Exhibit E

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 Stuart E. Des Roches in Support of Direct Purchaser Class Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards for the Named Plaintiffs

I, Stuart E. Des Roches, subject to the penalties of perjury provided by 18 U.S.C. § 1746, hereby declare as follows:

1. I am a managing member of the law firm Odom & Des Roches, LLC ("ODR"), co-counsel for the Direct Purchaser Class Plaintiffs ("DPC Plaintiffs") in the above-captioned case. I submit this declaration in support of Direct Purchaser Class Plaintiffs' Motion for Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards for the Named Plaintiffs.

Firm Background and Experience.

2. ODR has engaged in antitrust litigation for many years, including over twenty-four (24) years of litigating antitrust cases on behalf of classes of plaintiffs who purchase FDA-approved drugs directly from pharmaceutical manufacturers. ODR was a member of the litigation team that first challenged reverse payments on behalf of the direct purchaser class starting in 1998, and later challenged for the first time other types of conduct that artificially delay or impair market entry of less-expensive generic drugs in contravention of the antitrust laws and Hatch-Waxman regulatory scheme that govern over prescription drugs in the United States (collectively, "Hatch-Waxman antitrust cases").

3. In particular, the firm has extensive experience with: (a) the Hatch-Waxman Act and the Medicare Modernization Act ("MMA"), as well as associated regulations, guidances, manuals, practices and procedures pertaining to the filing, maintenance, and FDA approval of Abbreviated New Drug Applications ("ANDA" or "ANDAs") filed by generic manufacturers and New Drug Applications ("NDA" or "NDAs") filed by branded drug manufacturers; (b) operational issues associated with the processes and procedures employed by pharmaceutical manufacturers in preparing for, launching, and maintaining commercial quantities of

pharmaceutical products on the U.S. market; and (c) preparing for and being trial-ready in Hatch-Waxman antitrust cases.

4. ODR's attorneys leveraged the above experience in this case to efficiently and effectively assist in evaluating this case prior to filing, conducting fact and expert discovery, commencing trial preparations, as well as participating in mediation processes that resulted in the settlement presented to this Court for approval.

Specific Work in this Case.

5. Prior to filing this case, ODR conducted research and analysis pertaining to certain causation-related issues, including the prospects that Par could and would have earlier launched a less-expensive generic version of Exforge "but for" the reverse payment agreement with Novartis, as well as Novartis' historical willingness to launch "authorized generic" ("AG") versions of brand drugs generally and specifically an AG version of Exforge had Par launched earlier.

6. Once the case was filed, ODR was primarily responsible for establishing the willingness and ability of manufacturers of generic Exforge, including Par, to enter the market earlier "but for" the reverse payment agreement at issue. Specifically, in this context "willingness and ability" comprised: (a) FDA regulatory approval; (b) commercial manufacturing capabilities and supplies; and (c) business incentives and objectives. This work necessarily required ODR to coordinate efforts with co-counsel and to assist in other aspects of the case, such as analysis of the intent, motives, and impact of the reverse payment agreement at issue.

7. As in other similar cases, ODR was part of the core team that commenced trial preparations and was prepared to materially participate in any and all aspects of trial. Those trial

efforts started in the Summer of 2022 and continued until the matter was settled through a mediation process in October 2022.

8. From the outset of this case, the efforts of all co-counsel for the DPC Plaintiffs were closely organized, coordinated, and monitored by Lead Counsel at Garwin, Gerstein & Fisher LLP. Class counsel representing the DPC Plaintiffs in this case have worked together for over 24 years on Hatch-Waxman antitrust cases. Efforts here were generally divided according to the expertise that each firm has built over the years, with each issue team interacting with other teams to ensure that overall strategies were consistent throughout and that key facts were developed and exploited across all aspects of the case. All class counsel worked together to devise and implement an overall litigation plan and ensured that all litigation tasks were appropriately staffed, pursued, and executed in an efficient and effective manner.

9. At the direction of Lead Counsel, and with close supervision therefrom, ODR was specifically responsible for, *inter alia*, the portions of the case involving (a) the regulatory background underlying and pertaining to branded Exforge and any patent or regulatory exclusivities Novartis possessed in connection with its Exforge NDA; (b) the numerous ANDAs with paragraph IV certifications filed by generic competitors to Novartis's Exforge, including, among others, Par, Synthon, Lupin, Mylan, and Teva; (c) the possession and maintenance of Par's first-to-file exclusivity for all strengths of generic Exforge and its effects on subsequent filers' abilities and incentives to obtain FDA final approval for their ANDAs and launch their products; and (d) the readiness, ability, and willingness of generic ANDA filers to enter the market earlier with less-expensive AB-rated generic versions of Exforge "but for" the reverse payment agreement at issue that Plaintiffs alleged delayed generic launch by several years. ODR obtained critical discovery from the generic defendant Par for the purpose of establishing the

causation aspect of this antitrust case: that, but for the reverse payment agreement between the defendants, Par (and subsequently, other generics) would have obtained FDA approval and been ready, willing, and able to launch AB-rated generic Exforge earlier than they actually did.

10. Consistent with our causation-related responsibilities, ODR took multiple fact depositions of party and non-party witnesses in the case, obtaining evidence that buttressed our causation theory and upon which Plaintiffs' experts could rely in forming their opinions. ODR further assisted in other litigation tasks, including (a) investigating the case and preparing the initial and amended complaint; (b) drafting portions of Plaintiffs' opposition to Defendants' motion to dismiss; (c) drafting numerous requests for production, interrogatories, and third-party subpoenas; (d) participating in the meet-and-confer process with multiple generic ANDA filers regarding their responses and objections to discovery requests; (e) assisting in the review of nearly 3 million pages of documents obtained from defendants and third parties; (f) constructing an efficient deposition strategy that identified key witnesses with relevant knowledge of the facts while minimizing the total number of depositions Plaintiffs would have to take in the case; (g) preparing for and attending court hearings and arguing certain motions before this Court; (h) preparing for and participating in mediation sessions and settlement discussions; and (i) commencing trial preparations.

11. ODR also led third party discovery from the three key generic Exforge ANDA filers (aside from Defendant Par) most important to the causation aspect of the case: Lupin, Mylan, and Teva. Due to our experience, intimate knowledge of the operational processes of generic pharmaceutical manufacturers, and built-in efficiencies in effectively negotiating this type of generic manufacturer discovery, ODR was able to obtain the documents needed to prove the causation prong of our antitrust case. When necessary, ODR engaged in motion practice to

do so, and was able to win a narrowly-tailored motion to compel documents from Lupin, wherein this Court held that "the materials requested by the subpoena are relevant to this complex dispute," and that "the ability of third-parties to enter the Exforge generics market lies at the core of Plaintiffs' case for damages." Order Granting Motion to Compel Discovery, ECF No. 253 at 9-10.

12. Plaintiffs engaged experts who provided robust evidence and testimony consistent with our causation theory of the case, demonstrating that (1) Par could have obtained final approval for its ANDA as early as September 21, 2012; (2) Lupin, Mylan, and Teva could have obtained earlier final approval for their respective ANDAs—as early as April 29, 2013 for Lupin, July 1, 2013 for Mylan, and March 6, 2014 for Teva—had Par entered the market earlier with its generic versions of Exforge; (3) Novartis or a reasonable company in its position would have been ready and able to launch an AG version of Exforge at all times from September 21, 2012 through September 30, 2014; and (4) explaining the regulatory and patent framework for the pharmaceutical industry as reflected by the Hatch-Waxman and the Patent Acts, under which Novartis and Par marketed Exforge and generic Exforge. In order to accomplish this, ODR worked closely with two experts specializing in the pharmaceutical industry and the Hatch-Waxman Act regulatory scheme, Ms. Bernice Tao and Professor John R. Thomas. Ms. Tao, a former executive with over 30 years of pharmaceutical regulatory affairs experience, opined regarding whether there were impediments to earlier final approval of the ANDAs of Par, Mylan, Teva, and Lupin. Professor Thomas, who teaches at Georgetown Law School and served as the Thomas Edison Visiting Scholar at the U.S. Patent and Trademark office, opined regarding the regulatory and patent framework for the pharmaceutical industry in the United States, as reflected in the Hatch-Waxman Act and the Patent Act. Additionally, ODR assisted co-counsel in

supervising and reviewing the expert work of a pharmaceutical manufacturing and supply chain expert, Donald Allen. Mr. Allen, an executive with over 30 years of experience in pharmaceutical manufacturing and supply chain management, opined regarding the ability of Novartis to launch an AG Exforge product during the time period that the generic ANDA filers could have launched their own generic Exforge products.

13. ODR was also responsible for preparing Professor Thomas and Ms. Tao for their depositions and defending those depositions. In addition, ODR was responsible for assisting in the deposition of Defendants' expert Dr. Mark Robbins, who submitted a wide-ranging 84-page report in response to multiple Plaintiffs' experts, including those of Ms. Tao, Prof. Thomas, and Mr. Allen.

14. ODR was tasked to lead the oppositions to *Daubert* motions filed by Defendants seeking to exclude the opinions of Ms. Tao and Prof. Thomas, assisted in the opposition to Defendants' motion to exclude the opinions of Donald Allen, further assisted with any causation-related aspects of other *Daubert* oppositions, and assisted in drafting and editing Plaintiffs' affirmative *Daubert* motion seeking to exclude certain opinions of Defendants' expert, Dr. Mark Robbins.

15. ODR was also involved in drafting the causation-related aspects of (a) Plaintiffs' opposition to Defendants' motions for summary judgement; (b) Plaintiffs' responses to Defendants' statements of material facts submitted in support of their motions for summary judgment; and (c) motions *in limine* (which were ultimately not submitted because the case settled).

16. ODR was a member of the DPC Plaintiffs' trial team, and commenced trial preparations in advance of mediation and resolution of the case. Specifically, the undersigned

was designated by co-counsel to serve on the trial leadership team for the DPC Plaintiffs, with additional attorneys at the firm designated to participate in the direct or cross-examination of certain fact and expert witnesses. These responsibilities required ODR to lead or be involved in various trial preparations, including (a) negotiating with Novartis regarding deadlines for exhibit exchanges and other pre-trial deliverable deadlines; (b) creation of an extensive exhibit list; (c) deciding which fact and expert witnesses to present as well as the ordering of those witnesses; (d) designating deposition testimony of witnesses who would not be available to testify live during trial; (e) researching the evidentiary bases for introduction of, or opposition to, key pieces of testimony and exhibits; (f) preparing for the examination of expert witnesses; (g) selecting various trial vendors for technical needs; and (h) researching and selecting a hotel and war room for counsel, paralegals, and other support staff.

17. Finally, ODR was a core member of the DPC Plaintiffs' settlement and mediation team. This work involved, among other things, drafting portions of the mediation statement, including portions of the causation section describing the more competitive world that would have existed "but for" the reverse payment agreement at issue, and thereafter participating in negotiation sessions.

ODR's Fees and Expenses.

18. Contained below is a chart demonstrating the time spent on this case by each ODR attorney and paralegal, and the lodestar calculation based on the firm's 2022 billing rates. The schedule was prepared from contemporaneous daily time records regularly prepared and maintained by all attorneys, paralegals, and staff at our firm, which are available for the Court's *in camera* inspection if necessary. The chart reports the time spent on the case from its inception

until October 7, 2022, and any time thereafter related to settlement only. This does not include time spent preparing documentation for this motion. The total number of hours expended on this litigation by the firm is 9,339.25 and the total lodestar for the firm is $5,714,893.75.

Name	Position	Hours	2022 Rate ($/ Hour)	Lodestar ($)
Stuart Des Roches	Partner	428.00	$985.00	$421,580.00
Andrew Kelly	Partner	152.00	$930.00	$141,360.00
Chris Letter	Partner	1026.00	$765.00	$784,890.00
Dan Chiorean	Partner	3004.50	$700.00	$2,103,150.00
Annie Schmidt	Associate	1509.75	$525.00	$792,618.75
Christopher Stow-Serge	Associate	274.75	$550.00	$151,112.50
Amanda Hass	Associate	1280.25	$525.00	$672,131.25
Caroline Hoffmann	Associate	323.75	$450.00	$145,687.50
TJ Maas	Of Counsel	274.75	$750.00	$206,062.50
Kimberly Fontenot	Paralegal	557.75	$290.00	$161,747.50
Amy Kennelly	Paralegal	507.75	$265.00	$134,553.75
TOTAL		**9,339.25**		**$5,714,893.75**

19. In addition to the lodestar, our firm has also incurred a total of $393,164.48 in un-reimbursed expenses reasonably and necessarily incurred in connection with the prosecution of the litigation. The expenses and costs incurred in this action are reflected in the firm's detailed Work-In-Progress ("WIP") Report, which is also available to the Court for *in camera* inspection upon request. The WIP Report is prepared from expense vouchers, check records, receipts, and other source materials and are an accurate recordation of the actual expenses and costs incurred. No "premium" or other additional charge has been added to these figures. The breakdown of the un-reimbursed costs and expenses is as follows:

Expense	Amount
Travel/Hotel/Meal Expenses	$7,197.85
Service of subpoenas	$261.50
Filing fees or other court costs	$825.63
Deposition transcripts	$125.00
Litigation fund contributions	$370,000.00
Reproduction Costs	$4,241.30
Postage	$876.20
Computer Research (Ricoh)	$9,171.15
Legal Research (Pacer)	$416.30
Miscellaneous (FDA- Freedom of Info Request)	$49.55
TOTAL	**$393,164.48**

20. The expenses incurred in this action are also reflected on the books and records of our firm. These books and records are prepared from expense vouchers, receipts and other source material and accurately record the expenses incurred.

Executed this 16th day of February, 2023.

/s/ *Stuart E. Des Roches*
Stuart E. Des Roches