL Docket No. 4:03-CV-1507-BRW
	§	
	§	
PREMPRO PRODUCTS LIABILITY LITIGATION	§	ALL CASES
	§	
	§	

**THE LITTLEPAGE FIRM’S OBJECTIONS TO
COMMON BENEFIT FEE COMMITTEE’S RECOMMENDED
ALLOCATION FOR COMMON BENEFIT TIME & EXPENSES**

In December of 2003, Zoe Littlepage was designated as Lead Counsel for the hormone therapy (HRT) litigation.¹ During Ms. Littlepage’s interview for the position, the MDL Court asked for Ms. Littlepage’s assurance that she would dedicate herself to the litigation. She responded affirmatively. And she more than kept that promise. One would be hard pressed to find a Lead Counsel – from any litigation - with a greater commitment to the case. In the past ten years, Ms. Littlepage never took on another project. Rather, she passed up opportunity after opportunity for involvement in other litigations in order to remain dedicated to HRT. She worked long hours, often seven days of weeks, and made herself available to the MDL lawyers day or night. Littlepage created a vast amount of common benefit work and willingly shared it with anyone involved in the litigation. Lead Counsel became the hub of all information and she supervised every major project. She took more HRT cases to trial than every other firm

¹ Pending is a motion requesting separate allocations for Zoe Littlepage and The Littlepage Firm and Rainey C. Booth, P.A. While these two entities operated as a joint venture for the HRT litigation, they have separate tax obligations based upon their different states of incorporation. Ms. Littlepage will thus address in this pleading only her objections to the Common Benefit Fee Committee’s recommended allocations and Mr. Booth will detail his specific objections in a separate pleading.

combined. And when PSC members and Common Benefit Fee Committee (CBFC) members settled with Pfizer / Wyeth, and agreed to withdraw from management positions as part of their settlement, Zoe Littlepage refused. She would not agree to step down as Lead Counsel as a condition of settlement. Because of that refusal, her settlement talks dragged on. But Lead Counsel was committed to seeing the litigation to a close and refused to walk away from her responsibilities in order to expedite a resolution of her individual cases.

At the end of the litigation, having watched Lead Counsel work long, hard hours year after year and having reaped the reward of that labor, the CBFC voted to cut her time by half. There is no basis in law, or the facts of this litigation, for such a decision.² Without even an explanation, the 6 member voting block of the CBFC awarded themselves bonuses for their exemplary value to the litigation while voting that Littlepage's contribution deserved condemnation and dramatic reduction. It is precisely to avoid these types of back-room negotiations (untethered to data, discussion or objective criteria) that MDL courts must "closely scrutinize the attorneys' fee allocation, especially when the attorneys recommending the allocation have a financial interest in the resulting awards."³

Zoe Littlepage and the Littlepage Firm objects to the CBFC's proposed time allocation and proposed expense reimbursement for the many reasons listed below.

² See *In re Air Crash Disaster at Ft. Everglades on Dec. 29, 1972*, 549 F.2d 1006, 1016 (1977) (If lead counsel are to be an effective tool the court must order appropriate compensation for that lawyer. No court can expect lead counsel to performing the duties desired of them without additional compensation).

³ *In re High Sulfur I*, 517 F.3d at 227; *In Re Vioxx Products Liability Litigation*, 802 F. Supp. 740, 773-774 (E. D. Louisiana 2011).

A. Common Benefit Time

PPO 5 created a Common Benefit Fee Committee. The CBFC was charged with auditing all common benefit submissions and providing a recommendation for allocations to the MDL court.⁴ Zoe Littlepage is one of the seven members of that Committee.⁵

There is no real mystery as to the factors considered in a calculation for common benefit fees.⁶ It is an easy formula:

Hourly Rate X Hours Submitted X Value of Contribution = Percentage Allocation
--

The first step in a common benefit fee evaluation is to carefully audit the submitted time using uniform criteria. Yet, in this litigation, a voting block of six of the CBFC members (over Lead Counsel's strenuous objections) ignored the case law and disregarded their duty under PPO 5 to provide consistent audits.⁷ Many of the CBFC members never even glanced (far less reviewed) the submitted time for all firms. Lead counsel saw glaring errors in submissions but the CBFC refused to even discuss her

⁴ Doc. No. 569, PPO 5 Order (3-30-05).

⁵ The Fee Committee consists of Tobias Millrood (Chair and liaison counsel for the Philadelphia state court coordinated litigation), Zoe Littlepage (Lead Counsel), Erik Walker (Head of Law & Briefing Committee), Michael Williams (Co-Chair of Science Committee), Ralph Cloar (current Liaison Counsel), Rob Jenner (who replaced his partner, Ken Suggs who was an original CBFC member) and Irwin Levin. Some of these people were specifically appointed by the Court pursuant to PPO 5, others were added by agreement of the Committee.

⁶ *In re High Sulfur*, 577 F.3d 220, 228 (5th Cir. 2008) (Court "must first determine the reasonable number of hours expended on the litigation and the reasonable hourly rate for the participating attorney" and then adjust the calculation "upward or downward" depending upon review of value factors); *Turner v. Murphy Oil*, 582 F.Supp.2d 797, 812 (E.D.La.2008) (Allocation of common benefit fees is "largely dependent on an analysis of the amount, nature, and significance of the work of each counsel and how it relates to the work of the other counsel"); *In re Copley* (Guidant litigation), 50 F.Supp.2d 1141, 1145 (D. Wyoming 1999) (Time allocations were based upon consideration of not only the number of hours billed, but also the quality of a given lawyer's efforts).

⁷ See Doc. No. 3215, Lead Counsel's Motion for Independent Auditor (9-23-13).

concerns. The CBFC doggedly pursued two objectives: slash Lead Counsel's time and increase their own allocations. No other issue interested them.

Lead Counsel thus consulted an ethics expert. Professor Howard Brill, a renowned expert on professional and legal ethics from the University of Arkansas School of Law, advised Ms. Littlepage that she had an ethical obligation to notify the MDL court of her concerns.⁸ Once Lead Counsel filed her motion requesting an independent auditor and aired her issues with the audit process, the CBFC's retaliation started in interest.⁹ When it came time to vote, the CBFC voting block agreed to an allocation for every other voting-block member which dramatically increased their actual percentage of time. This vote was taken without any discussion of the issues raised by Lead Counsel as to serious errors in the CBFC member's submissions. In fact, the vote was taken without any discussion at all; almost as if the CBFC had met without the presence of Ms. Littlepage to discuss and develop a cohesive voting plan.

On average, the six member block voted themselves an increase in their actual time of more than 54%.

		<i>Actual percentage of time</i>	<i>Voted Allocation by CBFC</i>	
1	Cloar Law Firm	2.04%	3.6%	76% increase
2	Cohen Malad	3.36%	4.01%	19% increase
3	Hissey Kientz	9.28%	13.55%	46% increase
4	Janet Jenner & Suggs	5.46%	8.62%	58% increase
5	Pogust, Braslow & Millrood / Schiffrin Barroway	5.60%	10.72%	91% increase
6	Williams, Love, O'Leary & Powers, PC	7.92%	10.95%	38% increase

⁸ Ex. 1 - Letter from Professor Brill to Z. Littlepage, 9-23-13.

⁹ See Doc. No. 3215, Lead Counsel's Motion for Independent Auditor (9-23-13).

	Average percentage increase			54.7% increase
--	------------------------------------	--	--	-----------------------

The Chair of the CBFC, Tobias Millrood, was awarded a 91% increase in his law firm's actual hours, even though his submission contained glaring errors including a number of days where the firm submitted more than 24 hours worked in a day.¹⁰ Mr. Millrood also billed time for events never attended.¹¹

The increase assigned to the block-voting members was squarely taken from three law firms' time: The Littlepage Firm, Rainey C. Booth, P.A. and the Wetherall Firm.¹²

	<i>Actual percentage of time</i>	<i>Allocation when considering value multiplier</i>		<i>Voted Allocation by CBFC</i>	
Rainey Booth, P.A.	12.21%	12.40%			
Littlepage Firm	24.30%	34.70%			
Littlepage Booth	Combined 36.79%	Combined 47.1%		Combined 23.82%	35.25% to 49.43% DECREASE

Lead Counsel thus asks this Court to evaluate the Littlepage Firm's common benefit time under the factors discussed in the case law, and in comparison with the other applicants, and to approve an appropriate and reasonable allocation for her law firm.

¹⁰ Ex. 2 - Examples from submission of Pogust, Braslow & Millrood showing submissions of 25-34 hours.

¹¹ Ex. 3 - Email from T. Millrood re: unable to attend conference call on 4-20-09; Ex. 4 - Time billed for T. Millrood's attendance of 4-20-09 conference call.

¹² Peter Wetherall headed the Nevada state court litigation. Mr. Wetherall and Lead Counsel worked together on some of the Nevada trials. Mr. Wetherall is also an objector to the CBFC recommended allocations.

1. Hourly Rate

The HT Litigation Fund has insufficient funds to pay for all of the hours expended on common benefit matters, even at a lower than market hourly rate. It is thus probably unnecessary to do a comprehensive nationwide review of comparable hourly rates. Because of the lack of funds, even allocations at a low hourly rate cannot be paid in full. Lead Counsel thus suggests the following - imminently reasonable - hourly rates for each category:

1. Lead Counsel: \$300¹³
Case law repeatedly supports a higher hourly rate for lead counsel to compensate for the additional responsibility and commitment required of that position.¹⁴
2. Partners: \$250¹⁵
3. Associates: \$150¹⁶
4. Special Paralegals: \$75¹⁷

¹³ *Hill v. City of Missouri*, 371 S.W.3d 66, 81 (Mo.Ct.App.2012) (Hourly rates approved of \$350 for lead counsel, \$300 to \$100 for other lawyers); *In re Gould Securities, Litigation*, 727 F.Supp. 1201, 1206 (N.D.Ill. 1989) (Rate of \$325 per hour approved for lead counsel as this figure is "reasonably commensurate with [counsel's] primary role in this litigation"); *In re Bank of America Corp. Securities Litigation*, 2013 WL 3212514 at *6 (E.D. Mo. 2013) (Lead counsel awarded \$309 per hour or \$98,114.34 for 317.30 hours of services); *Turner v. Murphy Oil*, 472 F.Supp.2d 830, 868-69 (E.D.La.2007) (Court approved \$300 to \$400 per hour for main lawyers); *Little Rock School District v. State of Arkansas*, 674 F.3d 990 (8th Cir. 2012) (Counsel's hourly rate of \$325-\$400 per hour was not challenged).

¹⁴ *El Tabech v. Gunter*, 869 F. Supp. 1446 (D. Neb 1994) (Appropriate to award a higher hourly rate to Lead Counsel "because of the disproportionate responsibility assumed by lead counsel"); *In re Gould Securities, Litigation*, 727 F.Supp. 1201, 1206-1207 (N.D.Ill. 1989) (Highest rate awarded for lead counsel to compensate for counsel's primary role in the litigation)

¹⁵ *In re Gould Securities, Litigation*, 727 F.Supp. 1201, 1205 (N.D.Ill. 1989) (Court approves \$285 to \$220 per hour for partners); *Williams v. County of Dakota, Nebraska*, 657 F.3d 1064, 1066 (8th Cir. 2012) (\$250 per hour found to be a reasonable hourly attorney rate).

¹⁶ *Little Rock School District v. State of Arkansas*, 674 F.3d 990 (8th Cir. 2012) (Hourly rate of \$175 per hour approved for an associate); *Turner v. Murphy Oil*, 472 F.Supp.2d 830, 868-69 (E.D.La.2007) (Court approved \$100 to \$200 per hour for associates); *In re Gould Securities, Litigation*, 727 F.Supp. 1201, 1205 (N.D.Ill. 1989) (Court approves \$150.00 per hour for services performed by associates).

¹⁷ *In re Gould Securities, Litigation*, 727 F.Supp. 1201, 1206 (N.D.Ill. 1989) (Court approves \$75 per hour as the high end paralegal hourly rates).

This category is reserved for four specific legal assistants who spent a substantial amount of their time working on the litigation and whose efforts were above and beyond the call of duty.¹⁸

5. Paralegals: \$50¹⁹

6. Law clerks: \$40

As explained below in greater detail, the law clerk hours submitted are predominantly for University of Arkansas Little Rock law students who worked in the Little Rock depository as well as at the Plaintiff's Work Space reviewing documents (first round selection), removing duplications (de-duplication project) and second and third round coding of documents according to provided themes.

2. Value of Contribution

As Lead Counsel, Zoe Littlepage was the hub and epicenter of all activity in the litigation.²⁰ Even CBFC members cannot legitimately challenge the value of her work.²¹

As the CBFC auditor stated:

Zoe and Rainey are two of the very best trial lawyers practicing today. The plaintiffs in the HT cases and the lawyers who represented them are all extremely lucky to have had Zoe and Rainey committed full time to these cases. Zoe's leadership was outstanding—she is smart, passionate, relentless, tenacious fearless, and tireless.

The stress they went through month after month and year after year would not have been bearable for most other lawyers, perhaps for none. There is no question that their ability to win large jury verdicts in tough cases, again and again, and then sustain them on appeal, was of tremendous value to all the other plaintiffs. And they inspired others to try hard cases, and helped them all they

¹⁸ One of the approved special paralegals worked for Lead Counsel: April Cowgill.

¹⁹ *Turner v. Murphy Oil*, 472 F.Supp.2d 830, 868-69 (E.D.La.2007) (Court approved \$50 to \$80 per hour for paralegal services).

²⁰ Littlepage was assigned the task of overseeing the designation of specific tasks (PPO 5 at p. 6). Littlepage, along with Tobias Millrood, were the only ones who could change the guidelines outlined in PPO 5 (PPO 5 at p. 5).

²¹ Ex. 5 - 2-26-13 correspondence from T. Millrood (T. Millrood: You know I have endless respect and admiration for your warrior spirit and accomplishments in HRT); Ex. 6 - 2-28-13 correspondence from M. Williams (Every one of us is a highly talented and respected lawyer, who made enormous contributions to create this pot of money, worked incredibly hard for ten years, took enormous financial risks, and we all deserve more than we are going to get. And Zoe deserves the most, in my opinion).

could. No one on the fee committee denies that Littlepage Booth deserves the largest share of the common benefit fee award....²²

Despite these comments, the CBFC obviously disputes Lead Counsel's contribution since the CBFC's proposed allocations increases the percentage allocation for every other CBFC member (way above the actual percentage time worked by the CBFC members)²³ while dramatically decreasing Littlepage's percentage allocation. The CBFC assessed the contribution of the six member voting block as worthy of extra reward. And that reward directly from Lead Counsel's allocation. As described below, despite multiple requests, the CBFC has refused to provide Lead Counsel with any explanation for its decisions or detail any remaining issues with Littlepage's time submission.²⁴ Littlepage has been left to guess and speculate because the CBFC refuses to answer her request.

Lead Counsel will thus describe her contributions to the litigation in this pleading so the MDL court and Special Master can evaluate that value and balance it against the contributions of the other CBFC members who have re-assigned, amongst themselves, what would have been Littlepage's allocation.

(i) Structure of the Litigation

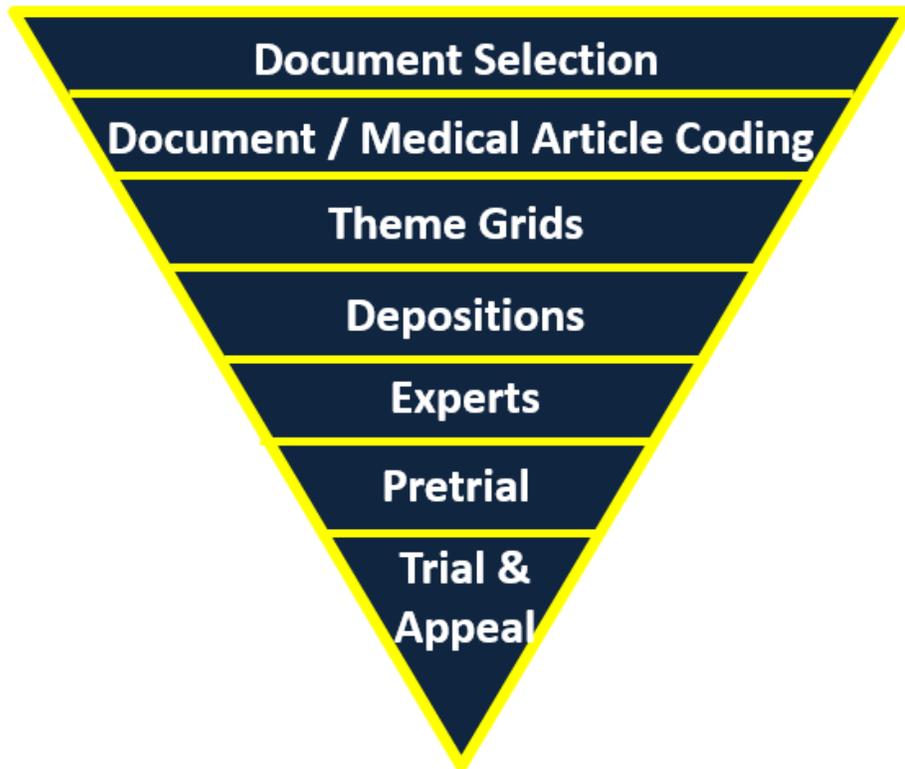
The inverted pyramid graphic below details the various common benefit tasks undertaken in this litigation and the increased value of the work at the point of the

²² Ex. 7 - Audit of CBFC (designated confidential).

²³ See Doc. No. 3238, Lead Counsel's Proposed Allocation (11-6-13).

²⁴ Lead Counsel responded to every issue raised in the audit of her time, uploaded thousands of pages of extra materials to her DropBox account, provided back-up materials on every contested matter and was told by the CBFC that there were no outstanding issues. Yet, her allocation still remains a fraction of her submitted time.

pyramid (i.e. trial related activities) versus the predominantly law clerk related work of document selection in the Little Rock depository.



The first step, in any litigation, is to get documents produced by the defendants. Here, defendants produced corporate documents into depositories in Little Rock and Washington, D.C. The Littlepage Firm conducted the very first wave of document review. In the fall of 2003 (even before being appointed as Lead Counsel), Littlepage went with a team of her lawyers and assistants to the Washington DC depository. The Littlepage group stayed multiple days, brought out of the depository an initial group of several thousand documents and started summarizing and coding those materials.

(ii) Discovery Requests

- ***Main Defendants (Wyeth and Pfizer)***

Lead Counsel created 11 different sets of discovery requests against the main defendants in the litigation, Wyeth and Pfizer, and filed them on a periodic basis. Lead Counsel filed and argued seven motions to compel as to those requests including the following key ones:

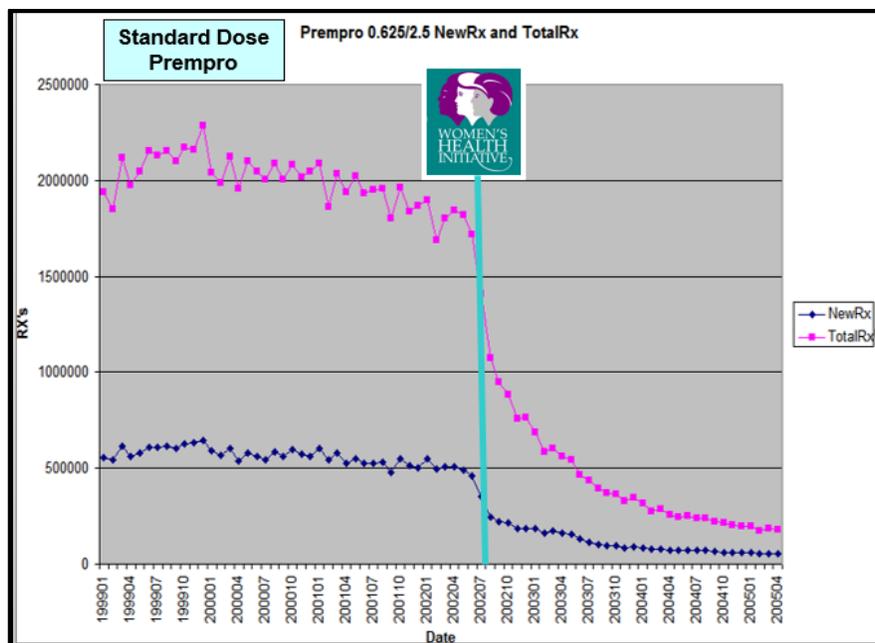
- ***Production of Wyeth's Call Notes Database***

One of the most important motions to compel involved the plaintiffs' request for production of Wyeth's entire sales representative call notes database. Every time a Wyeth sales representative visited a prescribing physician, the sales representative would record the visit, what samples were left behind and a summary of the conversation the sales rep had with the doctor. The sales representative inputted these call notes into his company laptop right after the visit and thus recorded contemporaneous detail of what information the sales representative provided as to risks and benefits of hormone therapy. Wyeth strongly opposed production of the nationwide database on a number of grounds. The MDL court first ordered production of a limited subset of call notes related to Lead Counsel's actual clients. Lead Counsel reviewed those thousands of call notes and created a summary as to the types of issues revealed by just the sample. Lead Counsel presented her findings at the July 2004 MDL status conference. She argued why nationwide production was essential for plaintiff's experts to appreciate the uniform training practices of the company as well as

the pervasiveness of the inappropriate representations. The MDL court granted the motion to compel.²⁵

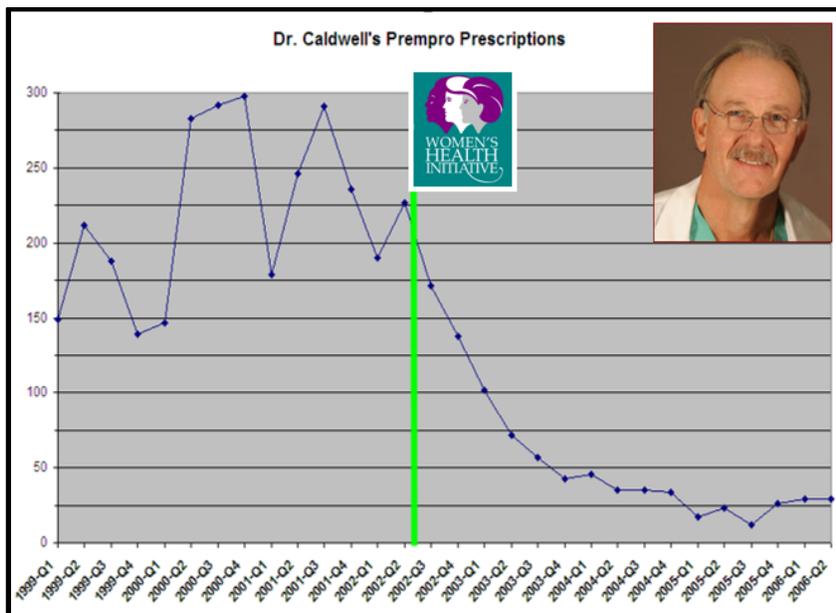
- ***Production of Wyeth's Nationwide IMS data***

In the spring of 2005, Lead Counsel filed – and argued - a motion to compel the production of Wyeth's nationwide IMS data. In its day-to-day operations, Wyeth bought data from IMS Health, Inc., a company that collects and sells data on prescriptions filled by pharmacies in the United States. Wyeth used IMS data to chart its sales by drug, physician, and geographic region. Wyeth used IMS data to chart its sales by drug, physician, and geographic region. Wyeth based its marketing decisions, budgets, sales forecasts, proposals and employee bonus structures on IMS data. Lead Counsel successfully persuaded the court to order production. The IMS data was crucial to plaintiffs for two reasons as it (a) showed a nationwide downward trend of prescriptions once the WHI study was published in July of 2002;



²⁵ See Doc. No. 334, Order re: Motion to Compel Documents (9-9-04).

(b) The IMS data allowed an individual plaintiff to chart her actual physician's reaction to the stronger warnings provided by the WHI study and gave the plaintiff objective proof that if the WHI study had been conducted earlier, her doctor would not have prescribed the drug to her.



- **Discovery Against Smaller Defendants**

There are a number of smaller defendants in the litigation, i.e. defendants with a small market share. Lead Counsel drafted 14 sets of discovery requests against the smaller defendants. Littlepage met and conferred with the smaller defendants about such discovery and drafted and filed five motions to compel against the smaller defendants. Lead Counsel also recruited law firms to take on responsibility for specific defendants, coordinated those efforts, assisted with the scheduling of depositions and followed up with the designated lawyers.²⁶

²⁶ See for example, Ex. 8 - Email with Ted Meadows re: Accepting responsibility for Barr discovery, 6-24-04.

(iii) Document Review

- ***Document Depositories & Waves of Production***

Documents were electronically produced into two depositories (Washington DC and Little Rock, AR). The materials could be reviewed, and then designated for copying, at computer terminals in the depositories. It cost the PSC 7 cents per page to copy a document from the depository.²⁷ Electronically preserved materials (such as databases) were produced in native format.

- ***Little Rock Law Clerk program***

Due to the per page expense and the large number of produced documents (over 12 million by the end of the litigation), it was cost prohibitive for the PSC to buy every document. Plus, from Lead Counsel's early experience in the Washington DC depository, she knew there were a large number of duplicates in the production. Littlepage thus set up the Little Rock law clerk program to deal with document review.

The Little Rock clerk program involved the hiring of a number of University of Arkansas law school students to conduct the first review of documents at the Little Rock depository and to designate for purchase the relevant (and hopefully not duplicative) ones. A number of law firms agreed to sponsor the clerks so the program cost was shared among many in the litigation. Lead Counsel spent most of the month of August 2004 in Little Rock interviewing, hiring and training the law clerks. She also did follow up training sessions on a regular basis over the next year; for a total of seven rounds of training. Law clerks were taught the key issues and themes in order to detect relevant materials.

²⁷ See Doc. No. 199, MDL Cost order (4-7-04).

The second step in the program involved law clerks coding and summarizing the purchased documents. First, the PSC created a template database for each document to be coded according to specific themes and concepts. Lead counsel then trained the law clerks on how to summarize each document and code it into the database. Littlepage conducted multiple follow-up workshops as themes were refined and further detailed.

For the actual coding, the law clerks needed a Work Space. Littlepage thus rented and established an office. The Littlepage Firm bought and set up multiple computers at work stations in the Work Space. The law clerks could set their own hours and many worked at the Work Space late into the night and on weekends. Each law clerk reported his hours to his sponsor law firm. As the early rounds of law clerks graduated from law school, Lead Counsel went back to Little Rock to do additional hiring and training of new groups of clerks.

The law clerk program was highly successful. It saved significant money (as the law clerks cost way less than associates or partners) and was an efficient way to process the volume of material produced in the litigation. The law clerks reviewed millions of pages of documents in the depository and did the vast majority of document coding and gridding at the Work Space. Indeed, the law clerks became so knowledgeable about the HRT documents that several of them later assisted at HRT trials or went on to work for HRT law firms after graduation.

- ***Leadership Responsibility***

In October of 2004, the PSC created a chart outlining leadership assignments for document review. Various lawyers accepted responsibility for overseeing the review of

various custodial files in preparation for depositions.²⁸ Zoe Littlepage accepted responsibility for 16 sets of custodial files, a number far greater than any other lawyer.²⁹

- ***Coding Manual***

In early 2004, Lead Counsel created a 73 page manual for training lawyers and their staff to code documents.³⁰ This primer detailed the history of the hormone drugs, walked the reader through every screen of the coding database and provided a lengthy glossary of terms. Lead Counsel provided copies of the manual to all MDL lawyers during a three day training and coding session in Houston, Texas in April of 2004. Littlepage also provided copies to all of the Little Rock law clerks later that year during their training.

- ***Theme Grids***

The coding database asked a reviewer to designate a document as “hot,” “Relevant,” “Could be useful” or “Junk.” Every document designated as “hot” or “relevant” was sent to Lead Counsel and she personally reviewed each one. Littlepage created a massive time line grid in which she input a summary for each hot or relevant document in chronological order. Lead Counsel then created additional theme grids where documents related to a specific theme or idea were grouped together. In total, Littlepage created more than 1,300 pages of searchable grids. Lead counsel updated the grids frequently and provided amended versions to all MDL counsel. The theme grids provided to MDL counsel included:

²⁸ Ex. 9 - Custodial File Assignments, 10-16-04

²⁹ Most lawyers accepted responsibility for one or two files. The lawyer who accepted responsibility for the second most number of custodial files was Rainey Booth at 11 files (all of the scientific witnesses).

³⁰ Ex. 10- Primer for Coding Wyeth documents, 4-04 (For confidentiality and work product privilege reasons, Lead Counsel only attaches the first two pages).

-  1-ZBL Time Line Grid -ALL ISSUES-Updated-9-14-12
-  2-Signals of need for BrCa study
-  3-Dissecting Prempro label
-  4-Beating Wyeth's list of supposed BrCa studies
-  5-Dismiss-Distract-Suppress critics
-  6-FDA had concerns about E+P safety
-  7-FDA is not powerful
-  8-FDA wrote the Prempro label
-  9-Cardiac Promotion-FDA said NO
-  10-Thin-Lean Women

- ***Medical Articles Grid***

Lead Counsel also created a 245 page Medical Articles grid. This grid grouped hundreds of the most relevant medical articles into distinct categories and under particular themes. MDL lawyers could thus quickly word search for specific issues or risk factors relevant to their case and find the best medical articles summarized and catalogued. Lead Counsel also broke the main “Daubert Evidence” grid into distinct theme grids for easier analysis. Littlepage regularly updated these grids whenever new articles were published and circulated updated versions. The medical articles grids included:

-  11-Science-Alcohol
-  11-Science-Daubert Evidence-Updated 10-12
-  11-Science-E+P causes breast cancer
-  11-Science-Estrogen Deficiency
-  11-Science-GRID of pre-WHI studies
-  11-Science-Obesity
-  11-Science-Smoking

- ***Master Exhibit List***

For corporate representative depositions, HRT lawyers used consecutive numbers so that each important document would be provided a deposition number and

that number would remain with the document as it went onto the Master Exhibit list. This grid tracking the depositions details this process:

1	PREMPRO MDL DEPOSITIONS					
2						
3	Deponent	Date	Exhibit Nos.	Lead Attorney	Defendant	Area
4						
5	Andrew Panagy	3/30/2004	1-28	Ken Suggs	Wyeth	Marketing
6	Andrew Panagy	3/31/2004	29-41	Ken Suggs	Wyeth	Marketing
7	Jeffrey Conklin	4/14/2004	42-49	Tobi Millrood	Wyeth	Sales Force Automation
8	Amy Marren	4/15/2004	50-52	Jim Szaller	Wyeth	Clinical Communications
9	Jeannemarie Durocher	4/22/2004	53	Irwin Levin	Wyeth	Corporate Structure
10	Elizabeth Savage	4/27/2004	56-60	Ron Rosenkranz	Wyeth	Drug Safety
11	Diana Mitrione	4/29/2004	61-66	Zoe Littlepage	Wyeth	Regulatory Affairs
12	James Pickar	5/26/2004	67-69	Rainey Booth	Wyeth	Medical and Scientific Research
13	James Pickar	5/27/2004	70-72	Rainey Booth	Wyeth	Medical and Scientific Research
14	Jeannemarie Durocher	6/2/2004	54-55	Irwin Levin	Wyeth	Corporate Structure
15	Justin Victoria	6/4/2004	73-79	Richard Lewis	Wyeth	Premarin patent
16	Laura Kibbe	7/14/2004	80-84	Zoe Littlepage	Upjohn	Management Information Systems
17	Steven Kany	7/15/2004	85-106	Zoe Littlepage	Upjohn	Corporate Structure
18	Christine Rosser	9/2/2004	107-118	Zoe Littlepage	Wyeth	Regulatory Affairs
19	Gerald Fisher	11/22/2004	126-150	Richard Lewis	Wyeth	Drug Safety
20	Kathleen Day	1/26/2005		Zoe Littlepage	Upjohn	Regulatory Affairs

The Master Exhibit List was created from deposition exhibits, documents coded as “hot or “relevant,” documents relied upon by the plaintiffs’ experts, etc. Throughout the litigation, Lead Counsel and her office maintained and regularly updated the Master Exhibit list. Every document on the Master Exhibit list was bannered with its assigned number. Trial teams used the Master Exhibit List and typically introduced trial exhibits under the same number.

By the end of the litigation, the Master Exhibit list included more than 7,000 exhibits. It became unwieldy. Lead Counsel thus created a subset of exhibits called the Short List. This list designated the top 200-300 exhibits for the Wyeth and Pfizer defendants. Trial teams relied heavily on the Short List documents for trial preparation and pretrial admission of exhibits.

(iv) Depositions

In the HRT litigation, over 200 generic depositions were taken (i.e. depositions of defendant corporate representatives or the parties' generic experts) plus dozens of depositions for the bellwether cases and hundreds more case specific depositions in state, remanded or PPO 9 cases.

Lead Counsel and her associates took over 48 days of the common benefit depositions and coordinated the coverage of the vast majority of all generic depositions. Typically, when depositions were scheduled, Lead Counsel would create a calendar, discuss the upcoming depositions on the regularly scheduled Monday conference calls, solicit lawyer volunteers for coverage and provide follow-up support (including, if needed, issuing the deposition notice, dealing with opposing counsel about the details of scheduling and / or providing outlines of questions for the deposition)

Lead Counsel herself took the depositions of many of Wyeth's top executives including the president of Wyeth's Women's Healthcare division,³¹ Wyeth's top regulatory executives,³² Wyeth's main researchers on the HRT project³³ and Wyeth's head of marketing for HRT.³⁴ Littlepage also did the depositions of Wyeth's key liability experts³⁵ and, as discussed in greater detail below, prepared and presented many of the plaintiffs' generic experts for deposition.

³¹ Deposition of Michael Dey (11-3-05 and 11-4-05).

³² Depositions of Diane Mitrione (4-29-04), Christine Rosser (9-2-04) and Justin Victoria (8-15-06).

³³ Depositions of Ginger Constantine (8-16-06), Marc Deitch (10-27-05), Pickar, James (5-26-04, 5-27-04, 9-20-05, 8-16-06).

³⁴ Deposition of Steven Strickland (9-8-05 and 9-9-05).

³⁵ Deposition of Lisa Rarick, Wyeth's main regulatory expert (5-10-06); Louis Morris (5-9-06).

For the Pfizer defendant, Lead Counsel took 4 of the 11 depositions conducted of Pfizer corporate representatives, including the depositions of its key regulatory executives.³⁶

- ***Deposition Outlines***

Lead Counsel also created, and circulated, outlines for MDL lawyers to use when preparing for various types of depositions. Lead Counsel created outlines for deposing sales representatives, treating physicians, Wyeth's experts and corporate representatives for the smaller defendants. A number of lawyers had put together notes on preparing for the plaintiff and prescribing physician deposition. Lead Counsel consolidated those outlines into one comprehensive outline and provided electronic copies on CD. Littlepage regularly updated those outlines as the litigation developed new themes and circulated the amended materials including:

- 
- 1-Plaintiff Deposition Outline
 - 2-Prescribing Physician Deposition Outline
 - 3-Treating Physicians Deposition Outline
 - 4-Sales Representatives Deposition Outline
 - 5-Wyeth experts - Deposition Outline
 - 6-Smaller Defendant-Deposition Outline

- ***Databases***

Lead Counsel's office also maintained the HRT Live Notes database into which all transcripts from depositions, pretrial hearings and trials were uploaded. MDL lawyers could thus search for specific words, phrases, concepts or even exhibit numbers across every transcript in the litigation.

³⁶ Lead Counsel took depositions of Pfizer / Upjohn's corporate representatives Kathleen Day (1-25-06); Donald Gieseke (10-20-05); Stephen Kany (7-15-04), Laura Kibbe (7-14-04).

(v) Experts

Ms. Littlepage was a key player in the development of several key liability and causation witnesses in the HRT litigation including:

Regulatory Liability Witnesses

- *Dr. John Gueriguian:* Ms. Littlepage worked with Dr. Gueriguian, a former FDA medical officer, in the creation of his expert report. In fact, she flew to France for over a week to help Dr. Gueriguian organize his materials and finalize his expert report.³⁷ The 800+ documents cited by Dr. Gueriguian in his expert report were then summarized and added to the Master Exhibit list by Lead Counsel. Lead Counsel also prepared and presented Dr. Gueriguian for his three days of depositions³⁸ and questioned him at trial during the very first HRT trial (*Reeves v. Wyeth*).
- *Dr Cheryl Blume:* Dr. Blume was a former Pharmaceutical executive and a key liability witness. Ms. Littlepage prepared and presented Dr. Blume for her generic deposition and put her on the stand as a witness in a number of bellwether trials.³⁹
- *Dr. Suzanne Parisian:* Dr. Parisian, a former FDA medical officer, was a critical witness in the litigation as she provided testimony against both Pfizer and Wyeth. Lead Counsel prepared Dr. Parisian for several depositions and worked with her to provide her updated, summary report in September of 2011. Ms. Littlepage put Dr. Parisian on the stand to testify at multiple HRT trials.
- *Dr. Bruce Patsner:* Dr. Patsner, a lawyer, doctor and former FDA officer, submitted his generic liability report in March of 2011. Lead Counsel was on the team that worked with Dr. Patsner over many months to help with his expert report and to prepare him for his deposition. Lead Counsel also assisted with the *Daubert* briefing on Dr. Patsner.

Punitive Damages Expert

- *Professor Michael Maloney:* Dr. Maloney, a tenured economics professor at Clemson University, provided expert testimony as to the financial motive of Wyeth and Pfizer as well as the defendants' net worth. Lead Counsel assisted him in preparing all three of his expert reports. She also prepared and presented him for his deposition⁴⁰ and questioned Professor Maloney as a witness at trial.

³⁷ Ex. 11 - Deposition of Dr. Gueriguian, 3/22/06 at p. 94:15-18, p. 143:24-145:2.

³⁸ Depositions of Dr. John Gueriguian (3-22-06, 4-20-06 and 4-21-06).

³⁹ Ex. 12 - Deposition of Cheryl Blume (4-7-06).

⁴⁰ Ex. 13 - Deposition of Professor Maloney (3-30-06).

OB / Gyn Expert Witnesses

By 2011, a significant number of cases had been remanded to federal courts all over the country for trial. Some lawyers had already settled their cases and exited the litigation. The energy level in the litigation was low. There was a real need for an infusion of new experts who could testify in the upcoming slew of trials. Lead Counsel thus started actively recruiting and developing new experts including:

- *Dr. Roosevelt McCorvey*: Lead Counsel worked with Dr. McCorvey, an Ob/ Gyn from Alabama, on his expert report. Littlepage also prepared and presented Dr. McCorvey for his generic deposition.⁴¹
- *Dr. Thomas Papperman*: Dr. Papperman had been a high prescribing Ob / Gyn physician in the Philadelphia / New Jersey area. His willingness, in 2012, to provide an expert report and testimony on behalf of the plaintiffs was an important development. Lead Counsel met with Dr. Papperman over many days to assist with the creation of his report and to prepare him for his deposition.

General Causation Witnesses

By 2012, the limited number of general causation experts originally developed for trials were worn out. They had testified in over a dozen trials and more trials were scheduled each month. New general causation experts were sorely needed including:

- *Dr. Richard Clapp*: A renowned cancer epidemiologist, Dr. Clapp brought a breath of fresh air into HRT. Lead Counsel worked with others to help Dr. Clapp with his expert report. Littlepage prepared and presented Dr. Clapp for his generic deposition.⁴²
- *Dr. David Goldsmith*: In January of 2012, Dr. Goldsmith provided a generic causation expert report. Lead Counsel worked with Dr. Goldsmith in the preparation of this report and prepared and presented him for his generic deposition.⁴³

⁴¹ Ex. 14 - Deposition of Dr. McCorvey (1-7-12).

⁴² Ex. 15 - Deposition of Dr. Clapp (6-8-12).

⁴³ Ex. 16 - Deposition of Dr. Goldsmith (4-11-12).

(vi) Administrative / Miscellaneous Duties

- ***Plaintiff Fact Sheets***

Lead Counsel worked with defense counsel to produce an agreed Plaintiff Fact Sheet. This document was completed by every MDL plaintiff in lieu of traditional written discovery. Littlepage also created, and circulated, an outline to assist lawyers in their discussions with plaintiffs about this document. In early 2005, Lead Counsel created a check list for filing the fact sheets to ensure that every MDL Lawyer effectively served the completed forms.⁴⁴

- ***Monday Conference calls***

To ensure that MDL lawyers were always updated on litigation developments, the PSC held conference calls almost every Monday. The first call of the day was for PSC members only and the second call was for all Governing Committee members or active HRT lawyers. The Governing Committee was a group of lawyers who had committed time, money or resources to the litigation and thus earned “a seat at the table” for strategy discussions. Sometimes Lead Counsel would circulate an agenda for the Monday conference calls ahead of time.⁴⁵ At other times, she would just go through the pending issues and encourage discussion. These calls were scheduled to last an hour each, but they varied in length. The Monday calls were an effective and efficient method of communication and provided an avenue for weekly brainstorming.

- ***Emails to Prempro Counsel List Serve***

In HRT, plaintiff’s counsel had two comprehensive list serves; one for the PSC and one for all of the active lawyers in the litigation. These list serves were used by

⁴⁴ Ex. 17 - Checklist for serving Plaintiff’s Fact Sheets, 3-05.

⁴⁵ Ex. 18 - Example of agenda for Monday conference call, 4-19-04.

MDL lawyer to convey information, ask questions or brainstorm an idea with a wide range of lawyers efficiently and quickly. It was not uncommon for Lead Counsel to send and receive emails from these List Serves dozens of times per day.

- ***Service Lists***

Lead Counsel and her office maintained and consistently updated service lists for various groups of MDL lawyers in order to expedite the transfer of information. Since the litigation started before ECF filing, it was a constant struggle to have correct contact information for all MDL counsel. When the MDL court would enter an order that impacted a number of plaintiffs (such as a new PPO 9 order selecting 100-200 plaintiffs for case specific discovery), Lead Counsel's office would have to look up each plaintiff on Pacer, verify that they had correct contact information for the plaintiff's counsel and then forward the court's order or instructions to all applicable counsel.

- ***Compulsory Forms***

Littlepage created a series of forms for each law firm to sign. For example, every firm had to sign a Case Assessment Form, before the implementation of PPO 5, in order to share work product.⁴⁶ Every lawyer, paralegal, law clerk and generic expert also had to sign an Undertaking, swearing to be bound by the Court's confidentiality order, before being allowed to review documents produced in the litigation.⁴⁷ Littlepage kept track of those executed materials⁴⁸ and filed them, on a periodic basis, with the

⁴⁶ Ex. 19 - Case Assessment Form.

⁴⁷ Ex. 20 - Undertaking form.

⁴⁸ Ex. 21 - List of all lawyers who signed Undertaking or Case Assessment Form, 9-28-04;
Ex. 22 - List of all lawyers who signed Undertaking or Case Assessment Form, 3-25-09.

court.⁴⁹ Littlepage and her staff were also responsible for making sure every law firm signed in at each HRT meeting.⁵⁰

- ***Accounting***

Over the course of the litigation, three different people operated as the treasurer or accountant for the litigation.⁵¹ Regardless of who was writing the checks, Lead Counsel reviewed and approved the common benefit expenses, provided updates to the PSC as to the litigation's expenditures and consulted with the HRT treasurer on a regular basis on accounting issues.

- ***Agents of Service***

Lead Counsel and her office created cheat sheets which provided the correct agent of service for every defendant and updated those lists over time as the defendants designated new agents.⁵²

(vii) HT Meetings

- ***Group Meetings:***

In the hormone therapy litigation, the leadership arranged group meetings several times each year to keep all involved lawyers updated. These meetings were held in various parts of the country to encourage higher participation.

Lead Counsel attended each and every HRT meeting including Orlando (Feb 2004); Dallas (March 1-2, 2004); Washington, DC (April 1, 2004); Portland (May 2004);

⁴⁹ See, for example, Ex. 23 – 6-1-04-Filing of Undertakings; Ex. 24 - 9-20-04-Filing of Undertakings; Ex. 25 - 5-16-06 – Filing of Undertakings.

⁵⁰ Ex. 26 - List of Attendees for Dallas Meeting (3-04) with update on Case Assessment form confirmations.

⁵¹ Rich Lewis, Tobias Millrood and Ralph Cloar.

⁵² Ex. 27 - Agent of Service list, 12-04.

Las Vegas (Sept 2004); New Orleans (Dec 11-14, 2004); Portland (Feb 9-10, 2005); Philadelphia (April 2005); Portland (May 2005); Sunriver (Nov 9-11, 2005); Las Vegas (Jan 2-3, 2006); Las Vegas (November 15-16, 2006);⁵³ Portland (March 26-29, 2007);⁵⁴ Atlanta (June 21-22, 2007);⁵⁵ Little Rock (March 2008);⁵⁶ Philadelphia (May 13-15, 2008); Las Vegas (Sept 10, 2008); Phoenix (January 22-23, 2009);⁵⁷ Philadelphia (March 2009); Sunriver (June 1-5, 2009); Houston (March 22-24, 2010);⁵⁸ Sunriver (March 28-31, 2011)⁵⁹ and Dallas (June 2013).

For most of the meetings, Littlepage was responsible for creating and issuing the invitations to the meeting,⁶⁰ arranging hotel room blocks as well as conference rooms and catering for the events,⁶¹ creating the agendas, securing speakers for each topic and following up with attendees to ensure attendance.⁶² Littlepage also prepared and presented on multiple topics at each meeting: speaking on some occasions as many as four or five times.⁶³ In addition, Littlepage created update CDs (which included copies of pleadings, documents, trial transcripts and other materials not yet on the HT litigation

⁵³ Ex. 28 - Agenda for November 15-16, 2006 meeting in Las Vegas, NV.

⁵⁴ Ex. 29 - Agenda for March 26-29, 2007 meeting in Portland, Oregon: *Walking through an HT Trial*.

⁵⁵ Ex. 30 - Agenda for June 21-22, 2007 meeting in Atlanta, Georgia: *Deposition Preparation*.

⁵⁶ Ex. 31 - Agenda for March 30, 2008 meeting in Little Rock, AR

⁵⁷ Ex. 32 - Agenda for January 22-23, 2009 meeting in Phoenix, Arizona.

⁵⁸ Ex. 33 - Agenda for March 22-24, 2010 meeting in Houston, TX

⁵⁹ Ex. 34 - Agenda for March 28-31, 2011 meeting in Sunriver, Oregon.

⁶⁰ See for example, Ex. 35 - Invitation to Atlanta meeting (6-07); Ex. 36 - Invitation to Las Vegas meeting (9-08)

⁶¹ See for example, Ex. 37 - Hotel room block for Atlanta meeting (6-07).

⁶² Ex. 38 - Grid of lawyers attending New Orleans conference

⁶³ See, for example, Ex. 28 - Agenda for November 15-16, 2006 meeting in Las Vegas, NV; Ex. 29 - Agenda for March 26-29, 2007 meeting in Portland, Oregon: *Walking Through an HT Trial*; Ex. 30 - Agenda for June 21-22, 2007 meeting in Atlanta, Georgia: *Deposition Preparation*; Ex. 32 - Agenda for January 22-23, 2009 meeting in Phoenix, Arizona; Ex. 33 - Agenda for March 22-24, 2010 meeting in Houston, TX; Ex. 34 - Agenda for March 28-31, 2011 meeting in Sunriver, Oregon

hard drive) for law firms to take home from the HRT meetings. The CDs were provided to attendees free of charge.

- ***PSC Meetings***

The MDL court scheduled regular status conferences in Little Rock. Littlepage often arranged PSC and Governing Committee meetings for the day before the status conference so that leadership could meet on a regular basis. Littlepage would typically prepare PowerPoint presentations for these meetings and provide comprehensive updates to the group. For example, in 2005 alone, Littlepage arranged PSC meetings in Little Rock for January, March, April, June, July, Sept and November.

- ***Legal Convention Meetings:***

The HRT lawyers would also schedule meetings to coordinate with legal conventions and Littlepage attended and presented at those meetings. In addition, Littlepage was routinely asked to speak at legal conventions about the Hormone Therapy litigation.

(viii) Companion Litigations

- ***State Court Litigations***

In the HRT litigation, there was surprising coordination between the various state court litigations and the MDL. There were four centers of state court activity: Philadelphia, New Jersey, New York and Nevada. Tobias Millrood was liaison counsel for the Philadelphia litigation and led the charge in that state. In New Jersey, Littlepage was appointed co-lead counsel for the New Jersey state court litigation by Judge

Higbee in June of 2005.⁶⁴ This appointment necessitated Littlepage going to New Jersey on a regular basis for several years to attend the New Jersey status conferences. Littlepage also helped draft discovery requests, argued discovery motions and reviewed materials produced by defendants in the New Jersey litigation. Ms. Littlepage was also lead trial counsel for the only case that went to trial in New Jersey, *Deutsch v. Wyeth*.

For the New York state court litigation, there were several liaison counsel over the years. Littlepage reviewed and provided edits to the proposed CMOs as well as the proposed medical authorizations and plaintiff's fact sheet. Littlepage also reviewed the proposed response to the summary judgment motion filed on statute of limitations grounds, the key substantive issue dealt with by Judge Martin Shulman (coordinating NY judge). She presented to the New York court at his education / science day hearing.

Peter Wetherall led the Nevada litigation. Littlepage was trial counsel for every Nevada state court case before 2012 and argued multiple days of pretrial hearings on summary judgment and *in limine* motions before the two coordinating state court judges in Nevada.

- ***Attorney General Litigations***

A number of state attorney generals expressed interest in pursuing litigation against Wyeth for deceptive marketing in their respective states. Many of those states do not (or cannot) retain private counsel but prosecute such claims in-house. However, to evaluate the viability of such a claim, the attorney generals wanted information about the litigation. Littlepage thus flew all over the country to meet with state attorney

⁶⁴ Ex. 39 - Order appointing Z. Littlepage as co-lead counsel, 6-17-05.

generals and their staff to provide the requested information including Nevada (Sept 2008);⁶⁵ Utah (November 2008); Arkansas (Jan 2009); Arizona and Oregon (February 2009).

(ix) Pleadings

In the past ten years, over 3,240 pleadings were filed on the *In re Prempro* MDL 1507 docket. Lead counsel read every pleading filed in the case. Mr. Erik Walker, who headed the law and briefing committee, is a superior legal researcher and writer to Ms. Littlepage. He took the laboring oar on the litigation briefing. Ms. Littlepage drafted the simpler pleadings (motions to compel, discovery issues etc.) as well as edited and worked in partnership with Mr. Walker on the more complex motions. Lead Counsel's office took on the responsibility of filing the majority of briefs in the litigation. This is not an insignificant responsibility as it involves collecting, tabulating, organizing and uploading sometimes hundreds of exhibits to accompany a single brief. Littlepage thus drafted, reviewed, edited or assisted in the drafting of, virtually every pleading filed by the plaintiffs.

- *Daubert Briefs*

Many of the *Daubert* briefs in the MDL court were collaborative efforts between Mr. Walker, Ms. Littlepage and others. Ms. Littlepage did draft, in their entirety, the lengthy opposition briefs to Wyeth's *Daubert* challenge on short term lobular cases as well as Her2Neu positive cases.⁶⁶

⁶⁵ The Nevada attorney general did pursue a case using private counsel (including Peter Wetherall, Zoe Littlepage and Rainey Booth). That case is still pending.

⁶⁶ The plaintiff's Her2Neu opposition brief, filed July 6, 2011, was 79 pages. The short term lobular brief, filed February 10, 2012, was 107 pages.

- **Agendas**

Before each status conference, Lead counsel reviewed the pleadings, contacted all lawyers with pending matters and generated a comprehensive agenda for filing with the MDL Court.⁶⁷ The agendas were filed with the Court the Monday before the Friday status conference.

- **Drafts for Pretrial Motions / Responses**

Lead Counsel kept – and consistently updated – a library of motions and opposition briefs on every topic encountered during pretrial (*Daubert* issues, motions *in limine*, summary judgment etc.). Copies of these documents were provided to MDL lawyers. Lead Counsel and her office also consistently assisted with providing exhibits or materials needed for any pretrial motion.

(x) Pretrial Work / Hearings

- **Status Conferences**

The MDL Court held regular status conferences, often every month. Except when Lead Counsel was in trial or on vacation, she attended every status conference and presented issues for the Court on behalf of the plaintiffs. About a year into the litigation, Mr. Walker (head of the HT Litigation’s law and briefing committing) also started arguing motions and, from that time on, Mr. Walker and Ms. Littlepage were responsible for virtually every argument at the MDL status conferences.⁶⁸

⁶⁷ Ex. 40 - Agenda for June 2008 Status Conference, 6-16-08.

⁶⁸ Ex. 41 - MDL Status Conference hearing transcript, 10-21-04 at p. 46 (Ms. Littlepage introduced “Mr. Eric (sic) Walker from the legal committee” to handle a pending argument).

- ***Daubert / Frye Hearings***

Lead Counsel was present, participated in, or helped prepare for every *Daubert* hearing (except two) in the MDL court⁶⁹ as well as the global *Frye* hearings in Philadelphia. Littlepage presented witnesses and cross-examined defense witnesses in the Her2Neu *Daubert* hearing in February of 2012.

- ***Educational / Science Presentations***

Littlepage participated in multiple education and science day presentations to the coordinating state court litigations and transferor federal courts. In June 2006, Littlepage handled the Reno, Nevada science day presentation before coordinating Judge Robert Perry. In September of 2005, Littlepage did the science day presentation for Judge Higbee, coordinating judge of the New Jersey state court litigation. Littlepage flew to New York in December of 2006 to present at the New York state court science day presentation before coordinating judge Martin Shulman.⁷⁰ In May of 2008, Littlepage handled the science day presentation to the Las Vegas coordinating judge.

- ***Pretrial Hearings***

Ms. Littlepage repeatedly presented and argued at the MDL pretrial hearings on motions *in limine* issues.

⁶⁹ Reeves (7-13-06 and 7-14-06); Scroggin (11-5-07 and 11-6-07); Short Term Use Ductal Cases, Puerto Rico hearing (11-10); Her2Neu (2-14-12 and 2-15-12). Lead Counsel did not attend the second Short Term Use Ductal *Daubert* hearing in January of 2011 or the Estrogen Only *Daubert* hearing.

⁷⁰ Littlepage flew to New York on December 13, 2006, met with the group of lawyers prosecuting New York state court cases and presented at the science day hearing on December 14, 2006. She flew out that evening to Little Rock, Arkansas in order to attend the MDL status hearing on December 15, 2006.

- ***Catalogue of Pretrial Orders***

Lead Counsel catalogued all HRT federal and state court pretrial orders, created grids of those orders, summarized the findings in concise documents⁷¹ and provided copies of these materials to all MDL counsel. The CD provided to MDL counsel allowed them to respond to issues raised in their individual cases with nationwide data and copies of the actual orders entered by the dozens of judges. Littlepage gave every MDL lawyer a summary (as well as an actual copy of each cited order) on every topic raised by the defendants in summary judgment and *Daubert* motions as well as motions in limine.

⁷¹ For example, see Ex. 42 - Listing of all orders denying challenges to Plaintiff's case specific experts.

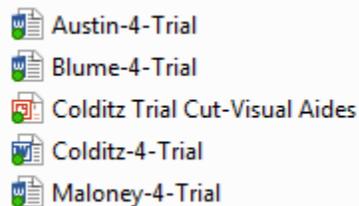
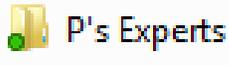
Authenticity of exhibits	P did not sue her Drs
Bifurcate Malice-Punitive	Personal Anecdotes-P's MIL
Birth Control- P's MIL	Pfizer as Def
Call Notes	Post WHI Labels
Causality Assessments	Pregnant Mare's Urine
Causation opinions from treaters	Prejudicial Documents
Corp Rep (Comment on failure to call)	Prescriber Depos-Order of questioning
Daubert - Frye motions	Prescription drugs as possible cause-P's MIL
Depos-Organized not sequentially	Product ID- Provera
Design Defect - Natural Progesterone	Profit Margin
Direct to Patient Warnings	Provest
Endometrial Cancer	Punitive
Excess Breast cancers	Punitive-Amend to Add
Failed to sue prescriber	Relative risk for other activities, drugs
Foreign Labels	Remand to state court
Fraud	Sackett
Fraud on FDA	Sales Reps - M2 Stop Depos
GAO Report	Sales Reps-did not call on Prescriber
Ghost writing	Sales Trends
IMS data 4 Prescriber	Smoking
Initiation-P's MIL	Statute of Limitations
Learned Intermediary	Toxins
Marketing-DTC Ads	Verdicts
MSDS Sheet	Warnings-Adequacy of warnings
Opening statement (scope)	Warranty Claims
Orders re M2 Stay	Wealth

For expert challenges, Lead Counsel further broke down the data to summarize all orders on every different type of expert in the litigation:



- ***Deposition Designations***

Lead Counsel created a library of deposition designations and updated the designation cuts regularly. The library included designations for plaintiff's expert depositions, Wyeth and Upjohn / Pfizer corporate representatives as well as third party witnesses. The designations were provided to every MDL lawyer for use or adaptation in their pretrial designations.



Upjohn Witnesses

-  Carlson, Rodney-4-Trial
-  Day, Kathleen-4-Trial
-  Demke-4-Trial
-  Gieseke, Donald-4-Trial
-  Philander-4-Trial-LONG
-  Philander-4-Trial-SHORT
-  Schoenfeld-4-Trial
-  ZBL-Summary of Pfizer depositions

Wyeth Witnesses

-  1-List of exhibits used in depo designations
-  Allen-4-Cross designations
-  Cobb-4-Trial
-  DeAngelo-4-Trial
-  Deitch-4-Trial
-  Dey-4-Trial
-  Durocher-4-Trial
-  Essner-4-Trial
-  Fisher-4-Trial
-  Hendricks-4-Trial
-  Kusiak-4-Trial
-  Marder-4-Trial
-  Mitrione-4-Trial
-  Payne-4-Trial
-  Pickar-4-Trial-MUST ADAPT TO FACTS OF CASE
-  Poussot-4-Trial
-  Rosser-4-Trial
-  Victoria-4-Trial-MUST ADAPT TO FACTS OF CASE

- **PPO 9 Issues**

In May of 2007, the MDL court entered PPO 9. This Practice & Procedure order permitted limited case specific discovery on specifically selected cases, including depositions of the plaintiff, her spouse, prescribing physicians, treating physicians and

relevant sales representatives.⁷² An MDL plaintiff had to be selected for PPO 9 discovery, and complete a subset of that discovery, before she was eligible for remand for trial. Once PPO 9 discovery started, Lead Counsel developed a unique set of discovery requests for each PPO 9 plaintiff to serve on the defendants. This discovery was provided to every MDL lawyer with a PPO 9 plaintiff and was updated regularly.⁷³ Lead Counsel also developed a different set of discovery requests to be served once the Plaintiff was remanded back to her transferor court.

(xi) Trial Preparation and Trials

- *Mock Trials*

Littlepage participated in every mock trial conducted by the PSC and generated the confidentiality agreements signed by each mock juror.⁷⁴

- *Trials:*

There were 31 trials in the Hormone Therapy Litigation.⁷⁵ Lead counsel led, or played a significant role, in 15 of the 31 trials. She tried two cases before the MDL Court in Little Rock, five cases in Philadelphia, PA, three cases in Nevada (two in Reno and one in Las Vegas), two cases in Texas as well as cases in New Jersey, Alexandria, VA, and Chicago, IL.

⁷² Doc. No. 1530, PPO 9 Order (5-8-07).

⁷³ Ex. 43 - Form set of PPO 9 discovery for Wyeth; Ex. 44 - Form set of PPO 9 discovery requests for Upjohn / Pfizer.

⁷⁴ Ex. 45 - Confidentiality agreement signed by each mock juror, 7-06.

⁷⁵ For this calculation, Lead Counsel counted every case where the trial team moved to the jurisdiction and / or conducted at least pretrial hearings or opening statements before the case was resolved. Counsel did not count cases prepared for trial but which settled in advance of trial.

Tried to Verdict		Settled during trial	
1	Reeves	1	McCreary
2	Daniel	2	Deutsch
3	Rowatt	3	Woods
4	Barton	4	Zahn
5	Kendall	5	Chouefati
6	Singleton	6	Schutter
7	Henry		
8	Torkie-Tork		
9	Welch		

In the course of these trials, Lead Counsel put on the stand (or assisted in the preparation for testimony of) 17 different plaintiff experts, 19 different defendant experts and more than a half dozen corporate representatives.

- ***Assisting Trial Teams***

On multiple occasions, Littlepage met with and helped trial teams prepare for trial even though she had no fee interest in the case at issue. In December of 2010, Littlepage forfeited some of her Christmas vacation (leaving her children with her mother) and flew to Puerto Rico to assist a trial team. Mike Robb details Littlepage's help on this trial, as well as numerous other matters, in his declaration.⁷⁶ In November of 2011, the Weisbrod trial team came to Littlepage's office and Littlepage helped the team prepare for its upcoming trial and provided copies of pertinent trial materials. Littlepage also went to Alabama to help train the Beasley Allen HRT teams.

⁷⁶ Ex. 46 - Declaration of Mike Robb, 10-10-13.

- **Powerpoint Presentations**

Over ten years, Littlepage created thousands of PowerPoint slides for hearings, trials, depositions and HRT meetings. The slides spanned every issue and theme in the litigation. These materials were freely shared with MDL lawyers and many of Lead Counsel's slides were used by other MDL lawyers for educational / science day hearings, pretrial motions as well as during trial.

(xii) Appeals

Lead counsel won five (and lost four) of her nine trial verdicts. Defendants appealed every case won by the plaintiffs. Littlepage assisted with writing the post-trial briefing and appeals for four of her wins and argued the *Rowatt* case before the Nevada Supreme Court. The results for Littlepage's trial verdicts are:

	Jury Verdict	Decision on Appeal
Daniel	\$1.5 Million – Compensatory \$8.6 Million - Punitive	Appellate court affirmed jury verdict Awaiting decision re: punitives from PA Supreme Court
Rowatt	<i>3 plaintiffs tried together</i> \$12 million – Compensatory \$31 million – Punitive	Nevada Supreme Court affirmed remitted verdict US Supreme Court denied cert
Scofield	\$10.5 million - Compensatory \$33 million - Punitive	
Forrester	\$12.5 million- Compensatory \$35 million – Punitive	
Barton	\$3.74 million – Compensatory \$75 million – Punitive	Appellate court affirmed remitted verdict
Kendall	\$6.3 million - Compensatory \$28 million – Punitive	Appellate court overturned remittitur and affirmed jury verdict
Singleton	\$3.45 million - Compensatory \$6 million – Punitive	Appellate court affirmed jury verdict

(xiii) Settlements

Lead counsel effectuated global settlements with some of the smaller defendants where all of the defendants' cases were resolved at once. But, in the HRT litigation, global settlements were the exception not the norm. Although Littlepage tried on a number of occasions to get a global resolution with Wyeth and Pfizer / Upjohn, it quickly became apparent that HRT lawyers had different values in mind for their cases. In the end, that is exactly what happened. The larger defendants evaluated each inventory separately and paid a disparity range of per-case-average values depending on a number of factors.

(xiv) Financial Commitment to the Litigation

- ***Generally***

When the HRT litigation started, Lead Counsel had seven associates, 14 staff members and two offices. Then the HRT litigation dragged on for ten years. The litigation required significant financial contributions from Lead Counsel. Littlepage could not keep up. She first reduced her expenses by laying off lawyers and staff. She then shut down her second office. In 2006, she laid off even more lawyers and staff and moved into a smaller office space. In 2008, Lead Counsel moved again, bringing the last of the firm into her own home. She set up a make-shift office for herself and her sole remaining associate and one legal assistant in her living room and an upstairs den.

At the end of 2008, Littlepage took an even bigger step. She entered into a joint venture agreement with another law firm for that firm to handle the day-to-day management of her HRT cases and fund the cases. This agreement allowed Lead

Counsel to continue to concentrate on the common benefit issues of the litigation but reduced her potential financial recovery.

- ***Contributions & Expenses***

In the hormone therapy litigation, law firms financially supported the litigation in two ways: through capital contributions (i.e. money given directly to the HRT Litigation Fund for payment of common benefit expenses such as generic expert fees, court reporters, hearing transcripts etc.) and through held expenses (i.e. money spent by the law firm for the firm's expenses incurred while conducting common benefit work including travel expenses. These expenses were not immediately reimbursed by the HRT Litigation Fund but were, rather, held until the end of the litigation and submitted then for reimbursement). Littlepage was in the top group of financial supporters for the litigation – on both types of contributions– even though her firm was one of the smaller and least funded law firms in the litigation and such commitments were very difficult.

- ***Capital contributions to the Litigation***

Forty eight (48) law firms contributed capital contributions to finance the common benefit work. Littlepage made capital contributions of \$235,000, making the firm one of only 7 law firms that contributed more than \$200,000.⁷⁷

- ***Held Expenses***

Thirty (30) law firms submitted for held expense reimbursement. The held expenses total \$5,039,519.⁷⁸ Littlepage is the highest applicant firm with a total of

⁷⁷ Ex. 47 - Summary sheet of all capital contributions

⁷⁸ Ex. 48 - Summary sheet of all held expenses applicant firms and their respective total submissions for held expense reimbursement.

\$1,032,056. Despite being the smallest law firm involved in the project, Littlepage contributed the most money of any other law firm.

- ***Contributions to the HT Litigation Fund***

By her calculations, Lead Counsel contributed more than \$17 million to the HT Litigation Fund from the settlement of her own clients and trial verdicts. And this does not take into account the value added to every plaintiff's case through Lead Counsel's efforts.

(xv) Additional Factors for Assessing Commitment to the Litigation

Lead Counsel also reviewed the factors discussed in the case law for assessing commitment to a litigation.

- ***Length of time in the litigation***

For every lawyer involved in the litigation, the sacrifices were great. Opposing counsel was tenacious and the litigation went on for a long time. Littlepage had to travel almost every week and spent more than 12 months away from her home just in HRT trials. When she started as Lead Counsel, her son was a toddler. This past year he celebrated his Bar Mitzvah.

The Littlepage Firm was there at the start of the litigation. Littlepage was the first lawyer into the Wyeth depository. And, although all of the CBFC - and most of the PSC members - settled months to over a year before Lead Counsel, she remained until the bitter end. Lead Counsel was the very last of the CBFC group to settle.

- ***Money risked***

Lead Counsel risked way more than she could comfortably gamble on the HRT litigation. Maintaining her law practice year after year with little or no income took a toll. Littlepage ended up having to lay off every lawyer (except one) and moving her practice into her home.

- ***Preclusion of other opportunities***

Not only did Lead Counsel turn down opportunities in other ligations, she also paid a hefty penalty to another firm to manage her cases on a daily basis so she could remain dedicated to the common benefit efforts. While other PSC and CBFC firms settled early, or got involved in a number of other litigations during the ten years, Lead Counsel did not. And her law firm (even as it reduced in size over time) undertook no other work or projects but HRT.

- ***Depth / Extent of Participation***

As is shown by her time submissions, Lead Counsel worked long, hard days on this litigation. Every MDL lawyer knew they could call her – day or night, weekday or weekend – and she would respond, provide information or assist in any way possible.

- ***Importance / Usefulness of Work***

Lead Counsel did, helped or coordinated the work accomplished at every level of the inverted pyramid. There was no task that she shirked, big or small.

- ***Actual v. Observation Work***

Lead Counsel participated and actually did a large number of tasks herself. And she also took it upon herself to review depositions, pleadings, orders and the work product of others so she could be a true hub of information for the litigation.

3. Common Benefit Hours Submission

Because of her unique role, the MDL Court ordered that Littlepage's time would be considered "presumptively compensable."⁷⁹ Nevertheless, Lead Counsel still fully documented and detailed every .01 of an hour spent on common benefit work. In total, over the length of the litigation, The Littlepage Firm recorded more than 77,500 common benefit hours.⁸⁰

In August of 2013, Lead Counsel received a copy of her firm's audit and she fully responded – within a few days - to every issue raised.⁸¹ Littlepage uploaded a number of documents to her DropBox folder to address specific matters. Since that time, Littlepage has requested – on **FIVE** occasions – that the CBFC provide some explanation for why The Littlepage Firm's time was cut or contested by the CBFC and what issues remain in dispute.⁸² Littlepage has repeatedly asked for the following:

(a) Remaining Deficiencies after Response to Audit

Since Lead Counsel responded to every issue raised, she asked the CBFC to "detail any remaining issues raised by the audit for which the CBFC believes additional documentation is still needed?" and for "detailed feedback from the CBFC" on "whether any deficiencies remain."⁸³

(b) Calculations that Form the Basis for CBFC Vote

⁷⁹ Doc. No. 569, PPO 5 Order (3-30-05) at p. 10.

⁸⁰ Ex. 49 - Littlepage Firm Annual Spreadsheet.

⁸¹ Ex. 50 - Littlepage's response to CBFC audit (designated as confidential).

⁸² Ex. 51 - 10-6-13 correspondence from Z. Littlepage to CBFC requesting basis of CBFC allocation vote for her law firm; Ex. 52 - 10-8-13 correspondence from Z. Littlepage to CBFC requesting explanation and basis for fee allocation; Ex. 53 - 10-14-13 correspondence from Z. Littlepage requesting explanation for CBFC's vote; Ex. 54 - 10-27-13 correspondence from Z. Littlepage asking for explanation for allocation recommendation; Ex. 55 - 11-6-13 correspondence from Z. Littlepage to CBFC requesting explanation for statements in pleading.

⁸³ Ex. 52 - 10-8-13 correspondence from Z. Littlepage to CBFC requesting explanation and basis for fee allocation; Ex. 53 - 10-14-13 correspondence from Z. Littlepage requesting explanation for CBFC's vote; Ex. 54 - 10-27-13 correspondence from Z. Littlepage asking for explanation for allocation recommendation; Ex. 55 - 11-6-13 correspondence from Z. Littlepage to CBFC requesting explanation for statements in pleading.

The CBFC vote reduced Lead Counsel's submitted percentage of time dramatically, Lead Counsel thus noted that "After reviewing our revised submissions and additional documentation, the CBFC voted to cut our time dramatically. Obviously, before voting, each member of the CBFC had to first calculate the number of hours they were assigning / approving for each lawyer at the two firms (The Littlepage Firm and Rainey C. Booth P.A.). How many hours did the CBFC approve for me and everyone else in my law firm as well as Mr. Booth? Please provide me with all assessments / calculations relating to reduction of any hours as well as a detailed explanation for such reductions." As Littlepage stated, "This is not a trial-by-ambush process and we are thus requesting a detailed explanation for the CBFC's actions. We honestly have no idea what is the basis for the CBFC's voted allocation."⁸⁴

(c) Guidelines applied

Lead Counsel also asked that "for my submission, please detail what guidelines were applied and confirm that such guidelines were uniformly and consistently applied to all other applicant firms."⁸⁵

(d) Value Calculation

Littlepage confirmed that the "CBFC's vote for each law firm was based upon the number of hours as well as the value or contribution of those hours to the common benefit of all plaintiffs." She thus asked that the Fee Committee "explain the assessment made by the CBFC as to whether The Littlepage Firm and Rainey C. Booth P.A.'s time was valuable to the common benefit efforts of the litigation? If any discount in our time was based upon an assertion that our time was not valuable, please detail the basis for such an assessment?"⁸⁶

The CBFC has steadfastly refused to provide the requested information. Instead, Lead Counsel was first told to refer to the audit for her law firm.⁸⁷ She did. But even after she provided a lengthy and detailed explanation to every issue raised by the audit and uploaded thousands of extra pages of back-up documentation, support materials, declarations and additional paperwork, the CBFC never articulated its basis for reducing her time.⁸⁸ When Lead Counsel repeated her request for an explanation of any

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Ex. 52 - 10-8-13 correspondence from T. Millrood to refer to audit for basis of CBFC vote.

⁸⁸ Ex. 50 - Littlepage detailed response to CBFC audit (designated confidential).

remaining deficiencies,⁸⁹ the CBFC asked her to address only five specific topics.⁹⁰

Three issues related to Littlepage's time and the rest to her expenses:

- (1) **Settlements:** The CBFC requested a listing of Lead Counsel's settlements before 2012 (a request not made of any other lawyer in the litigation).⁹¹ Even though she questioned the relevance of information about confidential settlements, Littlepage provided the data anyway.⁹²
- (2) **Post-2010 Trial Work:** The CBFC asked for a more detailed submission for some of Lead Counsel's post-2010 trial work.⁹³ Since this request involved a significant amount of work and Lead Counsel has been in trial in New York City from the first week of October, 2013 until today, Littlepage questioned the basis for the request.⁹⁴ As Littlepage asked: "Is the CBFC going to consider the post 2010 Bellwether time? Or is this merely another exercise where I put together materials solely so you all can vote to reject them?" But, in order to avoid any argument about lack of compliance, Lead Counsel took time from her trial preparation, put together the requested materials and uploaded the documents to her Drop Box folder.⁹⁵
- (3) **July and October 2011:** The CBFC also requested additional back-up materials for "two calendar periods (a) October 14, 2011 to October 30, 2011 and (b) July 1-August 3, 2011." Lead Counsel thus took time from her trial to create metadata screen shots of her laptop for the requested time frames.⁹⁶ She also uploaded dozens and dozens of emails sent by Lead Counsel to the Prempro List Serve in the designated periods.⁹⁷ As Littlepage noted, the "uploaded email and laptop metadata proof" proved that she had under-billed for her time. She actually worked on several days when Littlepage had recorded no time on her time sheet as she was on vacation. Littlepage asked for "permission to go back and make those corrections and add the

⁸⁹ Ex. 52 - 10-8-13 correspondence from Z. Littlepage to CBFC requesting explanation and basis for fee allocation.

⁹⁰ Ex. 56 - 10-9-13 correspondence from M. Williams requesting first five categories of back-up data.

⁹¹ Ex. 57- 10-9-13 correspondence from Mike Williams re: Requests 1-5 at Request # 3.

⁹² Ex. 58 - 10-11-13 correspondence from Z. Littlepage questioning relevance of settlement data but providing listing of such.

⁹³ Ex. 57 - 10-9-13 correspondence from Mike Williams re: Requests 1-5 at Request # 4.

⁹⁴ Ex. 58 - 10-11-13 correspondence from Z. Littlepage.

⁹⁵ Ex. 59 - 10-28-13 correspondence showing uploading of post-2010 Bellwether time; Ex. 59 - 10-29-13 correspondence confirming final uploading of post-2010 Bellwether time.

⁹⁶ Ex. 60 - 10-19-13 correspondence from Z. Littlepage to CBFC re: uploading metadata for specific time frames; Ex. 61 - Metadata screen shots for July 2011; Ex. 62 - Metadata screen shots for October 2011.

⁹⁷ Ex. 63 - 10-20-13 correspondence from Z. Littlepage to CBFC re: uploading copies of dozens of emails from July and October of 2011.

undeniably common benefit time that is proven up by the requested materials.”⁹⁸ She received no response from the CBFC.

For example, Lead Counsel recorded working no time on July 1, 2011:⁹⁹

Littlepage Time Submission

1312	07/01/11	ON VACATION	
------	----------	-------------	--

But, review of Littlepage’s emails to the List Serve group as well as the metadata from her computer confirms common benefit work all through the day on July 1, 2011 (from 8:41AM to after 11PM).

Littlepage Emails¹⁰⁰

-  7-1-11-ZBL-Brown depo
-  7-1-11-ZBL-Pfizer depo cuts1
-  7-1-11-ZBL-Reply brief
-  7-1-11-ZBL-Short term use briefing
-  7-1-11-ZBL-Update on Austin depo

Littlepage Metadata

7/1/2011 9:41:08 AM	 6-30-11-Order-Granting M2 Correct and Amend the Record-Kuhn-Davi...
7/1/2011 10:06:50 PM	 6-24-11-Status conference-PPO11, Remanding PPO9 Wave 4, Getting ...
7/1/2011 9:58:57 PM	 7-1-11-P-Response to Supplemental Brief re Misrepresentations.pd...

Similarly, Lead Counsel did not record any time for October 19, 2011. Yet, her laptop metadata and emails show that the HRT litigation did – in fact – interfere with her vacation on that day:

Littlepage Time Submission

⁹⁸

Id.

⁹⁹

Ex. 64- Littlepage time submission for 2011 (designated confidential)

¹⁰⁰

Ex. 65 - 7-1-11 collection of emails from Z. Littlepage.

1994	10/18/11	ON VACATION		
1995	10/19/11	ON VACATION		
1996	10/20/11	ON VACATION		

Littlepage Emails¹⁰¹

 10-19-11-ZBL-Acs

Littlepage Metadata

10/19/2011 7:13:33 PM	 10-19-11-P-R2 Filing Deboard order.pdf
10/19/2011 7:16:24 PM	 Reference Manual on Scientific Evidence Third Edition.PDF
Folder: C:\1- Prempro\1 - Filed Cases\1M-Meisenzahl	
10/19/2011 7:19:09 PM	 10-13-11-Order-Denying M2 Exclude.pdf
	 10-13-11-Order-Denying SJ motions.pdf
	 10-13-11-Order-Motions in Limine.pdf
10/19/2011 7:30:18 PM	 10-19-11-Wyeth-Objections to Allen Testimony.pdf
10/19/2011 9:20:19 PM	 Endometriosis-Morgan-Caused by Tamoxifen therapy .pdf
10/19/2011 9:21:56 PM	 Naftalis Generic Report-Short Term Use and Lobular - :
10/19/2011 10:50:17 PM	 Zahl-2011.pdf
10/19/2011 10:51:26 PM	 Ozer-Short Term use report-
10/19/2011 10:55:00 PM	 Acs, Geza-1-6-11-Kuhn-Davidson.doc

Plus, the total hours recorded for Lead Counsel for the entire dispute period - July 2011 and October 14-30, 2011 - is 220 hours. Even if the CBFC disallowed every hour in those time frames (which would be inappropriate since there is no basis for any such reduction), such a reduction would make not even a .001% change in the Littlepage Firm's submitted time.

¹⁰¹ Ex. 66 - 10-19-11 email from Z. Littlepage re: Dr. Acs.

No other law firm underwent such a review. No other law firm received as detailed an audit as Lead Counsel. No other law firm was required to upload email or metadata proof of their submitted time. No other law firm was required to reveal their settlements. But, nevertheless, Lead Counsel complied with every request.¹⁰² By October 13, 2013, the CBFC auditor confirmed that Littlepage had provided sufficient responses on the itemized issues.¹⁰³ Thus, on October 20, 2013, Ms. Littlepage wrote the CBFC that she believed she had completely answered every concern raised by the committee.¹⁰⁴ As she explained, "I believe that I have fully responded to the issues raised by the CBFC. If you are still missing anything, let me know ASAP." She received no response.

Pursuant to PPO 5, Ms. Littlepage had a meet and confer session with the CBFC. At that time, the CBFC assured her that the only remaining issue as to her time was a "request for detail on post-2010 Bellwether time."¹⁰⁵ Lead Counsel had asked the CBFC repeatedly why such additional detail was requested.¹⁰⁶ But, in order to be compliant, Lead Counsel uploaded a detailed accounting of this time to the Drop Box.¹⁰⁷

¹⁰² Ex. 57 -10-9-13 correspondence from Z. Littlepage to M. Williams responding to first round of requests; Ex. 67 -10-10-13 correspondence from Z. Littlepage to M. Williams re: C Kilgore's 1099; Ex. 58 -10-11-13 Correspondence between Z. Littlepage and CBFC re: work after 2010; Ex. 58 -10-11-13 correspondence re: CBFC's request for detailed post-2010 Bellwether time.

¹⁰³ Ex. 68 -10-13-13-Mike Williams confirms that we have answered requests 1-5.

¹⁰⁴ Ex. 63 - 10-20-13 correspondence from Z. Littlepage to CBFC.

¹⁰⁵ Ex. 69 - 10-27-13 correspondence re: remaining issues after meet and confer session between Zoe Littlepage and CBFC.

¹⁰⁶ Ex. 58 - 10-11-13 correspondence from Z. Littlepage (Ms. Littlepage stated: "I am not now - and have never - refused to answer any question from the CBFC. My reluctance is that I assume we are the only law firm being asked to turn over this information and I cannot imagine the relevance.")

¹⁰⁷ Ex. 59 - 10-28-13 correspondence showing uploading of post-2010 bellwether time; Ex. 59 - 10-29-13 correspondence confirming final uploading of post-2010 bellwether time.

Then, on October 29, 2013, the CBFC had its final conference call. Despite responding to every issue raised, despite uploading thousands of additional pages of back-up materials, despite getting declarations from people to respond to specific issues raised,¹⁰⁸ despite providing copies of emails¹⁰⁹ and Lead Counsel's computer metadata,¹¹⁰ and despite being told that there were no unanswered issues with her time, the CBFC refused to change Lead Counsel's recommended allocation. Rather, the CBFC auditor stated that he had "seen nothing that would warrant an increase in the original amount allocated" for the Littlepage Firm.¹¹¹

Since that call, Lead Counsel has again asked the CBFC to provide an explanation for its decision and to outline what issues remain unanswered.¹¹² To date, Lead Counsel has received no answer. She remains in the dark as to why the CBFC all voted for each of the voting block members to get a significantly higher allocation than their submitted time justified as well as why the CBFC continues to significantly reduce her contribution to the litigation and / or submitted time.

¹⁰⁸ Ex. 46 - Declaration of Mike Robb; Ex. 70 - Declaration of Marnie Cervenka; Ex. 71 - Declaration of Chris Hunte.

¹⁰⁹ Ex. 63 - 10-20-13 correspondence from Z. Littlepage to CBFC re: uploading copies of dozens of emails from July and October of 2011.

¹¹⁰ Ex. 60 - 10-19-13 correspondence from Z. Littlepage to CBFC re: uploading metadata for specific time frames; Ex. 61 - Metadata screen shots for July 2011; Ex. 62 - Metadata screen shots for October 2011.

¹¹¹ Ex. 72 - 10-29-13 Correspondence re: CBFC conference call and final vote including spreadsheet with comments

¹¹² Ex. 55 - 11-6-13 correspondence from Z. Littlepage to CBFC requesting explanation for statements in pleading.

B. Common Benefit Expenses

The Littlepage Firm underwent multiple rounds of reviews of its submitted held expenses. Many disputes were resolved. However, the CBFC continues to deny reimbursement of **\$ 242,700.45** of Littlepage's held expenses. Lead Counsel thus files this objection to the CBFC's recommended expense reimbursement number for The Littlepage Firm. She has divided the expenses into categories for ease of review.

(i) Work House in Little Rock

When Littlepage set up the law clerk program, the PSC needed a space for the law clerks to work in while coding the documents. Littlepage first thus rented a Work Space in downtown Little Rock. The Block II apartment cost \$900 per month and was rented from August 2004 to August 2005. Problems quickly arose. The Block II workspace had no free parking. Plus, since the law clerks often worked unusual hours (often late into the night), the female clerks were uncomfortable walking through downtown late at night to their cars. The clerks also needed more space. At the end of the lease period, the landlord notified Lead Counsel that to renew the lease would cost \$1,400 per month.¹¹³

Lead Counsel thus decided to move into a bigger and safer space. Littlepage purchased a house in a neighborhood close to town (the UAMS / Hillcrest area). This house had a large open living / dining / den area as well as multiple bedrooms. Littlepage equipped the open area with multiple desks, folding tables and work spaces for the law clerks. Two of the bedrooms were set up for Littlepage's lawyers and staff to

¹¹³ Ex. 73 - 10-3-12-Z. Littlepage provides response to expense audit.

stay in while in Little Rock and the third bedroom was arranged as a work space for Lead Counsel. This house had ample free parking and the law clerks could safely work all hours of the day and night. Z. Littlepage and R. Booth as well as their assistant lived at the house when they were in Little Rock for hearings, law clerk training programs or the MDL trials. By rough estimate, the house saved the litigation fund more than 11 weeks of hotel rooms (or over \$30,000 in hotel costs).¹¹⁴

Littlepage owned another property close to the work space. She thus used that lease as a guide. Her tenant was paying \$14.31 per square foot.¹¹⁵ Since the work house has 1,695 square feet, the monthly rent should have been \$2,021.¹¹⁶ But Littlepage only charged **\$1,600** per month (\$1,850 per month with five months of free rent at the start of the lease (August 2005 to January 2006) and one month of free rent at the end of the lease, November 2009). The CBFC has refused to pay this rental amount or the additional costs associated with this lease.¹¹⁷

When the law clerk program was shut down, Lead Counsel tried to sell the house. But the housing market had tanked. She was not able to find a buyer for anything close to the original purchase price. The house sat empty for months. Lead Counsel finally rented the house - on a month-by-month basis - to a friend of the real

¹¹⁴ Ex. 73 - 10-3-12-Z. Littlepage provides response to expense audit (Explaining that Lead Counsel and Rainey Booth and their legal assistant “lived at the house for 6-7 weeks in the summer of 2006 (throughout the Reeves pretrial and trial) which saved the Litigation Fund from having to rent more condos at the same place where the rest of the trial team stayed. [Littlepage] We did not charge the HT Litigation Fund– or either of our law firms – anything extra in rent for staying at the house. Rather it was a savings as the Fund did not have to pay for hotels or other accommodation”).

¹¹⁵ Ex. 74 - Commercial lease effective in 2005 at p. 14 (\$14.31 per square foot).

¹¹⁶ Ex. 75 - Real estate sheet on work space hour (223 North Cedar Street, Little Rock, AR).

¹¹⁷ Ex. 90 - List of additional expenses for work space.

estate agent. The tenant agreed to allow continued showings in exchange for a lower rent.¹¹⁸

Even though the PSC approved of Lead Counsel's plan to move the Work Space into the purchased house, the CBFC now retroactively voted to rescind that agreement. Today, the CBFC proposes paying only \$800 per month in rent although the committee provides no basis for such a decision. Even a quick review of comparable rental rates for that area of Little Rock (Hillcrest / 72205) confirms that houses in the 1,200- 2,000 square feet range rent for between \$1,200 and \$1,600 per month.¹¹⁹ And apartments in the area (that are less than 1,200 square feet) rent for \$1,300 per month.¹²⁰ The rent charged by Lead Counsel of \$1,600 per month is thus more than fair.

To Lead Counsel, this decision appears patently punitive. Without a doubt, if Lead Counsel had rented the Work Space from a third party, the CBFC would approve the expense. It is only because Lead Counsel owns the property that the CBFC now reneges on the PSC's agreement (years after the lease was completed).

TOTAL APPROVED BY CBFC: \$ 35,200.00

TOTAL DISPUTED BY CBFC: \$ 58,958.26

(ii) Westlaw

When Ms. Littlepage was selected as Lead Counsel, she paid for a nationwide Westlaw plan that allowed her and her associates access to case law from all across the country. This plan cost a flat monthly payment. During the litigation, Ms. Littlepage

¹¹⁸ Ex. 76 - Month by Month lease.

¹¹⁹ Ex. 77 - Listing for rental houses in 77205 area.

¹²⁰ Ex. 78 - Listing for apartments in 77205 area.

renewed and re-negotiated the plan several times but each time, there always retained a set monthly fee for the basic nationwide service.

Ms. Littlepage submitted for reimbursement of that flat monthly fee which was necessary for her to complete her tasks as Lead Counsel. She provided her monthly statements to prove the costs.¹²¹ She removed from her submission any charges above that flat monthly payment. Those charges related to individual clients and are the responsibility of that plaintiff.

A number of law firms in the litigation submitted for Westlaw or Lexis reimbursement.¹²² Not a single other law firm worked only on HRT or had overall responsibility for every research project in the litigation. Plus those firms provided the same - or less documentation - as Lead Counsel.¹²³ Yet, every law firm received full and complete reimbursement of their Westlaw / Lexis expenses by the CBFC. In contrast, the CBFC denied **ANY** reimbursement for Lead Counsel's Westlaw charges.

Even a quick review of submissions from other CBFC members for their legal research charges shows the retaliatory nature of this decision. For example, Mr. Walker's firm was approved for \$74,954.06 in itemized legal research expenses. The Littlepage Firm, who shared equal briefing responsibilities with Mr. Walker, seeks

¹²¹ Ex. 79 - Westlaw bills submitted for reimbursement.

¹²² None of these law firms worked only on the hormone therapy litigation (as Lead Counsel did) or the law firm did not consistently handle briefing responsibilities. Thus these firms did not submit their entire Westlaw bill for reimbursement.

¹²³ Ex. 80 - 9-14-13 correspondence from Z. Littlepage re: problems with expense audits at p. 3 (Beasley Allen submitted for reimbursement of Westlaw and / or Accurit expenses for many months without any receipts or bills for those expenses. Plus there was no time billed on those months for any common benefit work that would require legal research); Ex. 81 - 9-10-13 correspondence from Z. Littlepage re: additional audit issues at p. 3 (Rich Lewis of Hausfeld "submits for reimbursement of as much as \$1,500 for some months in Lexis charges but did not provide even a single Lexis receipt or bill").

reimbursement for only \$64,919.20. That fact alone shows the reasonableness of the firm’s request. In addition, The Littlepage Firm’s average monthly rate was one-sixth of the amount billed by Mr. Millrood’s firm for just one month and one-third of the amount billed for another month.¹²⁴ Cohen & Malad (another CBFC voting block firm) had hundreds of dollars for Westlaw charges approved for reimbursement even though its submission clearly showed that the law firm generated an arbitrary bill for this research as the actual legal work done was included in the firm’s overall plan.¹²⁵

TOTAL APPROVED BY CBFC: \$ 0
TOTAL DISPUTED BY CBFC: \$ 64,919.20

(iii) Travel

Despite multiple rounds of review, the CBFC still challenges many of Littlepage’s travel expenses. The Littlepage Firm has made its best efforts to provide adequate and detailed information for each submitted expense. It is now clear that the Littlepage Firm is being treated differently, and being held to a higher standard, than other applicant firms. In fact, many of Littlepage’s submissions are remarkably similar to other CBFC members’ documents. Yet those CBFC members got approved for reimbursement by their fellow voting block members while Littlepage’s expenses are denied. For example:

12/09/08	Hotels.com	Hotel for 3 nights Phoenix (reduced per PPO 5)	\$ 600.00
----------	------------	--	-----------

¹²⁴ The Littlepage Firm’s average monthly Westlaw charge is \$550.16. For October 5, 2005, Mr. Millrood’s law firm has submitted a Westlaw charge for \$3,131.41. On November 11, 2005, the same firm submitted a Westlaw charge for \$1,473.34. See Ex. 82.

¹²⁵ Ex. 83 - Cohen & Malad Westlaw submission, 7-04; The fellow voting block CBFC auditor noted that “The expenses kept by C&M were meticulous and supported by receipts.” See also, Ex. 81 - 9-10-13 correspondence from Z. Littlepage re: additional audit issues at p. 3.

01/21/2009	Continental Airlines	Booking fee - ZBL Oregon meeting	\$ 15.00
02/24/2009	Delta	Airfare-MDL status hearing - R. Booth	\$ 510.20
03/08/10	Hotels.com	Zoe Hotel-MDL Status hearing	\$ 170.57
09/08/10	Tratti	Meal-Magistrate Jones meeting	\$ 125.66
11/08/11	Hotels.com	Hotel booked - Status Conference	\$ 147.37

These charges were disputed as lacking sufficient detail. Yet Mr. Millrood's law firm's expense submissions contain even less description.

6/8/2004	Travel-Ground	Tobi Millrood. Trainfare; Actual expense date 6-8-04.	\$ 93.00
6/30/2004	Travel-Air	Tobi Millrood. Airfare from Phila to Boston; Actual expense date 6-30-04.	\$ 161.70
8/17/2004	Travel-Air	Tobi Millrood. Airfare from Phila to Ohio; Actual expense date 8-17-04.	\$ 596.40
1/8/2005	Lodging	Tobi Millrood. Lodging; meeting. Actual expense date 1-8-05.	\$ 64.03
5/31/2005	Parking	Hal Kleinman. Parking fees. Actual date of expense 4-15-05.	\$ 24.00
7/13/2005	Travel-Car Rental	Tobi Millrood. Taxi; meeting. Actual date of expense 7-13-05.	\$ 100.00
8/16/2005	Travel-Air	Tobi Millrood. Airfare; deposition. Actual date of expense 8-16-05.	\$ 150.00
7/31/2006	Meals	Tobi Millrood. Meal; meetings. Actual date of expense 7-31-06.	\$ 254.76

Mr. Walker's law firm's expense submissions are similarly vague:

7/26/2004	Legacy Hotel	\$ 88.09	Hotel- Erik Walker status conference in Little Rock
11/19/2004	AP Parking Garage	\$ 12.00	Parking- HRT Conference- Erik Walker
12/20/2004	Dec. 12 Court of two charged by Rob regarding HRT	\$ 105.92	Meals-

7/18/2005	Continental Airlines	\$ 299.90	Flight- 7/19/2005
-----------	----------------------	-----------	-------------------

So too are Cohen & Malad's expense submissions:

3/26/2004	Airfare	Trip to Baltimore/DC (2 tickets)	\$ 1,115.80
7/20/2004	Airfare	Doepken - HRT	\$ 548.40
10/17/2004	Airfare	United Air - Flight Change for HRT conf - Elizabeth Doepken	\$ 99.26
11/9/2004	Food	McDonald's - HRT Meeting Liza	\$ 6.90

As are Mr. Williams' law firm's expense submissions:

12/16/2003	TRVL	Mike Williams - Wyndham Riverfront Atlanta	\$ 936.10
12/16/2003	TRVL	Mike Williams - trip to Atlanta, parking at PDX	\$ 48.00
11/5/2004	TRVL	Mike Williams - trip to San Antonio	\$ 135.00
4/16/2005	TRVL	Travel Expenses	\$ 124.57

And Mr. Cloar's law firm's expense submissions provide no detail at all:

May-09	Airfare	\$599.69
May-09	Ground Transportation	\$159.00
May-09	Hotel	\$684.03
May-09	Meals	\$509.51
May-09	Parking	\$72.50

But here is the big difference. Each of these other CBFC firms agreed to increase the voting block member's percentage allocation at the expense of other firms.

Littlepage did not. And her expenses – identical in detail and description to the other CBFC firms – were denied.

Additional examples of the Littlepage Firm's rejected travel expenses include:

- **Generic Expert Charges**

The Littlepage Firm developed generic experts in this litigation and submitted those expenses for reimbursement, only to find them rejected by the CBFC. For example, expenses from the deposition of Dr. Roosevelt McCorvey, a generic OB/GYN expert, were rejected. The reason provided was that the caption heading on the deposition was the *Bieber* case in the Eastern District of Louisiana. But the Littlepage Firm did not represent Mrs. Bieber. That caption was on the deposition only because that law firm cross-noticed Dr. McCorvey's scheduled MDL deposition.¹²⁶ So Lead Counsel traveled all the way to Alabama to prepare and present a generic expert. And while every other such expense was approved for every other law firm, Littlepage's expenses were denied.

01/04/12	Mileage	54 miles roundtrip to airport (Z. Littlepage): Deposition prep of generic Ob Gyn expert Dr. McCorvey	\$ 20.25
01/04/12	Mileage	328 miles roundtrip to (R. Booth) McCorvey depo prep	\$ 123.00
01/04/12	Suza's	Meal - McCorvey depo prep	\$ 74.10
01/06/12	Chili's	Meal - McCorvey depo prep	\$ 100.39
01/06/12	Target	Supplies - McCorvey depo prep	\$ 61.38
01/07/12	Hyatt	Hotel-McCorvey depo (not reduced because Hyatt)	\$ 639.45
01/07/12	Miscellaneous	Miscellaneous cash expenses per PPO 5 (tips, bellman, tolls, cash meals)	\$ 50.00
05/12/11	Hotels.com	Hotel - Alabama meeting with Beasley Allen and expert McCorvey (Embassy Suites) - one night	\$ 170.61
11/02/11	Continental Airlines	Airfare-Z. Littlepage back to Houston after expert meeting with Dr. McCorvey	\$ 517.90

¹²⁶ Ex. 14 - Deposition of Dr. McCorvey (1-7-12); Ex. 84 - docket sheet listing attorneys in the *Bieber* case.

- **Meetings with Defendants' Counsel**

As Lead Counsel, Zoe Littlepage flew to New York to meet with Wyeth's counsel to discuss several ongoing issues in the litigation including the possibility of a global settlement. Expenses for this meeting were rejected:

02/20/08	Medallion	Taxi-JFK to Manhattan-Meeting with Wyeth's counsel	\$ 55.00
02/20/08	Ruby Foo's	Meal-Meeting with Wyeth's counsel	\$ 103.50
02/20/08	Angelo's	Meal-Meeting with Wyeth's counsel	\$ 103.24
02/20/08	Panda Express	Meal-Meeting with Wyeth's counsel	\$ 13.14
02/21/08	I Love NY	Taxi-NY meeting - meeting with Wyeth's counsel	\$ 13.90
02/21/08	TOUT VA BIEN 0097001NEW YORK	Meal-Meeting with Wyeth's counsel	\$ 89.49
02/22/08	I Love NY	Taxi-Meeting with Wyeth's counsel	\$ 49.00
02/22/08	Sbarro	Meal-Meeting with Wyeth's counsel	\$ 18.61

- **HRT Meetings**

The PSC held several group meetings throughout the course of this litigation. One of those meetings was held in Houston, Texas, where Lead Counsel's office is located. Lead Counsel was not in Houston at the time and had to return to Houston to attend the HRT meeting before getting back on the road. The auditor rejected this charge.

04/14/2004	Continental Airlines	Zoe Airfare-to Houston Document Coding workshop	\$ 131.75
------------	----------------------	---	-----------

- **Legacy Hotel Conference Room**

As the court knows, the Legacy Hotel is located directly across the street from the courthouse. All parties in the litigation know the hotel well and Lead Counsel regularly used conference rooms at the Legacy for meetings. Yet the below charge was rejected.

09/21/12	Legacy Hotel	Conference Room for HRT Meeting	\$ 433.41
----------	--------------	---------------------------------	-----------

Detail of the additional \$36,347.73 in travel expenses that were rejected by the CBFC are attached.¹²⁷

TOTAL DISPUTED BY CBFC: \$ 36,347.73

(iv) Photocopies

The Littlepage Firm seeks reimbursement of \$38,087.57 for 118,455 pages of copying and printing (at \$0.254 per page per PPO-5) used in this litigation for common benefit work. As Lead Counsel, the Littlepage Firm was responsible for the vast majority of pleadings filed in the MDL.¹²⁸ And also responsible for service of all pleadings on plaintiffs' and defense counsel. In the early years of the litigation, service was generally of printed copies of the pleadings via first class mail. The Littlepage Firm also provided copies of documents to many of the generic experts for use preparing

¹²⁷ A chart detailing these travel expenses is attached as Ex. 85.

¹²⁸ This statement is not meant to minimize Mr. Walker's role in writing many of the larger briefs submitted by the plaintiffs. But even for those pleadings done by Mr. Walker, Littlepage Firm was responsible for finalizing the documents and putting together all exhibits cited in the pleading for filing with the court.

their expert reports.¹²⁹ The CBFC rejected reimbursement for all of Littlepage's copy charges on the basis that there was insufficient proof or explanation for the costs.

But, again, a simple review of other CBFC members' approved submissions shows exactly how differently the Littlepage Firm is being treated from other applicant firms.

For example, Mr. Walker's law firm submitted a single line-item annual copying cost. It is rounded up to a comfortable number each year. The law firm submitted no back-up data or support of contemporaneous detail for its copy and printing charges. And Mr. Walker's charges are not much lower from Lead Counsel's although it is unclear why Mr. Walker would have incurred anywhere close to such copying costs each year. Nevertheless, Mr. Walker's copying expenses were approved for complete reimbursement.

12/31/2004	In house copying/printing at .20 a page	\$ 860.00
12/31/2005	In house copying/printing at .20 a page	\$ 2,691.60
12/31/2006	In house copying/printing at .20 a page	\$ 2,400.00
12/31/2007	In house copying/printing at .20 a page	\$ 4,600.00
12/31/2008	In house copying/printing at .20 a page	\$ 5,200.00
12/31/2009	In house copying/printing at .20 a page	\$ 3,260.00
12/31/2010	In house copying/printing at .20 a page	\$ 1,800.00
12/31/2011	In house copying/printing at .20 a page	\$ 640.00
		\$ 21,451.60

¹²⁹ Ex. 11 - Deposition of generic expert Dr. John Gueriguian, 3-22-06 at p, 6 (Dr. Gueriguian produced 5 boxes of materials at his deposition as the materials provided to him by Ms. Littlepage for his review and consideration).

Cohen & Malad, Mr. Irwin Levin's law firm, also submitted copying charges without back-up data or support of contemporaneous detail. His expenses were similarly approved.

1/31/2005	Internal Copies	\$	461.10
2/28/2005	Internal Copies	\$	461.10

TOTAL PHOTOCOPY CHARGES APPROVED BY CBFC: \$ 0

TOTAL DISPUTED BY CBFC: \$38,087.57

(v) Costs of documents from the Depository

The original document depository was located in Washington DC. In 2003, before the HT fund was even set up and thus able to pay for copied documents, the Littlepage Firm paid for the copying of thousands of documents from the first wave of Wyeth production. The CBFC rejected those charges:

10/19/03	Copy costs	Documents selected from Washington DC depository	\$ 5,185.00
10/25/03	Copy costs	Documents selected from Washington DC depository	\$ 4,972.50
11/15/03	Copy costs	Documents selected from Washington DC depository	\$ 3,595.00
11/24/03	Copy costs	Documents selected from Washington DC depository	\$ 12,580.00
			\$ 26,332.50

If there is any question as to the veracity of these charges, Wyeth could easily confirm the expenses.

CHARGES FOR DEPOSITORY DOCUMENTS APPROVED BY CBFC: \$ 0

TOTAL DISPUTED BY CBFC: \$26,332.50

(vi) Facsimiles

The Littlepage Firm seeks reimbursement of \$2,774.25 for 3,699 pages of facsimiles (at \$0.75 per page per PPO-5) used in this litigation for common benefit work. Most of these faxes were sent or received by Lead Counsel from defendants as a means of service of pleadings, correspondence and other materials. The CBFC rejected every charge as not having sufficient detail.

But other CBFC members were treated differently. For example, Mr. Millrood's firm submitted for facsimile charges, while providing no detail as to why the facsimiles are HRT related. Mr. Millrood's expenses were approved for reimbursement.

4/30/2004	Fax	Faxes at \$0.50 per page	63 pages	\$ 31.50
4/30/2004	Fax	Faxes at \$0.50 per page	40 pages	\$ 20.00
4/30/2004	Fax	Faxes at \$0.50 per page	15 pages	\$ 7.50
5/7/2004	Fax	Faxes at \$0.50 per page	52 pages	\$ 26.00

CHARGES FOR FACSIMILES APPROVED BY CBFC: \$ 0

TOTAL DISPUTED BY CBFC: \$2,774.25

(vii) Postage/Shipping

The Littlepage Firm kept track of the postage used on its stamp machine for MDL mail-outs. There is no dispute that Lead Counsel was in charge of notifying all plaintiffs' counsel of ongoing issues. In the early years, many of those communications and service of pleadings was done by first class mail. The CBFC denied Lead Counsel's expenses:

03/07/08	Stamford Postage	Postage-Mail out to MDL counsel	\$ 289.18
03/07/08	Stamford Postage	Postage-Mail out to MDL counsel	\$ 32.07
			\$ 321.20

The CBFC also denied Lead Counsel's shipping charges for the Steven Cummings deposition, even though this deposition was clearly a common benefit deposition.

06/11/10	UPS	Shipping-Cummings Depo	\$ 8.69 ¹³⁰
----------	-----	------------------------	------------------------

Other CBFC members provided almost identical expense submissions for postage used on mail-outs to MDL counsel. Their expenses were approved by the voting block. Only Ms. Littlepage's were rejected.

For example, Mr. Millrood's law firm provides no more description than the Littlepage Firm.

3/3/2004	Postage/Shipping	Postage to HT PSC members and/or Experts and Witnesses of Medical Literature, pleadings, and/or dep-related materials	\$ 179.14
2/2/2007	Postage/Shipping	Postage to HT PSC members and/or Experts and Witnesses of Medical Literature, pleadings, and/or dep-related materials	\$ 138.60
7/26/2007	Postage/Shipping	Postage to HT PSC members and/or Experts and Witnesses of Medical Literature, pleadings, and/or dep-related materials	\$ 142.59

¹³⁰ The auditor seems to have approved this UPS expense but then still marked it as a rejected charge.

CHARGES FOR POSTAGE APPROVED BY CBFC: \$ 0

TOTAL DISPUTED BY CBFC: \$ 329.89

(viii) Pacer

The Littlepage Firm seeks reimbursement of \$792.54 in Pacer expenses.¹³¹ The CBFC denied this request. As Lead Counsel, Ms. Littlepage's office was responsible for service of all communications, pleadings and other documents on HRT plaintiffs' counsel. Every time the court issued an order affecting individual cases or instructing Lead Counsel to notify plaintiffs' counsel of certain matters, Lead Counsel used Pacer to determine who the attorney was for each affected case.

But that was not the only reason for Lead Counsel's use of Pacer. Lead Counsel's office also was responsible for filing the vast majority of the exhibits for the MDL pleadings. Often times, exhibits used in other filings (by the plaintiffs or defendants) would have to be downloaded from Pacer for use in a new pleading. Plus, random plaintiff's counsel would often contact Lead Counsel for an update on a case. Lead Counsel routinely looked up the status of specific cases or issues to provide the necessary explanations. Littlepage's Pacer expenses were made on behalf of all MDL plaintiffs and should be reimbursed by the common benefit fund.

Other CBFC members have been treated differently. Mr. Jenner's law firm submitted multiple requests for reimbursement of Pacer charges that were approved without itemized support or detail including:

4/25/2006	Pacer	Online Services	\$	23.04
4/27/2006	Pacer	Online Services	\$	46.80

¹³¹ Ex. 87 - Chart of Pacer expenses.

1/8/2007	Pacer	Online Services	\$ 87.36
----------	-------	-----------------	----------

Mr. Walker's law firm submitted a Pacer expense of \$335.40 on 12/31/05. The submitted receipt, however, justifies only a reimbursement of \$25.52 (319 pages at \$0.08 per page). However, this expense was approved by Mr. Walker's auditor.¹³²

CHARGES FOR PACER APPROVED BY CBFC: \$ 0

TOTAL DISPUTED BY CBFC: \$792.54

(ix) Law Clerks and Petty Cash

The Littlepage Firm submitted expenses totaling \$2,808.00 for reimbursement of petty cash provided to the law clerks. While each law firm sponsored one or more law clerks in this litigation, Lead Counsel was responsible for training and running the law clerk program. Lead Counsel would thus provide petty cash to law clerks, from time to time, to pay for office supplies, snacks, sodas etc. at the Work Space. There is no denying that supplies and snacks were provided and no other law firm is claiming to have paid for those expenses. Yet the CBFC denied every expense.

09/09/2004	James Bargar	Meal-Snacks for Little Rock-law clerk training and coding trip	\$ 250.00
04/25/2005	David Durham	Supplies for Little Rock work space	\$ 200.00
05/02/2005	James Bargar	Supplies for Little Rock workspace	\$ 59.00
06/17/2005	James Bargar	Reimburse for workspace supplies	\$ 500.00
09/02/2005	James Bargar	Supplies for Little Rock workspace	\$ 150.00
10/05/2005	James Bargar	Supplies for Little Rock workspace	\$ 300.00
12/27/2005	April Cowgill	Supplies for Little Rock work space	\$ 500.00
01/30/06	April Cowgill	Little Rock workspace - reimbursement for supplies	\$ 99.00

¹³² Ex. 86 - 2005 Pacer Receipts submitted by Hissey Kientz.

01/30/06	James Bargar	Supplies for Little Rock law clerks	\$ 300.00
05/24/06	James Bargar	AR law clerks office supplies for workspace	\$ 200.00
03/21/08	David Slade	Supplies-Reimbursement LR meeting	\$ 50.00
05/21/08	David Slade	Little Rock workspace: supplies	\$ 200.00
			\$ 2,808.00

Notably, Mr. Williams' firm, also the auditor of the Littlepage Firm, submitted a similar petty cash expense in its own submission. Mr. Williams' firm did not provide any back-up receipts or other support for this expense, rather relying on the check to the employee as verification¹³³ – exactly the support the Littlepage Firm submitted in support of its own petty cash submissions.

CHARGES FOR LAW CLERK SUPPLIES APPROVED BY CBFC: \$ 0

TOTAL DISPUTED BY CBFC: \$2,808.00

(x) BMS Meetings

The Littlepage Firm, along with attorney Diane Fenner and others, attended several meetings and mediations with small defendant BMS in an attempt to get a total settlement of the BMS cases. The BMS mediations ended up failing and the group splintered. BMS finally reached resolution of all of their cases through settlement of various groupings.

The auditor rejected \$1,839.20 in airfare charges submitted by the Littlepage Firm related to a meeting with BMS.

¹³³ Ex. 88 - copy of check to Scott Graham as cash advance and statement claiming the expense.

09/22/10	Continental Airlines	Air Fare-N. Hanberry - Meeting with BMS defense counsel	\$ 445.30
09/22/10	Continental Airlines	Air Fare-Z. Littlepage - Meeting with BMS defense counsel	\$ 1,393.90
			\$ 1,839.20

Yet expenses for BMS meetings for Diane Fenner were approved.

8/10/2009	Travelocity	Airfare - meeting with BMS	\$ 581.20
8/10/2009	Hotels.com	Hotel - meeting with BMS	\$ 296.22
8/30/2009	Amtrak	Train - meeting with BMS	\$ 49.00
8/31/2009	Amtrak	Train - meeting with BMS	\$ 45.00

TOTAL BMS MEETING CHARGES DISPUTED BY CBFC: \$ 1,839.20

(xi) Conventions

Certain expenses related to national conventions for plaintiffs' trial groups (for example ATLA or American Trial Lawyers Association and Mass Torts Made Perfect) were rejected by the auditor. For example, the Littlepage Firm submitted the following expenses for reimbursement:

10/17/03	Mass Torts Made Perfect	HRT meeting attendance fee	\$ 2,390.00
01/28/08	Mass Torts Made Perfect	HRT meeting in Las Vegas: conference costs	\$ 3,385.00
06/28/2009	Continental Airlines	Airfare-Z. Littlepage-Return ticket from MDL status conf and to San Francisco AAJ HRT meeting	\$ 523.80
			\$ 6,298.80

Once again, the Littlepage Firm was treated differently from other law firms whose convention expenses were approved for reimbursement. Just a few examples include Mr. Walker's submission:

7/18/2005	Continental Airlines	\$341.50	Flight-7/23/2005 Flight to HT meetings at Atla Convention
-----------	----------------------	----------	---

Mr. Williams' submission:

1/31/2005	Williams Airfare to ATLA Seminar (1/2)	\$ 318.68
1/31/2005	Williams Expenses from ATLA Seminar (1/2)	\$ 912.37

Mr. Levin's submission:

7/23/2005	ATLA Convention	mileage, parking, limo, taxi, meals (1/2)	\$ 312.08
-----------	-----------------	---	-----------

TOTAL LEGAL CONVENTION CHARGES DISPUTED BY CBFC: \$ 6,298.80

(xii) Illegible Receipts

The CBFC rejected some of Littlepage expenses because the receipts became illegible with the passage of time.¹³⁴ The Littlepage Firm went back through its records and found corresponding credit card documentation for some of the expenses.

However, some expenses remain in dispute, such as where the charge was paid in cash or the ten year old credit card statement is no longer available.

TOTAL IN ILLEGIBLE RECEIPTS DISPUTED BY CBFC: \$ 1,839.72

¹³⁴ Ex. 89 - Chart of Illegible Receipts.

(xiii) Additional Expenses

There are 19 more expenses that were rejected for a lack of back-up documentation or receipt. These receipts were submitted by the Littlepage Firm but the auditor did not approve the expenses (while still claiming these expenses lacked a receipt). The Littlepage Firm seeks reimbursement for these expenses.¹³⁵

TOTAL IN REMAINING EXPENSES DISPUTED BY CBFC: \$ 1,372.74

DATED: November 22, 2013.

Respectfully submitted,
/s/ Zoe Littlepage
Zoe Littlepage, #12896
The Littlepage Firm
2043 A West Main
Houston, Texas 77098
Telephone: 713-529-8000
Facsimile: 713-529-8044
zoe@littlepagebooth.com

¹³⁵ Ex. 91 - Chart of Remaining Expenses with receipts.

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of November, 2013, a true and correct copy of the foregoing document was electronically filed with the Clerk of Court using the CM/ECF system, and a true and correct copy was forwarded by e-mail to the following parties:

F. Lane Heard, III: lheard@wc.com
Williams & Connolly LLP
725 12th Street, NW
Washington, DC 20005

Lyn Peebles Pruitt: lpruitt@mwsqw.com
Mitchell Williams Selig Gates & Woodyard, PLLC
425 West Capitol Avenue, Suite 1800
Little Rock, AR 72201

MDL Fee Committee (Tobias Millrood, Zoe Littlepage, Erik Walker, Michael Williams, Ralph Cloar, Rob Jenner and Irwin Levin)

All Common Benefit Applicant Firms

/s/ Zoe Littlepage
Zoe Littlepage