

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In Re: LIQUID ALUMINUM SULFATE
ANTITRUST LITIGATION

Civil Action No. 16-md-2687 (JLL) (JAD)

**DECLARATION OF
THOMAS R. THEADO
IN SUPPORT OF APPLICATION FOR
ATTORNEY'S FEES AND EXPENSES**

Thomas R. Theado, Esq., for my declaration pursuant to 28 U.S.C. § 1746 in the above-captioned action, state the following on my own personal knowledge thereof, except for those matters set forth on information and belief, and as to those matters I am informed and believe them to be true. If called upon to testify on the matters set forth herein, I could and would competently so testify.

1. I am a member of the law firm of Gary, Naegele & Theado, LLC, officed in Lorain, Ohio, counsel for the City of Lorain, Ohio, in the above matter. In such capacity, I am fully familiar with the facts contained herein based upon my personal knowledge and the books and records kept in the ordinary course of my law firm's business. I submit this declaration in support of Class Counsel's application for an award of attorneys' fees in the above-captioned action (the "Action"), as well as for reimbursement of expenses incurred by my firm in connection with the Action.

2. My firm serves as counsel for Plaintiff in *City of Lorain v. Reichl et al.*, N.J. D.Ct. No. 2:16-cv-00453, which suit was transferred and combined into the above-captioned action by Order entered April 19, 2016. My firm was requested to perform common-benefit work assigned by and/or in conjunction with Atty. John Dominguez, a Court-appointed member of the Plaintiffs' Steering Committee and my co-counsel for Plaintiff City of Lorain in the above-

captioned litigation. Such work activities, by me and my law firm's associate attorney, Richard M. McKee, included document review at the request of Lead Counsel and responding to discovery at the request of and in cooperation with other members of the Steering Committee, limited to the period of April through September of 2016, during which Time Period such work was performed by us.

3. The schedule attached hereto as Exhibit 1 presents a summary of the amount of time spent by each attorney of my firm who was involved in the Action, and the lodestar calculation based on my firm's current billing rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by my firm, which are available at the request of the Court. The time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

4. The hourly rates for the attorneys in my firm included in Exhibit 1 are the same as the regular rates that would be charged for their services in non-contingent matters and/or which have been awarded and accepted in other class action litigations.

5. The total number of hours expended on this Action by my firm during the Time Period is 236.45. The total lodestar for my firm for that period is \$77,382.00 for attorneys' time.

6. My firm's lodestar figures are based upon the firm's billing rates, which rates do not include charges for expense items. Expense items are billed separately, and such charges are not duplicated in my firm's billing rates.

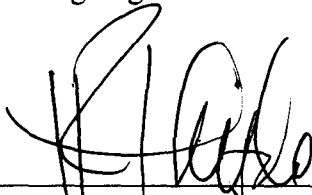
7. As summarized in the schedule attached hereto as Exhibit 2, followed by detailed itemization, my firm has incurred during the Time Period a total of \$945.86 in unreimbursed expenses in connection with the prosecution of this Action.

8. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records, and other source materials, and are an accurate record of the expenses incurred.

9. With respect to the standing of my firm, attached hereto as Exhibit 3 is a brief biography of my firm and attorneys in my firm who were principally involved in this Action.

I hereby declare under penalty of perjury that the foregoing facts are true and correct.

Executed in Amherst, Ohio, on March 19, 2019.



Thomas R. Theado

Dated: March 19, 2019

EXHIBIT 1

**Liquid Aluminum Sulfate Antitrust Litigation, MDL No. 2687
GARY, NAEGELE & THEADO, LLC
Reported Hours and Current Rates
April - September 2016**

NAME	TOTAL HOURS	CURRENT HOURLY RATE	LODESTAR
Thomas R. Theado (P)	30.7	\$510.00	\$15,657.00
Richard M. McKee (A)	205.75	\$300.00	\$61,725.00
TOTAL	236.45		\$77,382.00

EXHIBIT 2

Liquid Aluminum Sulfate Antitrust Litigation, MDL No. 2687

GARY, NAEGELE & THEADO, LLC

Expense Report

April - September 2016

CATEGORY	AMOUNT INCURRED
Lexis	\$546.56
Pacer	\$37.30
Miscellaneous (Reimb for pymt of annual PHV Assessment)	\$212.00
Miscellaneous (Reimb for pymt of annual PHV Filing Fee)	\$150.00
TOTAL	\$945.86

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City of Lorain
c/o Patrick D. Riley, Law Director
200 West Erie Avenue, 7th Floor
Lorain OH 44052

Attn: Atty. Patrick D. Riley

Liaison for CMST on LAS price-fixing class action
Liaison for CMST on LAS price-fixing class action

Page: 1
09/30/2016
Account No: 33498-00
Statement No: 93016

Interim Statement

Expenses

04/25/2016	Online Legal Research (28.000) Pacer Service Center	22.50
04/25/2016	TRT Pro Hac Vice Filing fee (107.000) Clerk, USDC	150.00
04/25/2016	TRT 2016 Pro Hac Vice Assessment (320.000) NJ Lawyers Fund For Client Protection	212.00
05/25/2016	Online Legal Research (123.000) LexisNexis CourtLink Inc.	178.51
06/15/2016	Online Legal Research (123.000) LexisNexis CourtLink Inc.	129.30
07/15/2016	Online Legal Research (28.000) Pacer Service Center	14.80
07/15/2016	Online Legal Research (123.000) LexisNexis CourtLink Inc.	76.65
08/25/2016	Online Legal Research (123.000) LexisNexis CourtLink Inc.	69.86
09/13/2016	Online Legal Research (123.000) LexisNexis CourtLink Inc.	92.24
	Total Expenses	945.86
	Total Current Work	945.86
	Balance Due	<u>\$945.86</u>

EXHIBIT 3

GARY, NAEGELE & THEADO, LLC

ROBERT D. GARY
JORI BLOOM NAEGELE *
THOMAS R. THEADO
RICHARD M. MCKEE

* *also admitted in Colorado*

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For more than three decades, the law firm of Gary, Naegele & Theado, LLC, has engaged in civil litigation, primarily on behalf of plaintiffs, handling complex litigation in a broad range of substantive fields. A large part of the firm's practice has involved the prosecution of class actions, in the course of which we have come to successfully represent the interests of millions of injured individuals in the United States and in Europe, in state and federal venues nationwide, on claims arising from various areas of substantive law including consumer fraud, pension benefit law, environmental injuries and other toxic torts, personal property damage, real estate value diminutions, and contract damages.

In the course of our complex-litigation practice, the firm has participated in multi-district litigation proceedings, such as *In re Silicone Breast Implant Litigation*, M.D.L. No. 926; *In re Orthopedic Bone Screw Litigation*, M.D.L. No. 1014; *In re Medtronic, Inc., Sprint Fidelis Leads Products Liability Litigation*, M.D.L. No. 1905; *In re Chinese-Manufactured Drywall Products Liability Litigation*, M.D.L. No. 2047; and *In re Liquid Aluminum Sulfate Antitrust Litigation*, M.D.L. No. 2687.

FIRM PARTNERS

ROBERT D. GARY is admitted to practice in Ohio as well as the United States Supreme Court. In addition to the U.S. district and appellate Courts to which he is admitted, he is admitted to the United States Tax Court. He earned a J.D. from Western Reserve University in 1966 and an LL.M. from New York University Law School in 1967. During the subsequent six years, he served as a trial attorney for the Organized Crime & Racketeering Section of the U.S. Department of Justice, as a Special Assistant U.S. Attorney, as Acting Chief of the Cleveland Strike Force on Organized Crime, and as Special Assistant to the Governor of Ohio. Mr. Gary has been engaged in the private practice of law since 1974. His practice for nearly forty years has focused on class actions. He is a recognized authority, having authored articles on the mediation of class actions in addition to lecturing on the topic of class actions. He and his partner, Jori Bloom Naegele, co-authored *Protecting Your Pension For Dummies* (Wiley Publishing, Inc., July, 2007). Bob has lectured on class-action issues and is regularly consulted on class certification questions.

JORI BLOOM NAEGELE is admitted to practice in Ohio, Colorado, the United States District Courts for the Northern and Southern Districts of Ohio, the United States Court of Appeals for the Sixth Circuit, and the United States Supreme Court. She graduated from the University of Cincinnati in 1976, *cum laude*, with honors. In 1979, she earned a J.D. degree from Case Western Reserve University. She is a past president of the Lorain County, Ohio, Bar Association, and over the years has been involved with the Ohio Women's Bar Association, Cleveland Employment Lawyers Association, Ohio Employment Lawyers Association, and the National Employment Lawyers Association. She has served as a mediator for the Northern District of Ohio, the Equal Employment Opportunity Commission, and the Lorain County, Ohio, Court of Common Pleas, and

has been a presenter at legal seminars. She and her partner, Robert D. Gary, co-authored *Protecting Your Pension For Dummies* (Wiley Publishing, Inc., July 2007).

THOMAS R. THEADO is admitted to practice in all courts and agencies of the State of Ohio as well as in the United States District Courts for the Northern and Southern Districts of Ohio, the United States Courts of Appeals for the Sixth and Tenth Circuits, and the United States Supreme Court. He graduated, with Honors in Economics, from Oberlin College in 1974. In 1979, he earned a J.D. degree, with Honors, from Case Western Reserve University, where he was inducted into the Order of Barristers and the Order of the Coif. The publication *Lawyers Weekly* included Mr. Theado in its 1995 series of articles featuring the country's top trial lawyers. Mr. Theado has contributed to numerous publications and been a presenter at many legal seminars throughout the nation.

In his class action practice, courts, locally and nationally, have appointed Mr. Theado to serve as a Class Counsel, or he has served or is serving as a counsel for the class claimants, in numerous class-action lawsuits, including the following: *Ansel v. Volkswagen Group of America, Inc.*, 12th Cir. Manatee Cty. [Florida] No. 2012-CA-008114; *Brandmeier v. Copper Kettle Marina, Inc.*, Lorain Cty. [Ohio] C.P. No. 89CV102320; *CMAF, Inc. v. Thomas*, Lorain Cty. [Ohio] C.P. No. 14-CV-184498; *Costantino v. TRW, Inc.*, N.D. Ohio No. C86-3368; *DeSario v. Industrial Excess Landfill*, Stark Cty. [Ohio] C.P. No. 89-0570; *Gattozzi v. Sheehan*, Cuyahoga Cty. [Ohio] C.P. No. CV-14-831933; *Hill v. Moneytree of Ohio Inc.*, Lorain Cty. [Ohio] C.P. No. 06CV148815; *Lintner v. AK Steel Corp. Ret. Accumulation Pension Plan*, S.D. Ohio No. 1:09-CV-0231; *McClendon v. Challenge Financial Investors Corp.*, Lorain Cty. [Ohio] C.P. No. 07CV153497; *Mikulski v. Centerior Energy Corp.*, Cuyahoga Cty. [Ohio] C.P. No. CV-01-457866; *Mikulski v. The Cleveland Electric Illuminating Co.*, Cuyahoga Cty. [Ohio] C.P. No. CV-02-490019; *Mikulski v. Centerior Energy Corp.*, Cuyahoga Cty. [Ohio] C.P. No. CV-02-449020; *Mikulski v. The Toledo Edison Co.*,

Lucas Cty. [Ohio] C.P. No. G-4801-CI-200206364; *Murdocco v. Marathon Oil Co.*, Summit Cty. [Ohio] C.P. No. CV-95-06-2283; *Murray v. Sunset Mortgage Co., L.P.*, Lorain Cty. [Ohio] C.P. No. 07CV152784; *Pikas v. The Williams Cos., Inc.*, N.D. Okla. No. 4:08CV0101; *Rybarczyk v. TRW, Inc.*, N.D. Ohio No. 1:95CV21800; *Satterfield v. Ameritech Mobile Communications Inc.*, Cuyahoga Cty. [Ohio] C.P. No. CV-03-517318; *Smith v. Allied Home Mortgage Capital Corp.*, Lorain Cty. [Ohio] C.P. No. 07CV153202; *Smith v. Allied Home Mortgage Capital Corp.*, N.D. Ohio No. 1:15-cv-02387-JG; *Strickler v. First Ohio Banc & Lending, Inc.*, Lorain Cty. [Ohio] C.P. No. 07CV151964; *US Bank NA v. Schubert*, Lorain Cty. [Ohio] C.P. No. 10CV170414; *Walker v. Asea Brown Boveri Inc. Cash Balance Pension Plan*, D. Conn. No. 3:02-CV-0550; *West v. AK Steel Corp. Ret. Accumulation Pension Plan*, S.D. Ohio No. 1:02-CV-0001; and *White v. Apt. Management, Inc.*, Lorain Cty. [Ohio] C.P. No. 15CV187197.

In addition to the class action lawsuits mentioned above, Mr. Theado has participated in the litigation that has led to the successful conclusions obtained in many other national or regional class actions, including the following: *Davidson v. U.S. Air, Inc.*, N.D. Ohio No. 1:90CV2071; *DeMarco v. Akron Coca Cola Bottling*, N.D. Ohio No. C88-6702; *Elbert v. White Ready Mix Concrete*, N.D. Ohio No. C76-0445; *Insalaco v. Ben Venue Laboratories, Inc.*, Cuyahoga Cty. [Ohio] C.P. No. CV-01-450549; *Rosen v. Fisher Foods, Inc.*, N.D. Ohio No. C80-0079; *Lowe v. Sun Refining & Marketing*, Lucas Cty. [Ohio] C.P. No. 88-0630; *Marx v. Copper Kettle Marina, Inc.*, Lorain Cty. [Ohio] C.P. No. 88CV100809; *Pelletz v. Weyerhaeuser Co.*, W.D. Wash. No. 2:08-CV-0334; *Ross v. TREX Co., Inc.*, Santa Cruz Cty. [CA] Superior Ct. No. 161553; *Redington v. Goodyear Tire & Rubber Co.*, N.D. Ohio No. 5:07-CV-1999; *Streety v. Garfield Alloys, Inc.*, Cuyahoga Cty. [Ohio] No. CV-04-519385; *Taylor v. Amerifoods Companies*, N.D. Ohio No. 1:92CV1715; *White v. Aztec*

Catalyst Co., Lorain Cty. [Ohio] C.P. No. 93CV111025; and in *Wolph v. Acer America Corp.*, N.D. Cal. No. CV-09-1314.

In addition to appearing as a counsel for plaintiff-litigants in various class-action lawsuits, including those set forth above, Mr. Theado has been retained by attorneys to advise and consult on class-action matters in various litigation matters including litigation on behalf of litigants opposing class-certification efforts.

Reported cases in which Mr. Theado was actively involved include the following: *Ailiff v. Mar-Bal, Inc.*, 62 Ohio App.3d 232, 575 N.E.2d 228 (1990), *mot. cert. over'd*, 54 Ohio St.3d 715, 562 N.E.2d 162 (1990); *Board of Educ. of the Strongsville City School Dist. v. Theado*, 57 Ohio St.3d 162, 566 N.E.2d 667 (1991); *DeSario v. Industrial Excess Landfill, Inc.*, 68 Ohio App.3d 117, 587 N.E.2d 454 (1991), *mot. cert. over'd*, 62 Ohio St.3d 1453, 579 N.E.2d 1392 (1991); *Duff v. Gary*, 87 Ohio App.3d 558, 622 N.E.2d 727 (1993); *Turner v. Turner*, 67 Ohio St.3d 337, 617 N.E.2d 1123 (1993); *Schwochow v. Chung*, 102 Ohio App.3d 348, 657 N.E.2d 312 (1995), *disc. app. not allowed*, 73 Ohio St.3d 1428, 652 N.E.2d 801 (1995); *Yepko v. State Farm Mut. Ins. Co.*, 79 Ohio St.3d 414, 683 N.E.2d 1090 (1997); *Yepko v. State Farm Mut. Ins. Co.*, 25 F. Supp. 2d 831 (N.D. Ohio 1998); *Fine v. America Online, Inc.*, 139 Ohio App.3d 133, 743 N.E.2d 416 (2000), *disc. app. not all'd*, 90 Ohio St.3d 1427, 736 N.E.2d 24 (2000), *cert. denied*, 532 U.S. 942 (2001); *Rybarczyk v. TRW Inc.*, 235 F.3d 975 (6th Cir. 2000); *In re: Hechinger Investment Co. of Delaware*, 298 F.3d 219 (3rd Cir. 2002); *Walker v. Asea Brown Boveri, Inc. Cash Balance Pension Plan*, 214 F.R.D. 58 (D. Conn. 2003); *West v. AK Steel Corp. Retirement Accumulation Pension Plan*, 318 F. Supp. 2d 579 (S.D. Ohio 2004); *Mikulski v. Centerior Energy Corp.*, 435 F.3d 666 (6th Cir. 2006); *West v. AK Steel Corp. Retirement Accumulation Pension Plan*, 484 F.3d 395 (6th Cir. 2007), *cert. denied*, 129 S. Ct. 895 (2009); *Mikulski v. Centerior Energy Corp.*, 501 F.3d 555 (6th Cir. 2007) (*en*

banc), *cert. denied*, 128 S. Ct. 2426 (2008); *Pikas v. The Williams Cos., Inc.*, 542 F. Supp. 2d 782 (S.D. Ohio 2008); *West v. AK Steel Corp. Retirement Accumulation Pension Plan*, 657 F. Supp. 2d 914 (S.D. Ohio 2009); and *Pikas v. The Williams Cos., Inc.*, 822 F. Supp. 2d 1163 (N.D. Okla. 2011).

Mr. Theado has presented at many legal seminars and he has authored a number legal publications, including the following: “Common Fund Awards in Statutory Fee Cases,” 18 Class Action Reports 83, 1995; “The Stigma Damages Rulings in *DeSario v. Industrial Excess Landfill*,” 1996; “Class Certification In Professional Negligence Cases,” 1996; “Drug and Medical Device Class Actions,” 1998; “The Class Action Lawsuit in Ohio,” 1999 and 2000; “Trial Advocacy in Ohio – A Plaintiff’s Perspective,” 2000; “The Rules of Evidence in Trial Practice,” 2002; “Admissibility of Evidence and Expert Testimony in Ohio,” 2004; “A Critical Update on the Class Action Fairness Act in Ohio,” 2005; “Practicing Under The Class Action Fairness Act of 2005,” 2005; “Getting Scientific and Expert Testimony into Evidence,” 2005, 2006, and 2007; “How to Present Your Case at Trial,” 2008; “May It Please the Court: Oral Argument Techniques That Get Results,” 2009 and 2012; “Evidence—The Nuts & Bolts of Getting Stuff In and Keeping Stuff Out,” 2010; and “The Mechanics of Researching and Writing Briefs,” 2017.

ASSOCIATE

Richard McKee is admitted to practice in Ohio and before the U.S. Patent and Trademark Office. He graduated from the Massachusetts Institute of Technology in 1976 with B.S. degrees in Biology and Management and in 1987 with a B.S. in Mathematics. In 2005, Mr. McKee earned a J.D. degree, *magna cum laude*, from Cleveland-Marshall College of Law. Prior to joining Gary, Naegele & Theado, LLC, in July 2007, Mr. McKee was an Extern at the U.S. Attorney’s Office, Civil Division, in Cleveland, OH and a Lecturer in Law at Cleveland Marshall College of Law. He

volunteered at the Legal Aid Society of Lorain County in 2006-2007 while studying for the patent bar exam and Mr. McKee was admitted to the U.S. P.T.O. Patent Bar in the fall of 2007.