

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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IN RE CATTLE AND BEEF  
ANTITRUST LITIGATION

Case No. 22-md-3031 (JRT/JFD)

This Document Relates To:

COMMERCIAL AND  
INSTITUTIONAL INDIRECT  
PURCHASER PLAINTIFF ACTION

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**DECLARATION OF SHAWN M. RAITER IN SUPPORT OF  
COMMERCIAL AND INSTITUTIONAL INDIRECT PURCHASER  
PLAINTIFFS' MOTION FOR AN AWARD OF ATTORNEYS' FEES,  
REIMBURSEMENT OF LITIGATION EXPENSES, SET ASIDE  
FOR FUTURE LITIGATION EXPENSES, AND CLASS  
REPRESENTATIVE SERVICE AWARD**

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I, Shawn M. Raiter, declare as follows:

1. I am a partner at Larson • King, LLP in St. Paul, Minnesota, have practiced law since 1993, and have been appointed lead MDL counsel or class counsel in numerous litigations. I submit this declaration in support of the Commercial and Institutional Indirect Purchaser Plaintiffs' Motion for an Award of Attorneys' Fees, Reimbursement of Litigation Expenses, Set Aside for Future Expenses, and Class Representative Service Award.

2. I am one of the Interim Co-Lead Class Counsel appointed by the Court to represent the putative litigation and provisionally certified settlement class of commercial and institutional indirect purchaser plaintiffs ("CIIPPs") in this litigation.

3. The law firms representing the CIIPPs have worked on this litigation on a contingent basis since 2020. My law firm, and the law firms representing the CIIPPs under the direction of Interim Co-Lead Counsel for the CIIPPs, have done so without any guarantee of being paid for their time or being reimbursed for the considerable expenses they devoted to pursuing this case and the settlement currently before the Court.

4. Antitrust class actions are challenging, and this is a decidedly complex litigation. There CIIPPs are pursuing money damage claims in at least 28 states and the District of Columbia. The CIIPP representative plaintiff is Erbert & Gerbert's, Inc. The Defendants are large national and international companies with the resources to hire some of the best defense lawyers in the country. The alleged conspiratorial conduct spans nearly a decade and involves many companies and witnesses.

5. Since 2020, some of the CIIPPs' attorneys have devoted much of their professional time to this litigation. It has been and will continue to be a substantial undertaking. To-date, our activities have included:

- Research and investigation of the beef industry and the sale of beef products through commercial and foodservice distribution channels;
- Collecting information from a variety of sources, including industry sources and evidence produced by Defendants and third parties;
- Extensive research on the various aspects of the antitrust and other laws of dozens of states and the District of Columbia, and drafting and editing the initial and amended complaints;
- Analyzed and prepared liability and damages claims against Defendants;
- Collecting and analyzing information and discovery including voluminous discovery produced by the Defendants and third parties, such as food service distributors;

- Consultation with economic and other liability and damages experts;
- Drafting and negotiating key case-management documents, protocols, and stipulations;
- Review, in conjunction with the other plaintiff groups, hundreds of thousands of pages of documents produced by the Defendants and third parties;
- Drafting, preparing for, and arguing oppositions to motions to dismiss;
- Responding to discovery and other information sought by the Defendants from the CIIPPs;
- Negotiating discovery issues with defense counsel including numerous meet-and-confer sessions, each of which required substantial preparation;
- Preparing correspondence with respect to timing, stipulations, and case planning issues;
- Corresponding and attending calls with CIIPP co-counsel regarding client discovery and trial preparation issues;
- Obtaining and analyzing documents and data from class representatives;
- Locating, review, redaction, and production of documents from class representatives;
- Exchanging information and coordinating with consumer, direct purchaser, and individual action counsel regarding various issues;
- Attending calls and meetings to help formulate subpoenas and discovery from third parties;
- Attending status conferences with the Court;
- Performing all the tasks necessary to reach and effectuate this settlement, including formulating demands, negotiating, mediation, in-person meetings, exchange of drafts, preparing escrow agreements, drafting the settlement agreement, drafting preliminary and final approval motions, and drafting class notices, claim forms, and other settlement-related documents and coordinating with the claims administrator;
- Coordinating with and reviewing the work product produced by retained experts in connection with class certification;

- Preparing for depositions; and
- Performing all the tasks necessary to reach this settlement with JBS

6. Defendants have asked the class representative CIIPP to produce documents and electronic data relating to numerous aspects of its business. They have asked for purchase and transactional data, emails, organizational information, and numerous other topics. Defendants have sought documents and data located on computers, databases, and other storage devices. Counsel for the CIIPPs have had to negotiate these demands with Defendants. Discovery continues in this case and the non-settling Defendants will continue to pursue discovery from the CIIPPs. Many depositions will be taken in the litigation.

7. The representative plaintiff has devoted time and attention to this litigation and has repeatedly conferred with counsel for the CIIPPs, assisted counsel in numerous ways, and opened its business operations and records up for review and scrutiny by Defendants. The representative plaintiff understands that it may need to provide a deposition or trial testimony and is committed to representing both its own interests and the interests of similarly situated businesses and individuals.

8. The settlement with JBS provides \$25 million for the benefit of eligible CIIPPs. This is an all-cash settlement with no reversion to JBS or any third parties. The settlement includes terms requiring JBS to provide certain cooperation to the CIIPPs, which counsel for the CIIPPs believe will provide valuable assistance in their prosecution of claims against the non-settling Defendants.

9. The settlement was reached after years of litigation and was negotiated by experienced counsel on both sides. The settlement was reached through adversarial, arms-

length negotiations following a mediation with Eric Green, an experienced antitrust mediator. Counsel for the CIIPPs had transactional data, documents produced in discovery, assistance from experts, and a strong understanding of the strengths and weaknesses of the claims and defenses. CIIPPs and JBS exchanged information and had numerous written communications about settlement.

10. After mediation, the parties reached agreement on the core terms of the settlement but then continued to negotiate other components. They exchanged proposals and drafts of the settlement agreement before they reached agreement on all terms.

11. The class notices published for this settlement advised class members that counsel would seek: (a) up to one-third of the settlement as attorneys' fees, (b) reimbursement of up to \$1 million in past expenses, (c) to have up to seven percent of the settlement be set aside for future litigation expenses, and (d) a class representative service awards of \$15,000.00 for the representative plaintiff.

12. No class member objected to the settlement or the requested attorneys' fees, reimbursement of expenses, or a set aside for future expenses. Six entities, each of whom is pursuing its own direct purchaser lawsuit in this litigation, submitted opt out requests.

13. The Court is familiar with the complexity of this litigation and of antitrust litigation in general. Counsel for the CIIPPs have dedicated thousands of attorney and paralegal hours to this case. Interim Co-Lead Counsel for the CIIPPs coordinated the efforts of counsel representing the CIIPPs to maximize efficiency, minimize duplication of effort, and minimize unnecessary or duplicative billing. Interim Co-Lead Counsel for the CIIPPs also monitored the work to avoid unauthorized or unnecessary work.

14. Interim Co-Lead Counsel for the CIIPPs directed the firms who would perform common benefit work for the CIIPPs to keep detailed time and expense records and provided counsel with instructions about what time would be considered for reimbursement and how time and expense requests must be recorded. Interim Co-Lead Counsel for the CIIPPs monitored firms working for the CIIPPs to ensure efficiency and to avoid unauthorized and unnecessary work.

15. Interim Co-Lead Counsel for the CIIPPs and the firms working under their direction have devoted substantial time to this litigation, which they could have spent working on other matters. They have invested this time for more than three years and have or will be paid for their work only if they reach settlements or achieve judgments.

16. Counsel for the CIIPPs have also invested their own money to pay for unreimbursed litigation expenses to achieve the settlement before the Court. These expenses included court fees, service of process fees, expert fees, costs of gathering and producing documents and data, maintaining a database for the documents produced Defendants in discovery, computerized legal and factual research, mediation costs, travel expenses, photocopying, long distance telephone and facsimile charges, postage and delivery expenses, and filing fees. These costs included the fees charged by experts for data gathering and production, economic analysis, production of expert reports, and the cost of document review and hosting for the ever-increasing volume of documents and data produced in the litigation. These expenses were paid by CIIPPs' counsel, with no guarantee they would ultimately be recovered.

17. Interim Co-Lead Counsel for the CIIPPs also issued assessments to the firms working for the CIIPPs to establish a fund that is used to pay certain large expenses. The Barrett Law Group, P.A. law firm has maintained that fund and has recorded and documented the litigation expenses paid out of that fund. As set forth in the declaration of Sarah Sterling Aldridge, a total of \$579,497.01 in unreimbursed expenses has been paid from that fund, primarily for expert fees and data gathering, preparation, production, and hosting. Counsel for the CIIPPs have also advanced an additional \$123,706.73 in unreimbursed litigation costs. These costs reflect the unreimbursed costs counsel paid to advance the interests of the CIIPPs. These are reasonable litigation costs that were incurred in this case for the benefit of the settlement class members. As set forth in the declaration of Sarah Sterling Aldridge, the CIIPPs currently have unpaid invoices totaling \$278,423.55 for other litigation costs.

18. Interim Co-Lead Counsel for the CIIPPs therefore request an award of \$981,626.55 for past, unreimbursed expenses.

19. Current invoices from the notice and claim administrator for the development, implementation, and delivery of the notice plan for the settlement before the Court total \$119,907.51, which JBS agreed could be paid from the settlement fund and the Court approved reimbursement of that expense. *See* Settlement Agreement, ¶6(b); Dkt. 262, ¶ 10.

20. The size and complexity of this litigation requires the expenditure of significant expenses for scanning and preparation of documents for database entry, document review and database hosting of those documents, and extensive economic expert

analysis and report preparation. As the case progresses to class certification, the expert and other associated expenses have increased dramatically. Experts in antitrust cases typically create economic and damage models that describe the mechanisms and impact of the anti-competitive behavior at issue. In this litigation, counsel for the CIIPPs has incurred significant expert costs relating to data analysis and modeling that will be used for CIIPPs' motion for class certification and damages calculations.

21. In addition, ongoing expenses related to the Plaintiffs' processing and hosting of hundreds of thousands of pages of documents are a significant expense, for which the CIIPPs' share alone will be substantial. CIIPPs' counsel also maintains their own database of documents gathered in the case. And, if the settlement is granted final approval, the cost to administer claims from class members is expected to total hundreds of thousands of dollars.

22. Interim Co-Lead Counsel for the CIIPPs request that the Court authorize them to set aside seven percent of the current settlement proceeds (\$1.75 million) to be used for future litigation expenses in pursuit of the claims against the non-settling Defendants. Having this money available to help adequately fund the litigation against the non-settling Defendants will maximize the likelihood of success for the CIIPPs.

23. The schedule attached to this declaration as Exhibit A, and incorporated herein, is a summary of the amount of time spent by my firm's partners, attorneys, and professional support staff who were involved in this litigation through the end of August 2023. The lodestar calculation is based on my firm's current billing rates for antitrust class action litigation. Exhibit A was prepared from records regularly prepared and maintained by my firm. The hourly rates for my firm's partners, attorneys, and professional support staff



included in Exhibit A are the customary hourly rates charged for their services in similar complex litigation. In addition, my firm has submitted fee petitions in other cases that have reported hourly rates at amounts comparable to those sought here, and courts have approved awards of attorneys' fees in such cases.

24. The total number of hours reasonably expended on this litigation by my firm from inception through August 31, 2023 is 1,479.6. The total lodestar for my firm at current rates is \$1,226,807.50. Expense items are billed separately and are not duplicated in my firm's lodestar.

25. The expenses my firm incurred and paid in litigating this case are reflected in the records of my firm. These records are prepared from expense vouchers, receipts, check records, and other source materials and accurately reflect the expenses incurred.

26. Since the beginning of this litigation, my firm has paid or incurred \$39,040.15 in unreimbursed expenses, all of which were reasonable and necessary for the prosecution of this litigation. A summary of those expenses by category is attached as Exhibit B. Assessments my firm paid to a litigation expense fund for this case are not included in Exhibit B and are addressed separately in the declaration of Sterling Aldridge.

27. The time records submitted to Interim Co-Lead Counsel for the CIPPs by Larson • King, LLP, Cuneo Gilbert & LaDuca, LLP, Barrett Law Group, P.A., Tostrud Law Group, P.A., Zimmerman Reed, LLP, Bozeman Law Firm, Derfner & Altman, and Blank Law & Technology, P.S. demonstrate that counsel for the CIPPs have worked for more than three years and devoted 9,007 attorney hours and 3,310.6 hours for legal assistants to this litigation. Applying the rates customarily charged by those attorneys and legal

professionals to the hours expended yields a lodestar of \$7,197,146.00 (through August 31, 2023).

28. The table below provides an aggregated summary of the lodestar of counsel for the CIIPPs through August 31, 2023:

<b>Lodestar Using Customary CIIPPs Rates</b>		
<b>Category of Timekeeper</b>	<b>Number of Hours</b>	<b>Lodestar</b>
Partner	5,325.5	\$4,654,431.5
Associate	3,681.5	\$1,749,712.00
Paralegal	3,310.6	\$793,003.00
<b>Total</b>	<b>12,317.6</b>	<b>\$7,197,146.00</b>

29. Interim Co-Lead Counsel for the CIIPPs respectfully request a fee award equal to one-third of the JBS settlement, after deducting the unreimbursed litigation expenses (\$981,626.55) and a \$15,000.00 class representative service award. That calculation is:  $\$25,000,000.00 - \$981,626.55 - \$15,000.00 = \$24,003,373.4 / 3 = \$8,001,124.48$ .

30. The \$8,001,124.48 fee award respectfully sought in this motion represents a 1.11 multiplier of the current lodestar, using counsel’s current customary rates. That multiplier will decline as counsel for the CIIPPs continue to work to conclude this settlement and process claims.

31. Interim Co-Lead Counsel for the CIIPPs believe an award of \$15,000.00 to Erbert & Gerbert’s, Inc. is warranted for its willingness to serve as a class representative and to compensate the entity for its service in this case, without which the settlement with JBS would not have been possible.

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

Executed this the 7<sup>th</sup> day of November 2023 in St. Paul, Minnesota.

*/s/ Shawn M. Raiter*

Shawn M. Raiter

**In Re Cattle and Beef Antitrust Litigation  
Commercial and Institutional Indirect Purchaser Plaintiff Action  
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**EXHIBIT A  
LODESTAR SUMMARY**

Firm: **Larson King LLP**  
Reporting Period: **Inception – August 31, 2023**

<b>Professional</b>	<b>Status</b>	<b>Hourly Rate</b>	<b>Total Hours To Date</b>	<b>Total Lodestar To Date</b>
Shawn Raiter	P	\$975.00	1098.2	\$1,070,745.00
Kevin McCarthy	P	\$650.00	22.5	\$14,300.00
Jason Johnson	A	\$475.00	149.2	\$70,870.00
Alex Kroeger	A	\$475.00	13.7	\$6,507.50
Ryan Deschene	A	\$475.00	31.4	\$14,915.00
Samuel Schultz	A	\$475.00	39.2	\$18,120.00
Gretchen Touchette	PL	\$250.00	60.6	\$15,150.00
Courtney Burks	PL	\$250.00	64.8	\$16,200.00
<b>TOTALS</b>			<b>1,479.6</b>	<b>\$1,226,807.50</b>

Status:  
Partner (P)  
Associate (A)  
Paralegal (PL)  
Of Counsel (OC)  
Law Clerk (LC)  
Legal Assistant (LA)

**In Re Cattle and Beef Antitrust Litigation  
Commercial and Institutional Indirect Purchaser Plaintiff Action  
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**EXHIBIT B  
EXPENSE / DISBURSEMENT SUMMARY**

Firm: **Larson King LLP**  
Reporting Period: **Inception – August 31, 2023**

<b>EXPENSE</b>	<b>AMOUNT</b>
Federal Express, Local Courier, etc.	\$45.68
Postage Charges	\$0.00
Facsimile Charges	\$0.00
Long Distance	\$0.00
In-House Photocopying	\$0.00
Outside Photocopying	\$0.00
Travel (Transportation, lodging, meals, etc.)	\$148.75
Court fees (filing, etc.)	\$1,600.00
Professional Fees (expert/investigators, etc.)	\$13,742.72
Witness/Service Fees	\$0.00
Court Reporter/Transcripts	\$0.00
Computer Research	\$3.00
Database hosting and processing	\$23,500.00
<b>TOTAL</b>	<b>\$39,040.15</b>