

Exhibit A

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re Novartis and Par Antitrust Litigation	1:18-cv-04361-AKH
This Document Relates To: Direct Purchaser Action	

**DECLARATION OF DAVID F. SORENSEN ON BEHALF OF
BERGER MONTAGUE PC IN SUPPORT OF CLASS COUNSEL’S MOTION FOR
ATTORNEYS’ FEES, REIMBURSEMENT OF EXPENSES AND SERVICE AWARDS
FOR THE NAMED PLAINTIFFS**

David F. Sorensen, subject to the penalties of perjury provided by 18 U.S.C. § 1746, does hereby declare as follows:

1. I am an Executive Shareholder in the law firm Berger Montague PC (“Berger Montague” or “BMPC”), attorneys for the Direct Purchaser Class Plaintiffs in the above-captioned case. I submit this declaration in support of Direct Purchaser Plaintiffs’ Motion for Attorneys’ Fees, Reimbursement of Expenses, and Service Awards for the Named Plaintiffs in connection with the settlement with Defendants Novartis Pharmaceuticals Corporation and Novartis AG (collectively, “Novartis”).¹

2. Berger Montague attorneys have spent over two decades prosecuting and trying antitrust cases like this one, against pharmaceutical drug companies that have impeded the entry of generic drugs into the marketplace and thus artificially inflated drug prices (including cases challenging pay-for-delay agreements) on behalf of similar classes of direct purchasers as the Class here. Here, BMPC attorneys have contributed to all aspects of the litigation, including

¹ Prior to being dismissed with prejudice on January 6, 2023 (ECF No. 594), Par Pharmaceutical, Inc. (“Par”) was also a defendant in this litigation. Novartis and Par are collectively referred to as “Defendants” in this declaration.

(1) overarching litigation strategy; (2) overseeing and guiding aspects of fact and expert discovery, including depositions and motion practice; (3) briefing dispositive motions; (4) oral argument concerning the opinions to be offered by the parties' experts (ECF 365 agenda for hearing); (5) class certification briefing; (6) retaining and coordinating experts; (7) depositions; (8) trial preparation; and (9) settlement negotiations. BMPC attorneys have developed specialized experience in economic issues relating to analysis and proof of monopoly power and the relevant market, class certification, and the calculation of damages to the class caused by the alleged misconduct.

3. Berger Montague attorneys were involved in this case early on, including contributing to Plaintiffs' initial discovery efforts. As noted above, BMPC attorneys have particular experience in marshalling the economic evidence necessary to prosecute delayed generic entry cases like this one. As such, BMPC attorneys served as the "economics team" during the course of the case. In that role, Berger Montague attorneys served as the principal drafters of Plaintiffs' document requests to Defendants seeking documents relevant to establishing market power and proving damages, including forecasting documents and sales data, and were heavily involved in negotiating with Defendants for those documents, which in addition to the aforementioned economic issues relate directly to the Defendants' expectations concerning generic competition absent the challenged pay-for-delay agreement and how such competition would have taken shape in the but-for world free of Defendants' alleged misconduct.

4. While Plaintiffs were largely successful in negotiating for the production of documents related to economic issues, Novartis did initially refuse to produce sales data from 2016 - 2017, which necessitated motion practice led by Berger Montague attorneys. Ultimately, the Court granted Plaintiffs' motion to compel the production of sales data through

December 2017 (ECF No. 167), which was used in Plaintiffs' expert's damages model.

5. Plaintiffs alleged that Par's and Novartis's agreement to delay the launch of generic Exforge until September 30, 2014 also delayed other generic companies from obtaining approval for and launching generic Exforge until March 30, 2015 (181 days after Par's generic Exforge launch). As such, Plaintiffs' claimed overcharge damages result not only from being deprived of Par's less expensive generic Exforge and Novartis's lower-priced authorized generic Exforge, but also low priced generic Exforge sold by other generic manufacturers. Against that backdrop, BMPC attorneys, in their role as leaders of the economics team and otherwise, worked closely with co-counsel in seeking discovery from nine non-party generic manufacturers or marketers focused primarily in obtaining forecasting documents and sales data. The forecasting documents of the other generic Exforge manufacturers were relevant to showing how informed and interested market participants expected generic Exforge competition would have occurred absent the challenged conduct (*i.e.*, in the but-for world) as well as showing that the market for Exforge consisted of only Exforge and its generic equivalents. The generic manufacturer's sales data showing their sales of generic Exforge were relevant to Plaintiffs' proof of antitrust impact and calculation of damages because it was used to show Plaintiffs' purchases of generic Exforge and prices paid for generic Exforge. Those efforts included filing a motion to compel against Alembic in the United States District Court for the Eastern District of Pennsylvania seeking, among other things, Alembic's forecasts and sales data, which documents and data were produced pursuant to court order.

6. In addition to negotiating for, and when necessary, moving for the production of, documents and data related to economic issues, BMPC attorneys played a significant role in reviewing, analyzing, and digesting the hundreds of thousands of pages of documents and data produced by Defendants (and third parties), drafting white papers addressing the economic issues,

and participating in all aspects of discovery, including written discovery beyond documents requests—interrogatories and requests for admission—and taking three depositions (two party and one non-party) and participated in defending four depositions of absent class members.

7. Further, the forecasts and sales data—both from the Defendants and non-party generic Exforge manufacturers—sought by BMPC attorneys in their role as leaders of the economics team were used by several experts retained by Plaintiffs. Among those experts was Martha A. Starr, Ph.D., who opined that, as an economic matter, the relevant antitrust market is comprised of Exforge and its AB-rated generic equivalents, and that Novartis possessed market power before Par’s generic Exforge launch. This testimony was relevant to, *inter alia*, Plaintiffs’ claims that Novartis possessed and improperly maintained and extended its monopoly power by paying Par to delay generic Exforge entry. Dr. Starr also responded to two of Defendants’ experts taking the opposite position. BMPC attorneys served as the main liaison to Dr. Starr, including preparing for and defending her deposition. BMPC attorneys also worked closely with another expert who used the data and documents produced as a result of the efforts of the BMPC economic team members, Jeffrey J. Leitzinger, Ph.D., who served as Plaintiffs’ expert both for class certification—opining that antitrust impact and damages can be proven with predominantly common evidence—and on aggregate damages to the Class.

8. Additionally, Berger Montague attorneys served as the liaison to medical expert Dr. Arthur Schwartzbard, a practicing cardiologist and associate professor at NYU School of Medicine, who offered an opinion describing hypertension, how Exforge treats it, and how Exforge differs from other hypertension treatments. Dr. Schwartzbard’s opinions were offered as a counterpoint to Defendants’ experts anticipated opinions that just because drugs other than Exforge also treat hypertension, they are in the same relevant market as brand and generic Exforge (they are not), and therefore required BMPC attorneys to anticipate and address likely

opinions from then-unknown defense experts. BMPC attorneys defended the depositions of Drs. Starr, Leitzinger, and Schwartzbard and participated in opposing Defendants' *Daubert* motion as to Dr. Schwartzbard.

9. Berger Montague attorneys were among the primary drafters of Plaintiffs' motion for class certification and reply in support thereof and contributed to Plaintiffs' opposition to Defendants' summary judgment motions. As trial approached, BMPC attorneys were involved in drafting various pretrial submissions, including jury instructions and motions *in limine* and participated in settlement negotiations with Novartis.

10. All attorneys, paralegals and staff at my firm were instructed to keep contemporaneous time records reflecting their time spent on this case and did so.

11. The schedule below reports the time spent by my firm's attorneys, paralegals, and staff in this case from inception until January 31, 2023. This does not include time relating to this motion for fees. All hourly rates are as of December 31, 2022, unless a person had left the firm previously, in which case the rate is the person's rate as of the time of departure from the firm (* designates former employee).

Professional's Name	Position/Status	Total Hours	Hourly Rate as of December 31, 2022	Total Lodestar
Sorensen, David F.	Executive Shareholder	156.5	\$1,100	\$172,150.00
Coslett, Caitlin G	Shareholder	1184.6	\$750	\$888,450.00
Curley, Andrew C.	Shareholder	1475.1	\$740	\$1,091,574.00
Parker, Phyllis	Shareholder *	12	\$740	\$8,880.00
Urban, Nicholas	Shareholder *	9.5	\$640	\$6,080.00
Klein, Joseph P.	Senior Counsel	2675.5	\$675	\$1,805,962.50
Langer, David	Senior Counsel	70.1	\$695	\$48,719.50
Schwartz, Richard	Senior Counsel	831.1	\$660	\$548,526.00

Simons, Daniel	Senior Counsel *	10.1	\$660	\$6,666.00
Albanese, John	Associate	197.6	\$640	\$126,464.00
Black, Christina M	Associate *	8.4	\$450	\$3,780.00
Chaudhury, Aurelia	Associate *	520.6	\$440	\$244,682.00
Parron, John D.	Associate *	200.9	\$520	\$104,468.00
Sauder, Karissa	Associate *	19.1	\$450	\$8,595.00
McGrath, Julia	Associate	107.9	\$530	\$57,187.00
Brinn, Hope E.	Associate	10.8	\$490	\$5,292.00
Jacobs, Najah	Associate	5.8	\$510	\$2,958.00
Pritchard, Haley B.	Associate *	27.2	\$490	\$13,328.00
Pollock, Julie	Associate	81.7	\$480	\$39,216.00
Hollinger, Taylor	Associate	12.4	\$480	\$5,952.00
Bucher, Matthew K.	Contract Attorney	95	\$420	\$39,900.00
Tyson, Steven G.	Contract Attorney	162.7	\$430	\$69,961.00
Boman, Laurel	Contract Attorney	155.8	\$230	\$35,834.00
Arteaga, Alexandra	Paralegal *	344	\$330	\$113,520.00
Choe, Caroline	Paralegal	369	\$380	\$140,220.00
Frohbergh, Patricia L.	Paralegal *	566.7	\$390	\$221,013.00
Werwinski, Diane R.	Paralegal	307.3	\$390	\$119,847.00
Ginis, Haroula	Paralegal	27.1	\$380	\$10,298.00
TOTAL		9,644.5		\$5,939,523.00

12. My firm has also incurred unreimbursed expenses in connection with the prosecution of the litigation. These expenses were reasonably and necessarily incurred in connection with this litigation and include:

Expense	Amount
Court reporter	-----
Document database	\$23,863.71
Filing fees/court costs	\$1,836.60
Litigation fund assessment	\$345,000.00
Postage/air express/messengers	\$2,556.45
Reproduction costs (outside vendor)	\$16,672.85
Research and datasets	\$28,764.55
Telephone/teleconference/facsimile	\$576.12
Travel/hotel/meals	\$2,770.27
Total:	\$422,040.55

13. 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, receipts and other source material and accurately record the expenses incurred.

14. Pursuant to 28 U.S.C. § 1746, I declare under the penalties of perjury that the foregoing is true and correct.

Executed this 21st day of February, 2023.

David F. Sorensen