

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

THOMAS A. FOX, et al., for themselves and
all those similarly situated,

Plaintiffs,

v.

COUNTY OF SAGINAW, et al.,

Defendants.

Case No.: 19-cv-11887

Hon. David Lawson

Mag. Judge Patricia T. Morris

CLASS ACTION

**INTERIM COUNSEL'S PETITION FOR AWARD OF ATTORNEY FEES
AND COSTS**

For the reasons set forth in the brief in support of this motion, Interim Counsel respectfully requests that, if the Court grants final approval of the proposed settlement, then it also award it attorneys' fees of twenty percent of claims made and paid, and costs in the amount of \$25,000, as provided in the parties' Settlement Agreement. Pursuant to Local Rule 7.1, Interim Counsel corresponded with counsel for the Defendants in good faith to seek concurrence in the relief sought by this Motion. Counsel for the Defendants indicated they continue to fully support the parties' Settlement Agreement, but do not otherwise concur with the Motion.

Dated: May 1, 2026

Respectfully Submitted,

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Hon. Thomas L. Ludington
Mag. Judge Patricia T. Morris

CLASS ACTION

**INTERIM COUNSEL'S BRIEF IN SUPPORT OF THEIR PETITION FOR
AWARD OF ATTORNEY FEES AND COSTS**

STATEMENT OF QUESTION(S) PRESENTED

1. Should the Court approve Interim Counsel's request for an award of attorney's fees and costs where the amounts are as provided in the parties' Settlement Agreement and supported by the results achieved for class members who make claims?

Plaintiffs Answer: Yes.

MOST CONTROLLING AUTHORITIES

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In re Chevrolet Bolt EV Battery Litig., 2025 WL 3708892 (E.D. Mich. Dec. 22, 2025)

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INTRODUCTION

Interim Counsel is asking for a discount fee for delivering an outstanding result for those Class Members who make claims. The settlement generally provides for a net 100 percent recovery, even after the proposed fee. And Interim Counsel delivered this result despite the fact that, when the case was first filed, the most authoritative caselaw suggested that it would fail. Class Counsel pursued this groundbreaking case despite dogged opposition. Now, after nearly seven years, multiple trips to the Sixth Circuit, multiple rounds of outcome-determinative briefing, and complicated settlement negotiations, Interim Counsel seeks a below-market fee of twenty percent of those claims eventually paid, plus a partial recovery of the costs they have incurred. It bears emphasis that the proposed fees would be assessed only on those claims made and paid. Interim Counsel acknowledges ongoing issues relating to the settlement's claims rate, which Interim Counsel is working hard to address. But while those issues could impact final approval, they should not impact the fees awarded in the event the Court approves the settlement.

BACKGROUND AND FACTS

I. The settlement gives claimants 125 percent of their taken property.

The settlement allows those who experienced a tax foreclosure property sale between 2013 and 2020 to generally recover 125 percent of the surplus proceeds generated by the property's auction. ECF No. 479-3 (settlement agreement). The pled

class is broader than settlement’s (unless specified, references here to the “class members” or “the class” mean the settlement agreement class). Defendants will pay the costs of administering the settlement. As detailed in the Settlement Agreement, there are a handful of recovery limitations. ECF No. 479-3, PageID.11917.

Under the Settlement, Interim Counsel agreed to limit its request for fees to 20 percent of the payments made under the settlement, *id.*, ¶ 10.1., and may petition for “costs recoverable under federal law” up to \$25,000. *Id.*, ¶ 10.4. (As to terminology, as discussed below, the Court has appointed proposed Class Counsel E. Powell Miller and Philip Ellison as Interim Class Counsel.) After payment of the fees requested, most Class Members would receive full recovery, because 80 percent of 1.25 is 1.0.

II. Circumstances have consistently frustrated Plaintiffs’ strong case.

The Counties “expropriated property from Michiganders and pocketed cash that it owed them in return. In other contexts, we might call that ‘theft.’ And to some observers,” the defense “might [have] appear[ed] to be dragging its feet in hopes of running out the clock on any claimants.” *Bowles v. Sabree*, 121 F.4th 539, 556 (6th Cir. 2024) (internal citation omitted). At filing, this case was highly uncertain. But since then the Supreme Court has unanimously confirmed Plaintiffs’ position: the counties must repay them and their fellow victims the difference between their tax debt and the proceeds from the auction of their foreclosed properties. *Tyler v. Hennepin Cnty., Minn.*, 598 U.S. 631, 647 (2023) (“The taxpayer must render unto

Caesar what is Caesar’s, but no more.”). *See also Rafaeli, LLC v. Oakland Cnty.*, 952 N.W.2d 434, 466 (Mich. 2020)(same result under state law).

Nonetheless, “in litigating these claims,” the counties have “exploited all the[] difficulties” in pursuing relief “to the utmost.” *In re Wayside Church*, 2025 WL 2829601, at *12 (6th Cir. Oct. 6, 2025)(KETHLEDGE, J., concurring). “And these class members—many of whom, surely, are lower-income or elderly—can wait only so long for relief.” *Id.* Even after the Supreme Court and the Sixth Circuit found the conduct unconstitutional, “counties have employed every available legal artifice to keep as much of that money as they possibly can.” *Id.*

The Counties would surely dispute Judge Kethledge’s approbation. But it is ultimately immaterial for this motion: there is no question that they have mounted a vigorous defense. As a result, Interim Counsel has not merely had to litigate a pioneering and uncertain case on its underlying merits; Counsel has also had to navigate a complex, time-consuming, and expensive thicket of issues in addition to the core question of whether or not the counties committed a taking. In this Court’s words, “[a]s simple as the general legal principle governing this case is, the case’s resolution has not been so simple.” ECF No. 503, PageID.13261.

III. This case was highly risky at its outset.

At filing, the Sixth Circuit had found that federal courts lacked jurisdiction over claims such as Plaintiff’s, both because, under *Williamson Cnty. Reg’l Planning*

Comm'n v. Hamilton Bank of Johnson City, 473 U.S. 172, 195 (1985) victims needed to pursue state-court taking relief before suing in federal court, and because the Tax Injunction Act generally barred federal relief. *Wayside Church v. Van Buren Cnty.*, 847 F.3d 812 (6th Cir. 2017). And the Michigan Court of Appeals had barred relief for state-court litigants. *Rafaeli, LLC v. Oakland County*, 2017 WL 4803570 (Mich. Ct. App. Oct. 24, 2017) (per curiam). The courthouse door looked closed.

On June 25, 2019, the original Plaintiff, Mr. Fox, filed a class action lawsuit on behalf of the victims from various counties. ECF No. 1. On September 4, 2019, he filed an Amended Complaint adding the rest of the settling counties, plus Washtenaw, which ultimately decided against settling. ECF No. 17. The putative class members were the owners of thousands of parcels of property across the Eastern District of Michigan. ECF No. 93, PageID.1295.

In the latter months of 2019, various counties moved to dismiss the complaint. ECF Nos. 11, 22, 23, 66. They asserted a number of theories. But their primary arguments were that the Tax Injunction Act barred Plaintiff's claims, and that the Counties' retention of the post-foreclosure surplus was not a taking.

IV. The Sixth Circuit and the Michigan Supreme Court vindicate Plaintiff.

On June 21, 2019, the United States Supreme Court had overturned *Williamson Cnty*, finding instead that takings victims could sue directly in federal court. *Knick v. Twp of Scott*, 588 U.S. 180, 191 (2019). Plaintiffs in a pending appeal, *Freed v.*

Thomas, Case No. 18-2312 (6th Cir.), argued that this undermined the Sixth Circuit's 2017 *Wayside* decision rejecting federal jurisdiction over these claims. On January 10, 2020, this Court stayed this case pending *Freed*. ECF No. 85, PageID.1146-1154.

On July 17, 2020, the Michigan Supreme Court overturned the Court of Appeals's *Rafaeli* decision. It found unanimously that, as Plaintiff had argued, victims had a property interest in their surplus proceeds, and Defendants' conduct constituted an unconstitutional state-law taking. *Rafaeli*, 952 N.W.2d 434.

On September 14, 2020, Plaintiff moved for the stay's lifting, the class's certification, and expedited consideration. ECF No. 92, PageID.1170-1275; ECF No. 93, PageID.1277-1311; ECF No. 94, PageID.1476-1487.

On September 30, 2020, while these motions were pending, the Sixth Circuit Court issued its decision in *Freed*. It found that *Knick* had overturned *Wayside*; that *Wayside*'s reasoning with respect to the Tax Injunction Act was *dicta* that did not bar federal jurisdiction; and that therefore jurisdiction in federal court was proper. *Freed v. Thomas*, 976 F.3d 729 (6th Cir. 2020).

V. The Court certifies the Class.

On October 16, 2020, the District Court certified the Class. ECF No. 124, PageID.2305. The District Court named Mr. Fox as class representative and appointed now-Interim Counsel as Class Counsel. *Id.*

With the Michigan Supreme Court and the Sixth Circuit having rejected the counties' key arguments, and this Court having certified the class, resolution seemed possible. But things would not be so simple. In October 2020, counties filed more motions to dismiss. ECF Nos. 119, 122, and 123. Then, at the end of the month, counties filed multiple petitions under Fed. R. Civ. P. 23(f) asking the Sixth Circuit to review the class certification decision. Permission for Leave to Appeal, *In re Alpena Cnty.* Nos. 20-110/20-111, (6th Cir. Oct. 29, 2020). Among other things, they argued that this Court had erred in applying the “juridical link theory” to certify a class action brought by one plaintiff against multiple juridically linked defendants. *Id.*, pp. 27-32.

VI. The Visser Law Firm joins the team.

As Class Counsel, Interim Counsel took seriously its responsibility to protect the class, while welcoming cooperation instead of maximal control. These dynamics were well illustrated by the manner in which the Visser law firm joined the team. Shortly after certification, then-Class Counsel learned that the Vissers were soliciting class members. On November 2, 2020, Class Counsel sought a protective order. ECF No. 129. But after the Visser attorneys made clear that they were unaware of the class action and committed to its success, Class Counsel withdrew the motion. ECF No. 149. Two days later, the Court directed Plaintiff to show cause why an order should not be entered under Rule 23(d) despite the motion's withdrawal. ECF No. 150. Plaintiff responded on January 22, 2021. ECF No. 152. The Court vacated the order to

show cause. ECF No. 156, PageID.3453-3454. Since that time, Interim Class Counsel has worked productively with the Visser firm. The Visser firm has worked to support the class, providing valuable assistance in support of the class effort. Indeed, several Visser clients have become class representatives.

VII. The Michigan Legislature acts to protect the Counties.

This is one of the rare class actions that elicited a legislative effort to undermine the case – and that has thus put money, albeit in an inadequate amount, into victims’ pockets regardless of what happens in the case itself.

In response to *Rafaeli* and the pending surplus-proceeds cases – including, most significantly, this one – the Michigan Legislature enacted Public Act 255 and Public Act 256 of 2020, codified largely at MCL 211.78t (collectively, “PA 256” enacting “78t”). It adopted a complicated new process through which victims could secure the return of some, but not all, of their taken property: generally, 95 percent of surplus proceeds, without any interest or attorneys’ fees. MCL 211.78t(12)(b).

Defendants’ treasurers supported the statute. ECF No. 409-2, PageID.10359-10362; ECF No. 409-3, PageID.10364-10398. Functionally, it was an extension of the counties’ legal defense in this and related lawsuits. Indeed, one of the Defendant attorneys conceded that the defense team was involved in the statute’s drafting. ECF No. 337-1, PageID.8384 (Transcript of Motion Hearing, at p 22)(“I’m a little disappointed that I didn’t do a better job when I participated in drafting the statute.”).

The proposed settlement here is better than 78t: 125 percent versus 95 percent. And Interim Counsel has consistently noted PA 256's shortcomings. ECF No. 168, PageID.4020-4022; ECF No. 189, PageID.5462; ECF No. 228, PageID.6147-6168. This Court has agreed. ECF No. 124, PageID.2304. Among many issues, it deprived pre-*Rafaeli* victims, such as the class in this settlement, of any ability to use the process unless and until the Michigan Supreme Court revisited *Rafaeli* and found it to apply retroactively. MCL 211.78t(1)(b)(i).

But PA 256 has delivered relief to county victims. This relief is a result of Interim Counsel's efforts here: without this case, coupled with Interim Counsel's statewide diligence, there would be no PA 256.

VIII. The Court substantially rejects the Counties' motions to dismiss.

On January 13, 2021, this Court partially denied the pending motions to dismiss, allowing the claims against the counties for state-law and federal takings, procedural due process, and unjust enrichment to proceed. ECF No. 148, PageID.3334-3335. Plaintiffs were again optimistic that this might facilitate resolution. Instead, the Counties took an immediate appeal, ECF No. 153, claiming Eleventh Amendment immunity. Plaintiffs argued for the case to continue during the appeal. But on March 9, 2021, the Court granted the Counties' motion to again stay the case. ECF No. 166, PageID.398.

IX. Class Counsel acts proactively to protect the certified class.

Unfortunately, the Vissers' respect for the class-action process proved unique. Counsel had to repeatedly protect the certified class from third-party interlopers improperly soliciting class members. In 2021, Counsel twice had to protect the class from "claims companies" that were trying to mislead people into abandoning the class action. ECF Nos. 168, 180. This Court entered orders to show cause, and then enjoined the companies' conduct. ECF No. 171, ECF No. 209; *see also* ECF No. 185, ECF No. 210. Specifically, the Court barred further solicitations without approval; ordered corrective notice; and gave class members the opportunity to rescind any agreement. ECF No. 209, ECF No. 210. Without Class Counsel's dogged diligence, the class members would have remained unprotected.

Then, one of the companies appealed this Court's decision. ECF No. 211. Class Counsel's appellate advocacy helped ensure the Sixth Circuit's substantial affirmance of this Court's decision. ECF No. 285, PageID.7306.

The pattern would continue. In their more recent capacity as Interim Counsel, Counsel has again acted again to protect the putative class from improper solicitations. *See, e.g.*, ECF No. 425; ECF No. 431.

X. The Sixth Circuit rejects the immunity argument but reviews certification.

On February 22, 2022, the Sixth Circuit rejected the Counties' sovereign immunity defense. ECF No. 227, PageID.6138-6142. On April 22, 2022, the District Court lifted the stay that it had imposed pending the appeal. ECF No. 258.

Then, on March 30, 2022, the panel granted the Rule 23(f) petition. Order Granting Leave to Appeal, *In re Alpena Cnty.* Nos. 20-110/20-111, (6th Cir. Mar. 30, 2022). Plaintiff and the certified Class filed a conditional motion for the appointment of county-specific class representatives in order to address any potential negative juridical link decision from the Sixth Circuit. ECF No. 305.

XI. The Sixth Circuit rejects the juridical link doctrine.

On April 28, 2023, the Sixth Circuit indeed rejected the juridical link doctrine and accordingly vacated this Court's class certification decision. ECF No. 326. But while it critiqued this Court's application of Rule 23, it recognized that this Court could certify a class once a new representative was named for each county. *Id.* Plaintiff filed a renewed motion for Class Certification. ECF No. 331. Once more, these developments led to a number of motions from the counties, including multiple new motions to dismiss. ECF Nos. 341 and 363.

XII. The United States Supreme Court rejects the counties' theories.

On May 25, 2023, the United States Supreme Court unanimously found that the Counties' conduct constituted a federal taking. *Tyler*, 598 U.S. 631.

XIII. Plaintiffs seek to recertify in accordance with the Sixth Circuit's guidance.

On August 14, 2023, Mr. Fox moved for leave to file a Second Amended Complaint naming the county-specific class representatives as plaintiffs. ECF No. 347, ECF No. 347-2, PageID.8847-8849. On October 23, 2023, the Court lifted the

latest stay and granted the motion. ECF No. 355. The Court also directed the parties to submit proposals for early discovery. *Id.*, PageID.9099. The parties did so. ECF Nos. 361, 362. On August 16, 2024, the Court appointed Interim Counsel. ECF No. 412. Throughout the latter months of 2024, the Counties would depose at least 14 of the proposed new class representatives. ECF No. 447-2, PageID.11448. On October 4, 2024, Plaintiffs filed a renewed motion for class certification. ECF No. 437.

XIV. The Michigan Supreme Court permits pre-*Rafaeli* victims to use PA 256.

On July 29, 2024, the Michigan Supreme Court issued *Schafer v. Kent Cnty.*, 29 N.W.2d 25 (Mich. 2024). It rejected a key defense argument and confirmed that *Rafaeli* applied retroactively. *Id.* at 44-48. It thus found PA 256 to be available to pre-*Rafaeli* claimants. *Id.* at 50.

Schafer generally declined to address the constitutional challenges to PA 256. But it did find that the Act's purported imposition of a new, truncated statute of limitations was improper, and that claimants were entitled to more time to bring their claims than the new statute purported to allow. *Id.* at 50-52. PA 256 petitioners also face an independent deadline to file notices of intent that they intend to seek their surplus proceeds. *Id.* The Supreme Court found that the statute had accounted for how this deadline would be set, requiring submission by the first March 31 that was 180 days after the Supreme Court's retroactivity decision in *Schafer*. *Id.* at 53 (citing MCL 211.78t(6)). This worked out to be March 31, 2025. From there, the motion deadline

for pre-2020 foreclosure victims – such as the class members here – was October 1, 2025. ECF No. 486, PageID.12137-12138.

XV. The Sixth Circuit rejects the Counties’ PA 256 defense.

On November 4, 2024, the Sixth Circuit rejected one of the counties’ remaining defenses, that PA 256 displaced the federal takings claims of pre-*Rafaeli* claimants such as the class members here. *Bowles v. Sabree*, 121 F.4th 539, 555 (6th Cir. 2024) (PA 256 “does not and cannot” displace or preclude pre-2020 federal takings claims).

XVI. The counties finally agree in principle to return class members’ property.

Finally, on November 9, 2024, the parties conducted an all-day mediation session overseen by Attorney Mediator Lee T. Silver. At its conclusion, the Parties agreed to a term sheet setting forth the terms of the present settlement. In exchange for the counties’ payments of 125 percent of surplus proceeds to those class members who make claims, the settlement grants the settling counties a release of the claims of non-claiming class members.

XVII. The settlement process flounders.

Unfortunately, the process of finalizing the agreement became yet another struggle for protection of the class members’ interests. It took over eight months to finalize the settlement agreement. All the while, the October 1, 2025, 78t motion deadline approached. Interim Counsel feared that the counties were trying to delay this case in order to divert class members into the inferior 78t process. At the last

minute, they were able to reach an agreement carefully calibrated to ensure that class members would not be diverted to 78t without knowing about this superior settlement. But after preliminary approval of the carefully calibrated settlement, the counties failed to provide the necessary data to the claims administrator in time. This made it impossible to provide class notice before the October 1 deadline. The details are recounted at ECF No. 491.

It was critical that the counties provide this data to the administrator. The counties had the data that the administrator would need in order to send notice. And the agreement provided that neither Plaintiffs nor the defense could unilaterally contact the administrator. ECF No. 479-3, PageID.11983. Thus, the Counties would be able to frustrate any Plaintiff-specific effort to ensure administrator action.

Given these 78t-related issues, on December 5, 2025, Plaintiffs moved to vacate the settlement's preliminary approval. ECF No. 494. Plaintiffs believe that this Motion helps illuminate the issues that have plagued the settlement. To summarize, they warned of the following: the most proactive class members make 78t motions without even learning about the chance to get more money from the settlement; of the remaining class members, only a smattering make claims; and the counties thus secure a broad release while keeping most of the money.

On November 14, 2025, the Counties moved to enforce the Preliminary Approval Order. ECF No. 491. On December 23, 2025, this Court denied Plaintiffs'

motion and granted Defendants.’ ECF No. 503. In doing so, it reset the various settlement dates set forth in the initial Preliminary Approval Order. *Id.*

Even since then, Plaintiffs faced challenges in securing class-member and claim-related information. When they were finally able to secure claims information, it proved inexplicably low. This again has put a difficult burden on Interim Counsel. These circumstances have forced counsel to initiate a robust and expensive effort to contact class members to ensure that they know about the opportunity to get their property returned. Once again, Interim Counsel has gone – and continues to go – above and beyond in their ongoing effort to protect the class members.

XVIII. Interim Counsel undertook significant efforts.

This case has required unusually vigorous efforts. Even after *Freed* and *Rafaeli*, multiple defendants, here and, with the same counsel, throughout the state, argued that they could still escape liability:

- That the Eleventh Amendment gave Defendants immunity as discussed above. *Fox v. Saginaw Cnty., Mich. by Bd. of Comm’rs*, No. 21-1108, 2022 WL 523023, at *4-6 (6th Cir. Feb. 22, 2022)(rejecting defense).
- That 78t was the only mechanism for relief, but that it was unavailable to the class members and could never become available until after the statute of limitations had run, thus extinguishing liability. *Schafer v Kent Cnty*, 29 N.W.3d at 52-53 (discussing and rejecting theory).
- That even if PA 256 did not preclude any relief, class members were required to use its claim process, and were thus limited to recovering 95 percent of their surplus proceeds without interest or attorneys’ fees. *See Bowles*, 121 F.4th at 555 (noting and rejecting theory).

- That the only possible defendant was the treasurer as opposed to the county, *see, e.g., Wolfe v Alger Cnty.*, No. 2:23-cv-00146 PageID.135-136 (WD Mich), but that the treasurer was immune from liability, *see, e.g., Terrell v Kalkaska Cnty.*, 1:24-cv-00486 PageID.92 (WD Mich), thus rendering the constitutional violation non-justiciable.
- That *Rafaeli* only applied retroactively. *Schafer*, 29 N.W.3d at 44-48 (noting and rejecting theory).
- That the claims of many class members are untimely. ECF No. 492, PageID.12442-12443.
- Conversely, that the claims are premature because the takings claims at issue had not yet accrued. *See, e.g., Warmboe v Dickinson Cnty.*, No. 2:24-cv-00066 PageID.100-101 (WD Mich).

And all of that is before litigation of class certification issues, the difficulty in finalizing the settlement, and the claims issues. In all, Interim Counsel has filed at least 75 motions, 75 motion responses, 50 dispositive briefs, and ten Sixth Circuit briefs. On top of this, they and their team have defended at least 14 depositions.

ARGUMENT

I. Class Counsel Seeks Reasonable Attorneys' Fees.

Courts routinely approve one-third contingency fees assessed against common settlement funds. Yet despite this case's unique risks and challenges, Interim Counsel seeks a twenty percent fee against only those claims actually paid. In an analogous case, the Western District approved such fees for a settlement that returned a mere 80 percent gross of each Class Member's surplus proceeds. *Wayside v. Van Buren Cnty.*, 1:14-cv-01274-PLM (W.D. Mich.) ("*Wayside*, 1:14-cv-01274-PLM"), ECF No. 554.

Here, where Class Counsel has delivered a 125 percent recovery, the Court should approve the request for the same fee.

A. The requested fees are inherently reasonable.

1. Courts approve fees based on the “common funds.”

Courts encourage negotiated class settlement fees. *See Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983) (“A request for attorneys’ fees should not result in a second major litigation. Ideally, of course, litigants will settle the amount of the fee.”).

Caselaw would entitle Interim Counsel to far more than they seek. It is well established that counsel who performs common benefit work resulting in recovery of a common fund are entitled to compensation for those services from the fund. *See Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) (“[T]his Court has recognized consistently that a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney’s fee from the fund as a whole”). Attorneys’ fees awarded from a common fund are usually based on a reasonable percentage of the fund established for the benefit of the class. *Gascho v. Global Fitness Holdings, LLC*, 822 F.3d 269 (6th Cir. 2016). *See also Boeing*, 444 U.S. at 480 (the right to secure a settlement is valuable, even if it is unclaimed).

Years ago, the Sixth Circuit observed a trend towards the percentage of the fund method. *Rawlings v. Prudential–Bache Props., Inc.*, 9 F.3d 513, 515 (6th Cir. 1993). “The percentage of the fund method has a number of advantages: it is easy to

calculate; it establishes reasonable expectations on the part of plaintiffs’ attorneys as to their expected recovery; and it encourages early settlement, which avoids protracted litigation.” *Id.* at 516. The percent-of-the-fund method best replicates the *ex ante* market value of the services that Class Counsel provided to the Settlement Class—a contingent fee percentage of the recovery. *See Fournier v. PFS Invs., Inc.*, 997 F. Supp. 828, 831–32 (E.D. Mich. 1998). Awarding a percentage “directly aligns the interests of the class and its counsel.” *Wal-Mart Stores, Inc v. Visa USA Inc.*, 396 F.3d 96, 122 (2d Cir. 2005). It incentivizes class counsel to obtain the largest possible recovery in the most efficient manner possible. *Id.*; *Rawlings*, 9 F.3d at 516.

2. The proposed fee is more modest than usual because it is assessed only on claims paid as opposed to the entire fund.

Here, Counsel’s proposed fee is unusually modest. Instead of seeking a percentage of the common fund their efforts established, they seek a percentage of each claim actually paid. “[C]lass counsel’s fee award is directly tied to the relief earned for the class[,]” and, thus, “[t]o the extent that class counsel received a fee, so must all members of the class who made a claim[,]” which “ensured that class counsel’s interests aligned with the interests of the class.” *Wayside*, 1:14-cv-01274-PLM, ECF No. 554 PageID.13030 (approving similar fee and citing *Pearson v. NBTY, Inc.*, 772 F.3d 778, 781 (7th Cir. 2014)).

3. The percentage of the fee is relatively modest.

Courts throughout the Sixth Circuit have repeatedly held one-third of a common fund is presumptively reasonable. *See, e.g., Green v. FCA US, LLC*, 2022 WL 3153777, at *1 (E.D. Mich. August 8, 2022). Indeed, throughout the Sixth Circuit, attorneys’ fees in class and collective actions have reached 50 percent. *See In re Chevrolet Bolt EV Battery Litig.*, No. 2:20-cv-13256, 2025 WL 3708892, at *11 (E.D. Mich. Dec. 22, 2025) (collecting cases and finding reasonable a fee award of 33% of the settlement fund); *see also Schreiber v. Mayo Found. for Med. Educ. & Rsch.*, No. 2:22-cv-00188, 2024 WL 4706185, at *3 (W.D. Mich. May 29, 2024) (finding reasonable a fee award of 35.33% of the settlement fund); *Shane Grp., Inc. v. Blue Cross Blue Shield of Michigan*, No. 2:10-cv-14360, 2019 WL 4746744, at *6 (E.D. Mich. Sept. 30, 2019), *aff’d* 833 F. App’x. 430 (6th Cir. 2021) (acknowledging fees up to 50% are in “the range of reasonableness). At twenty percent, the fee requested here is “below market.”

4. Courts have rejected the alternative “lodestar” method.

Courts reject the time-based alternative:

[T]he [alternative] lodestar method has been criticized for being too time-consuming of scarce judicial resources. District courts must pore over time sheets, arrive at a reasonable hourly rate, and consider numerous factors in deciding whether to award a multiplier. With the emphasis it places on the number of hours expended by counsel rather than the results obtained, it also provides incentives for overbilling and the avoidance of early settlement.

Rawlings, 9 F.3d at 516-17 (internal citations omitted). *See also N.Y. Teachers' Retirement Sys. v. Gen. Motors Co.*, 315 F.R.D. 226, 242-44 (E.D. Mich. 2016); *Stanley v. U.S. Steel Co.*, 2009 WL 4646647, at *1 (E.D. Mich. December 8, 2009) (“[T]he percentage method decreases the burden imposed on the Court by eliminating a full-blown, detailed and time-consuming lodestar analysis while assuring that the beneficiaries do not experience undue delay in receiving their share of the settlement.”) (citations omitted).

B. The Sixth Circuit’s factors further support approval.

The Sixth Circuit’s six additional factors favor approval: (1) value of benefit to the class; (2) society’s stake in rewarding attorneys who produce the settlement’s benefits, to maintain an incentive to others; (3) whether the work was performed on a contingent fee basis; (4) complexity of the litigation; (5) skill and standing of counsel on both sides; and (6) the value of the legal services performed on an hourly basis. *See Ramey v. Cincinnati Enquirer, Inc.*, 508 F.2d 1188, 1196 (6th Cir. 1974); *Gascho*, 822 F.3d at 280 (describing the *Ramey* factors as “germane” to the fee inquiry); *Moulton v. U.S. Steel Corp.*, 581 F.3d 344, 352 (6th Cir. 2009).

1. Interim Counsel secured an excellent result for claimants.

“The primary factor in determining a reasonable fee is the result achieved on behalf of the class.” *In re Delphi*, 248 F.R.D. 483, 503 (E.D. Mich. 2008); *Hensley*, 461 U.S. at 436 (“[T]he most critical factor is the degree of success obtained.”). Here,

the settlement generally gives claimants a gross 125 percent recovery. If the Court awards fees, claimants will generally get a net 100 percent recovery. This is an excellent result. *Compare Wayside*, 1:14-cv-01274-PLM, ECF No. 554, PageID.13031 (settlement was 80 percent gross and 64 percent net).

Conversely, the settlement's potential shortcoming is the risk of a minimal claims rate. Indeed, as Interim Counsel warned, the claims rate might prove too low to warrant final approval. ECF No. 494, PageID.12604-12608. But if so, this goes to approval, not the fee. Again, this is not a common fund fee in which counsel seeks a percentage of the available fund, even if class members barely make any claims. Rather, the proposed fee is assessed against the claims that are actually paid. If the settlement is ultimately approved, then – if nothing else – Interim Counsel will have delivered an exceptional result for those class members who do make claims.

2. Societal stake in complex constitutional litigation.

Society has a strong stake in rewarding attorneys who produce the type of benefits achieved by the Settlement. *See In re Cardizem CD Antitrust Litig.*, 218 F.R.D. 508, 533 (E.D. Mich. 2003) (“Encouraging qualified counsel to bring inherently difficult and risky but beneficial class actions . . . benefits society.”). Without a class action, small claimants individually lack the economic resources to vigorously litigate their rights. *Eisen v Carlisle & Jacquelin*, 417 U.S. 156, 161 (1974); *In re Cardizem*, 218 F.R.D. at 534. The public benefits when constitutional

rights are protected, and thus has a strong interest in incentivizing litigation against a widespread constitutional violation. *See Bowles*, 121 F.4th at 556. And regardless of the ultimate outcome here, Interim Counsel's efforts have already borne fruit in contributing to PA 256's enactment. This case, as one of the largest surplus proceeds taking cases, has already helped put an end to the unconstitutional *status quo ante*.

3. Interim Counsel assumed significant risk of nonpayment.

Interim Counsel's willingness to undertake this litigation on a contingency basis, investing such significant resources without any guarantee of compensation or reimbursement, further supports the reasonableness of the requested award. *See In re Cardizem*, 218 F.R.D. at 533; *see also Stanley*, 2009 WL 4646647, at *3 ("Numerous cases recognize that the contingent fee risk is an important factor in determining the fee award."). Indeed, "[n]o one expects a lawyer whose compensation is contingent upon his success to charge, when successful, as little as he would charge a client who in advance had agreed to pay for his services, regardless of success." *City of Detroit v Grinnell Corp.*, 495 F.2d 448, 470 (2nd. Cir. 1974) abrogated on other grounds by *Goldberger v. Integrated Res., Inc.*, 209 F.3d (2d Cir. 2000)).

As discussed throughout, success on the merits was far from certain. *See In re Packaged Ice Antitrust Litig.*, 2011 WL 6209188, at *19 (E.D. Mich. Dec. 13, 2011) (attorneys who take cases with "a significant risk of nonpayment . . . should be

compensated both for services rendered and for the risk of loss or nonpayment assumed by accepting and prosecuting the case”) (quotations and citation omitted).

4. The complexity of the litigation supports the requested fee.

The complexity of the litigation also confirms the reasonableness of the requested fee award. *In re Cardizem*, 218 F.R.D. at 533. “[M]ost class actions are inherently complex[.]” *In re Telectronics Pacing Sys, Inc*, 137 F Supp 2d 985, 1013 (SD Ohio 2001) (quotations and citation omitted). This one more so. As detailed above, Class Counsel has faced enormous burdens in litigating this case: pleading in the face of then-hostile jurisprudence, securing class certification, multiple stays, multiple efforts to protect the class from third-party interlopers, multiple appeals to the Sixth Circuit, decertification, the addition of new county-specific plaintiffs, multiple rounds of dispositive briefing, difficult negotiations, a difficult effort to finalize the settlement agreement, ongoing risks to the settlement from 78t, and now an expensive outreach campaign. A comparison to *Wayside* is illustrative. The court there found this criterion satisfied. *Wayside*, 1:14-cv-01274-PLM, ECF No. 554, PageID.13033(“The complexity of this litigation also supports the reasonableness of the fee request.”). And this case is more complex and hotly contested. *Wayside* featured 162 docket entries prior to the settlement’s *de facto* unveiling with a motion for an indicative ruling. ECF No. 163. Here, there were 478 docket entries prior to the motion for preliminary approval.

5. The Parties are both represented by skilled counsel.

The skill of both Interim Counsel and Defendants' Counsel also validates the reasonableness of the requested fee award. *In re Delphi*, 248 FRD at 504 (“The quality of opposing counsel also is important to evaluate.”). Interim Counsel have significant experience litigating class actions of similar size, scope, and complexity as here: Mr. Ellison pioneered surplus-proceeds claims such as these; Mr. Miller is Michigan’s leading class-action practitioner; and they have worked together on class actions such as these throughout the state of Michigan. *See, e.g., Exhibit 1* (Miller Law Firm firm resume); **Exhibit 2** (Mr. Ellison’s declaration); ECF No. 412 (order appointing Mr. Miller and Mr. Ellison as Interim Co-lead Counsel).

Interim Counsel also faced experienced and skilled defense counsel. As the Western District found, “counsel for the Defendant counties,” who include the County’s attorneys here, “are some of the best in the state of Michigan.” *Wayside*, 1:14-cv-01274-PLM, ECF No. 544, PageID.12852 n. 9. *See also id.*, ECF No. 554, PageID.13034 (It is “worth mentioning that counsel for the counties are experienced and well-respected litigators.”). That court thus found it likely that, “if this matter were to continue, class counsel and claimants alike would face strong opposition” and that “the counties w[ould] litigate these claims for years to come.” *Wayside*, 1:14-cv-01274-PLM, ECF No. 544, PageID.12852 n. 9. “The ability of [counsel] to negotiate a

favorable settlement in the face of formidable legal opposition further evidences the reasonableness of the fee award requested.” *In re Delphi*, 248 FRD at 504.

6. The value of the legal services.

The final factor considers the value of the legal services performed on an hourly basis, also known as counsel’s “lodestar.” *See Isabel v. City of Memphis*, 404 F.3d 404, 415 (6th Cir. 2005). However, as previously discussed, in this case the percentage method, not the lodestar method, is appropriate, rendering this factor immaterial. *See In re Flint Water Cases*, 583 F. Supp. 3d 911, 953 (E.D. Mich. 2022); *Blasi v. United Debt Servs., LLC*, 2019 WL 6050963, at *9 n. 2 (S.D. Ohio Nov. 15, 2019); *Dillow v. Home Care Network, Inc.*, 2018 WL 4776977, at *6 (S.D. Ohio Oct. 3, 2018); *Rikos v. Proctor & Gamble Co.*, 2018 WL 2009681, at *10 (S.D. Ohio Apr. 30, 2018) (citing *Gascho*, 822 F.3d at 279); *In re Delphi*, 248 F.R.D. at 503.

Here, Class Counsel’s extensive work is self-evident. Indeed, the fee sought will surely be far below the value of Interim Counsel’s and affiliated counsel’s time at their customary rates. And Interim Counsel and affiliated counsel will continue to incur time leading up to and after the Final Approval Hearing to ensure the Settlement is properly administered, including the efforts underway to ensure that class members know about their settlement rights.

II. Interim Counsel Seek Reasonable Litigation Costs

In addition to the attorneys' fee, "[e]xpense awards are customary when litigants have created a common settlement fund for the benefit of a class." *In re Delphi*, 248 F.R.D. at 504. Here, as discussed above, Interim Counsel has limited its request to \$25,000 of "costs recoverable under federal law." ECF No. 479-3, PageID.11990. The costs exceed that amount. **Exhibit 3**. These limits mean that, once accounting for expenses, counsel's proposed fee will amount to less than 20 percent of claims paid. In short, an award of \$25,000 is more than reasonable.

CONCLUSION

Interim Counsel respectfully requests the Court grant their motion.

Dated: May 1, 2026

Respectfully Submitted,

/s/ E. Powell Miller

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Interim Class Counsel

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2026, I electronically filed the foregoing document using the Court's electronic filing system, which will notify all counsel of record authorized to receive such filings.

/s/ E. Powell Miller

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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

THOMAS A. FOX, et al., for themselves and
all those similarly situated,

Plaintiffs,

v.

COUNTY OF SAGINAW, et al.,

Defendants.

Case No.: 19-cv-11887

Hon. David Lawson

Mag. Judge Patricia T. Morris

CLASS ACTION

INDEX OF EXHIBITS

- 1. Resume of The Miller Law Firm, P.C.**
- 2. Declaration of Philip L. Ellison, dated 3/31/2026**
- 3. Chart of Costs**

Exhibit 1

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THE MILLER LAW FIRM, P.C. | FIRM RESUME

The Miller Law Firm, P.C. (the “Firm”) is one of the premier litigation law firms in the United States and Michigan’s leading class action firm. A recognized leader in the area of complex commercial litigation, the Firm is ranked Tier 1 in Detroit by *U.S. News-Best Lawyers* “Best Law Firms” for commercial litigation. Since the Firm’s founding in 1993, the Firm has developed a national reputation for successfully prosecuting securities fraud and consumer class actions on behalf of its clients. As Lead Counsel or Co-Lead Counsel appointed by judges throughout the United States in some of the country’s largest and most complex cases, the Firm has achieved over \$3 billion in settlements, recoveries and/or verdicts on behalf of injured class members.

Highlights of Results Obtained

- 2025 *In re Healthec LLC Data Breach Litigation*
(United States District Court, New Jersey)
(Case No. 2:24-cv-00026) (PSC Member)
- Result: \$5.5 million settlement value
- In re Chevrolet Bolt EV Battery Litigation*
(United States District Court, Eastern District of Michigan)
(Case No. 2:20-cv-13256) (Co-Lead Class Counsel)
- Result: \$150 million settlement value
- McClain v. Henry Ford Health*
(Wayne County Circuit Court)
(Case No. 2025-000801-CZ)
- Result: approx. \$12.3 million settlement value
- White v. FCA US LLC*
(United States District Court, Eastern District of Michigan)
(Case No. 4:21-cv-11696) (Co-Lead Class Counsel)
- Result: \$96 million settlement value
- Chapman v. General Motors LLC*
(United States District Court, Eastern District of Michigan)
(Case No. 2:19-cv-12333) (Class Counsel)
- Result: \$50 million settlement
- 2024 *Ubillus v. Progressive Marathon Ins. Co.*

(Washtenaw Circuit Court)
(Case No. 19-000741) (Class Counsel)
Result: \$61 million settlement

In re: Henry Ford Health System Data Security Litigation
(United States District Court, Eastern District of Michigan)
(Case No. 2:23-cv-12520) (Class Counsel)

Result: \$700,000 settlement

In re Wright & Filippis, LLC Data Security Breach Litigation
(United States District Court, Eastern District of Michigan)
(Case No. 2:22-cv-12908) (Chair of Class Counsel)

Result: \$2.9 million settlement

Schreiber v. Mayo Found. for Medical Education and Research
(United States District Court, Western District of Michigan)
(Case No. 2:22-cv-00188) (Class Counsel)

Result: \$52.5 million settlement

Pratt v. KSE Sportsman Media, Inc.
(United States District Court, Eastern District of Michigan)
(Case No. 1:21-cv-11404) (Class Counsel)

Result: \$9.5 million settlement

2023

Cooper (nee Zimmerman) v. The 3M Company and Wolverine
(United States District Court, Western District of Michigan)
(Case No. 1:17-cv-01062) (Co-Lead Counsel)

Result: \$54 million settlement

Reynolds v. FCA
(United States District Court, Eastern District of Michigan)
(Case No. 2:19-cv-11745) (Co-Lead Counsel)

Result: Over \$30 million settlement value

Kain v. The Economist Newspaper NA, Inc.
(United States District Court, Eastern District of Michigan)
(Case No. 4:21-cv-11807) (Co-Lead Counsel)

Result: \$9.5 million settlement

Ketover v. Kiplinger Washington Editors, Inc.

(United States District Court, Eastern District of Michigan)
(Case No. 1:21-cv-12987) (Class Counsel)

Result: \$6.8 million settlement

Moeller v. The Week Publications, Inc.

(United States District Court, Eastern District of Michigan)
(Case No. 1:22-cv-10666) (Class Counsel)

Result: \$5.1 million settlement

Thomsen v. Morley

(United States District Court, Eastern District of Michigan)
(Case No. 1:22-cv-10271) (Plaintiffs' Executive Committee)

Result: \$4.3 million settlement

2022

In re; National Prescription Opiate Litigation (CVS, Walgreens and Walmart retail pharmacy and two manufacturers Allergan and Teva)
(United States District Court, Northern District Ohio, MDL Court)
(Case No. 1:17-md-2804) (Represented several Michigan counties who were parties to and benefited from the global settlement)

Result: \$18.5 billion global settlement plus Narcan or additional cash from Teva

In re EpiPen (Epinephrine Injection, USP) Marketing, Sales Practices and Antitrust Litig.,

(United States District Court, District of Kansas)
(Case No. 2:17-md-02785) (Plaintiffs' Steering Committee)

Result: \$609 million in settlements

Wood, et al. v. FCA US LLC

(United States District Court, Eastern District of Michigan)
(Case No. 5:20-cv-11054) (Co-Lead Counsel)

Result: Over \$108 million settlement value

Persad, et al. v. Ford Motor Company

(United States District Court, Eastern District of Michigan)
(Case No. 2:17-cv-12599) (Co-Lead Counsel)

Result: Over \$42 million settlement value

Loftus v. Outside Integrated Media, LLC

(United States District Court, Eastern District of Michigan)
(Case No. 2:21-cv-11809) (Co-Lead Counsel)

Result: Approximately \$1 million settlement

Graham, et al. v. University of Michigan, et al.,
(United States District Court, Eastern District of Michigan)
(Case No. 2:21-cv-11168) (Co-Lead Counsel)

Result: Injunctive relief settlement mandating University reforms to address and prevent sexual misconduct

John Doe MC-1 v. University of Michigan, et. al.
(United States District Court, Eastern District of Michigan)
(Case No. 2:20-cv-10568) (Represented several victims of sexual abuse in private, confidential settlement)

2021 Result: Confidential settlement
In re; National Prescription Opiate Litigation (Distributor and Manufacturer Janssen Pharmaceuticals Settlement)
(United States District Court, Northern District of Ohio, MDL Court)
(Case No. 1:17-md-2804) (Represented several Michigan counties who were parties to and benefited from the global settlement.)

Result: \$26 billion global settlement

Simmons, et al. v. Apple, Inc.
(Superior Court of the State of California, County of Santa Clara)
(Case No. 17CV312251) (Co-Lead Counsel)

Result: \$9.75 million settlement

Dougherty v Esperion Therapeutics, Inc., et. Al.
(United States District Court, Eastern District of Michigan)
(Case No. 2:16-cv-10089) (Local Counsel)

Result: \$18.25 million settlement

In re Broiler Chicken Antitrust Litigation
(United States District Court, Northern District of Illinois, Eastern Division) (Case No. 1:16-cv-08637)

Result: \$93.5 million in settlements in 2021

2020 *In re Resistors Antitrust Litigation*
(United States District Court, Northern District of California)
(Case No. 3:15-cv-03820) (Informal member of Steering Committee)

Result: \$33.4 million in settlements in 2020

In re Capacitors Antitrust Litigation

(United States District Court, Northern District of California)
(Case No. 03:17-md-02801) (Informal member of Steering Committee)

Result: \$30.95 million in settlements in 2020

2019

Carl Palazzolo, et al. Fiat Chrysler Automobiles N.V., et al.
(United States District Court, Eastern District of Michigan)
(Case No. 16-cv-12803) (Co-Lead Counsel)

Result: \$14.75 million settlement

Zimmerman v. Diplomat Pharmacy, Inc., et al.

(United States District Court, Eastern District of Michigan)
(Case No. 2:16-cv-14005) (Liaison Counsel)

Result: \$14.1 million settlement

2018

In re Freight Forwarders Antitrust Litigation

(United States District Court, Eastern District of New York)
(Case No. 08-cv-00042) (Counsel for Class Representative)

Result: \$1 billion settlement

2017

Foster v. L3 Communications, EO Tech

(United States District Court, Western District of Missouri)
(Case No. 15-cv-03519) (Co-Lead Counsel)

Result: \$51 million settlement (100% recovery)

2016

In re Automotive Parts Antitrust Litigation

(United States District Court, Eastern District of Michigan)
(Case No. 12-md-02311) (Liaison Counsel)

Result: Over \$1 billion in settlements

GM Securities Class Action/New York Teachers Retirement System v. General Motors Company

(United States District Court, Eastern District of Michigan)
(Case No. 4:14-cv-11191) (Local Counsel)

Result: \$300 million settlement

ERISA Class Action/Davidson v. Henkel Corporation
(United States District Court, Eastern District of Michigan)
(Case No. 12-cv-14103) (Lead Counsel)

Result: \$3.35 million settlement (100% Recovery for 41-member class)

*Pat Cason-Merenda and Jeffrey A. Suhre v. VHS of Michigan, Inc.,
dba Detroit Medical Center (Antitrust)*
(United States District Court, Eastern District of Michigan)
(Case No. 2:06-cv-15601) (Special Trial Counsel)

Result: \$42 million settlement

2015 *In re AIG 2008 Securities Litigation*
(United States District Court, Southern District of New York)
(Case No. 08-cv-04772) (Co-Lead Counsel)

Result: \$970.5 million settlement

2014 *City of Farmington Hills Employees Retirement System v. Wells
Fargo Bank, N.A.*
(United States District Court, District of Minnesota)
(Case No. 10-cv-04372) (Co-Lead Counsel and Primary Trial Counsel)

Result: \$62.5 million settlement

The Shane Group, Inc., et al. v. Blue Cross Blue Shield of Michigan
(United States District Court, Eastern District of Michigan)
(Case No. 2:10-cv-14360) (Co-Lead Counsel)

Result: \$30 million settlement

In re Refrigerant Compressors Antitrust Litigation
(United States District Court, Eastern District of Michigan)
(Case No. 09-md-02042) (Co-Lead Counsel)

Result: \$30 million settlement

2013 *The Board of Trustees of the City of Birmingham Employees et. al. v.
Comerica Bank et. al.*
(United States District Court, Eastern District of Michigan)
(Case No. 2:09-13201) (Co-Lead Counsel)

Result: \$11 million settlement

In Re Caraco Pharmaceutical Laboratories, Ltd. Securities Litigation
(United States District Court, Eastern District of Michigan)

(Case No. 2:09-cv-12830) (Co-Lead Counsel)

Result: \$2.975 million settlement

In Re TechTeam Global Inc. Shareholder Litigation
(Oakland County Circuit Court, State of Michigan)
(Case No. 10-114863-CB) (Liaison Counsel)

Result: \$1.775 million settlement

General Retirement System of the City of Detroit and Police and Fire Retirement System of the City of Detroit vs. UBS Securities, LLC (Structured Investment Vehicle)
(United States District Court, Eastern District of Michigan)
(Case No. 2:10-cv-13920) (Lead Counsel)

Result: Confidential settlement

2010 *Epstein, et al. v. Heartland Industrial Partners, L.P., et al.*
(United States District Court, Eastern District of Michigan)
(Case No. 2:06-CV-13555) (Substantial role)

Result: \$12.2 million settlement

In Re Skilled Healthcare Group, Inc. Securities Litigation
(United States District Court, Central District of California)
(Case No. 09-5416) (Substantial role)

Result: \$3 million settlement

2009 *In Re Proquest Company Securities Litigation*
(United States District Court, Eastern District of Michigan)
(Case No. 4:06-CV-11579) (Substantial role; argued Motion to Dismiss)

Result: \$20 million settlement

In Re Collins & Aikman Corporation Securities Litigation
(United States District Court, Eastern District Michigan)
(Case No. 03-CV-71173) (Substantial role)

Result: \$10.8 million settlement

In re IT Group Securities Litigation
(United States District Court, Western District of Pennsylvania)
(Civil Action No. 03-288) (Co-Lead Counsel)

Result: \$3.4 million settlement

2008 *In re Mercury Interactive Securities Litigation*
(United States District Court, Northern District of California)
(Civil Action No. 03:05-CV-3395-JF) (Substantial role)

Result: \$117 million settlement

In Re General Motors Corporation Securities and Derivative Litigation
(United States District Court, Eastern District of Michigan)
(Master Case No. 06-MD-1749) (Co-Lead Counsel)

Status: Obtained major corporate governance reforms to address accounting deficiencies

2007 *Wong v. T-Mobile USA, Inc.*
(United States District Court, Eastern District of Michigan)
(Case No. 05-CV-73922) (Co-Lead)

Result: Settlement for 100% of damages

In re CMS Energy Corporation Securities Litigation
(United States District Court, Eastern District Michigan)
(Master File No. 2:02 CV 72004) (Substantial role)

Result: \$200 million settlement

2005 *In re Comerica Securities Fraud Litigation*
(United States District Court, Eastern District of Michigan)
(Case No. 2:02-CV-60233) (Substantial role)

Result: \$21 million in total settlements

Street v. Siemens
(Philadelphia State Court)
(Case No. 03-885) (Co-Lead Counsel)

Result: \$14.4 million (100% recovery)

Redmer v. Tournament Players Club of Michigan
(Wayne County Circuit Court) (Case No. 02-224481-CK) (Co-Lead)

Result: \$3.1 million settlement

2004 *Passucci v. Airtouch Communications, Inc.*
(Wayne County Circuit Court) (Case No. 01-131048-CP) (Co-Lead)

Result: Estimated settlement value between \$30.9 and \$40.3 million

Johnson v. National Western Life Insurance
(Oakland County Circuit Court)
(Case No. 01-032012-CP) (Substantial role)

Result: \$10.7 million settlement

2003

Felts v. Starlight
(United States District Court, Eastern District Michigan)
(Case No. 01-71539) (Co-Lead)

Result: Starlight agrees to stop selling ephedrine as an ingredient in its weight loss dietary supplement product

In re Lason Securities Litigation
(United States District Court, Eastern District Michigan)
(Case No. 99-CV-76079) (Co-Lead)

Result: \$12.68 million settlement

2001

Mario Gasperoni, et al. v. Metabolife International, Inc.
(United States District Court, Eastern District Michigan)
(Case No. 00-71255) (Co-Lead)

Result: Nationwide settlement approved mandating changes in advertising and labeling on millions of bottles of dietary supplement, plus approximately \$8.5 million in benefits

1999

Pop v. Art Van Furniture and Alexander Hamilton Insurance Company
(Wayne County Circuit Court) (Case No. 97-722003-CP) (Co-Lead)

Result: Changes in sales practices and \$9 million in merchandise.

Schroff v. Bombardier
(United States District Court, Eastern District Michigan)
(Case No. 99-70327) (Co-Lead)

Result: Recall of more than 20,000 defective Seadoos throughout North America; repair of defect to reduce water ingestion problem; extended warranties; and approximately \$4 million in merchandise.

In re National Techteam Securities Litigation
(United States District Court, Eastern District Michigan)
(Master File No. 97-74587) (Substantial role)

Result: \$11 million settlement

In Re F&M Distributors, Inc., Securities Litigation
(United States District Court, Eastern District Michigan)
(Case No. 95-CV-71778-DT) (Minor role)

Result: \$20 million settlement

1998 *In Re Michigan National Corporation Securities Litigation*
(United States District Court, Eastern District Michigan)
(Case No 95 CV 70647 DT) (Substantial role)

Result: \$13.3 million settlement

1995 *In re Intel Pentium Processor Litigation*
(Superior Court, Santa Clara County, California) (Master File No. 745729)
(Substantial role)

Result: Intel agreed to replace millions of defective Pentium chips on demand without any cost to consumers



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Powell Miller has been recognized as Michigan’s number one ranked attorney by Super Lawyers Magazine for 2020. He has also been named one of the Top 10 lawyers in Michigan for seventeen consecutive years, from 2009-2025, by Super Lawyers Magazine, and in 2010, 2015, 2019, 2020, and 2024 he was the recipient of the Best Lawyers – Lawyer of the Year in the category of Bet-The-Company Litigation. In 2017, Mr. Miller was the recipient of the Judge Friedman and Cook Civility Award, which is awarded to only one lawyer each year. In 2024, he received the Professionalism Award from the Oakland County Bar Association. He has been named as one of the Best Lawyers in America every year since 2005. Mr. Miller has earned Martindale-Hubbell’s highest rating, AV[®] Preeminent™ 5/5.0 for legal ethics and ability and a 10/10 from AVVO a public rating system. Mr. Miller is also ranked as only one of nine in Michigan to receive the highest Band 1 rating by Chambers USA, describing Mr. Miller as a “superb trial lawyer” who “routinely acts for high-profile clients based across the [United] states.”

Mr. Miller focuses his practice on all aspects of litigation. He has been retained by many Fortune 500 and other clients to represent them in litigation throughout the United States, including in Michigan, New York, New Jersey, Pennsylvania, Arkansas, Florida, Texas, Kentucky, Ohio, California, Colorado, Indiana, and Illinois.

Mr. Miller recently led the trial team and secured a significant victory in a closely followed defamation trial. After more than five years of litigation and a demand for tens of millions of dollars in damages, the court granted a directed verdict in favor of Mr. Miller’s clients immediately following plaintiff’s case-in-chief. Mr. Miller also previously prevailed in an arbitration against Jimmy Johns in the amount of \$4.8 million including a \$1 million attorney fee award. In October 2019, Mr. Miller defended a consumer goods manufacturer against plaintiffs asserting complex price discrimination and antitrust claims, and alleging millions of dollars in damages. Following a three-week trial and seven hours of deliberations, a California jury returned a unanimous verdict in favor of Mr. Miller’s client. Mr. Miller has never lost a trial, and has obtained verdicts in excess of \$5 million, \$10 million and \$23 million.

Mr. Miller has also obtained in excess of \$10 billion in settlements for class members, consumers, and governmental entities. These settlements, including a \$970.5 million settlement with AIG in 2015, are regularly among the largest settlements in Michigan and the United States.

Mr. Miller has previously served as Co-President of the Detroit Chapter of the Federal Bar Association Antitrust and Securities Committees. He also serves on the Executive Committee for the Wayne State University Law School Board of Visitors, has served a Co-Chair of the American Bar Association Procedures Subcommittee on class actions and multi-district litigation, and serves as a Master member of The Oakland County Bar Association Inns of Court.

In 2024, Mr. Miller taught the inaugural Class Actions and Multidistrict Litigations course at Wayne State University Law School. He has also previously lectured on securities litigation at the University of Michigan

School of Law and also served as an Adjunct Professor at the University of Detroit Law School teaching trial practice.

Mr. Miller graduated third in his class from Wayne State University Law School, magna cum laude, in 1986. He was named to the honor society, Order of the Coif, and he was an Editor of the Wayne Law Review. In 1986, Mr. Miller joined the Detroit law firm of Honigman Miller Schwartz and Cohn, where he was elected partner in 1990. In 1994, he formed his own firm.

Mr. Miller has been recognized as a top debater in the United States. He won first place at the Harvard University National Debate Tournament as a freshman at Georgetown University. He also represented Georgetown in a special international debating exhibition against the Oxford Debating Union of Great Britain.

Mr. Miller is a proud supporter of the Detroit Urban Debate League, a nonprofit that supports the creation of debate programs in under-served high schools; the University of Detroit Jesuit High School and Academy; The Joe Niekro Foundation, which is committed to aiding in the research and treatment of aneurysm patients and families; and Charlotte's Wings, a nonprofit that is dedicated to supporting ailing children in Southeast Michigan through donations of new books to the children and their families in hospital and hospice care.

EDUCATION:

UNIVERSITY OF DETROIT JESUIT HIGH SCHOOL, 1979

GEORGETOWN UNIVERSITY, B.A., 1983

WAYNE STATE UNIVERSITY LAW SCHOOL, J.D., 1986

Exhibit 2

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

THOMAS A. FOX, et al., for themselves
and all those similarly situated,
Plaintiffs,

Case No.: 19-cv-11887
Hon. David Lawson
Mag. J. Patricia T. Morris

v.

CLASS ACTION

COUNTY OF SAGINAW, et al.,
Defendants.

DECLARATION OF PHILIP L. ELLISON

Philip L. Ellison, hereby declares, as follows:

1. I am the owner and an attorney with Outside Legal Counsel PLC, a private law firm based in Hemlock, Michigan. I have practiced law for over fifteen years.
2. My practice is statewide and focuses on complex civil litigation, with an emphasis on property rights and civil rights.
3. I regularly undertake complex, difficult, and politically sensitive cases, including matters that are often unpopular with government actors or officials in positions of authority.
4. I am admitted to practice in Michigan state trial and appellate courts, the United States District Courts for the Eastern and Western Districts of Michigan, the United States Court of Appeals for the Sixth Circuit, the United States Court of Federal Claims, and the United States Supreme Court.
5. My work has been recognized as a state leader in the field of civil rights litigation. Judge Matthew Leitman has recently described my practice as being “within the upper echelon of the plaintiff’s civil rights bar in Michigan.” *Freed v. Thomas*, No. 17-cv-13519, 2026 LX 139737, at *24 (E.D. Mich. Mar. 20, 2026).

6. In 2026, I appeared before the United States Supreme Court in *Pung v. Isabella County* (No. 25-91), a case challenging Michigan's tax foreclosure practices; that decision remains pending. I have also appeared before the United States Supreme Court in *Michigan v. Beck* (No. 19-564) and *Lindke v. Freed* (No. 22-611).

7. I have extensive appellate experience before the United States Court of Appeals for the Sixth Circuit, including fully briefing and arguing numerous cases, several of which resulted in published decisions.:

25-1656	<i>Generis Ent., LLC v. Donley</i>	2026 US App LEXIS 5197
25-1682	<i>Hendershot v. Eubanks</i>	F.4th
23-1942	<i>Mockeridge v. Harvey</i>	149 F.4th 826
24-1278	<i>Novak v. Federspiel</i>	140 F.4th 815
24-1170	<i>Freed v. Thomas (Freed III)</i>	137 F.4th 552
22-1919	<i>Pung v. Isabella County</i>	2025 US App LEXIS 2149
21-1108	<i>Fox v. County of Saginaw</i>	2022 WL 523023
21-2977	<i>Lindke v Freed (On Remand)</i>	114 F. 4th 812
18-2312	<i>Freed v. Thomas</i>	976 F.3d 729
19-1226	<i>Rudd v. City of Norton Shores</i>	977 F.3d 503
19-1208	<i>Taylor v. City of Saginaw (Taylor I)</i>	922 F.3d 328
17-2169	<i>Meyers v. Village of Oxford</i>	739 Fed. App'x. 336
18-1896	<i>Kanuszewski v. MDHHS</i>	927 F.3d 396
17-2519	<i>Johnson v. Morales</i>	946 F.3d 911
19-1208	<i>Johnson v. City of Saginaw</i>	980 F.3d 497
20-1538	<i>Taylor v. City of Saginaw (Taylor II)</i>	11 F. 4th 483

8. The Michigan Supreme Court has granted me leave, and leave to my firm, to appear as amicus curiae in significant cases, including:

- *Coalition Protecting Auto No-Fault v. Mich. Catastrophic Claims Ass'n*, 890 N.W.2d 107 (Mich. 2017); and
- *Speicher v. Columbia Twp. Bd. of Trustees*, 853 N.W.2d 379 (Mich. 2014).

9. I have also fully briefed and argued multiple cases before the Michigan Supreme Court, including matters in which leave was granted and merits decisions issued:

164557	<i>The Gym 24/7 Fitness LLC v State of Michigan</i>	MOAA Granted
163053	<i>James Twp. v. Rice</i>	509 Mich. 363
160012	<i>Ahmad v. Univ. of Michigan</i>	505 Mich 1
160646	<i>Twp. of James v. Rice</i>	941 NW2d 631
160991	<i>Twp. of Fraser v. Haney</i>	933 NW2d 42
158005	<i>Maniaci v. Diroff</i>	505 Mich 1
152934	<i>People v. Beck</i>	504 Mich 605
155398	<i>T.M. v. M.Z.</i>	501 Mich 312
147333	<i>Porter v. Hill</i>	495 Mich 987
151520	<i>Bitterman v. Bolf</i>	499 Mich 904
152519	<i>Fowler v. Menard, Inc,</i>	897 NW2d 166
158005	<i>Maniaci v. Diroff</i>	898 NW2d 585
151835	<i>Wenners v. Chisolm</i>	496 Mich 854
154209	<i>Cramer v. Village of Oakley</i>	892 NW2d 371
151417	<i>LaFave v. Ionia Cnty. Rd. Comm'n</i>	498 Mich 967
155863	<i>Jones Fam Trust v. Sag. Cnty. Landbank Auth'y</i>	918 NW2d 808

10. I have successfully litigated numerous cases before the Michigan Court of Appeals, including published decisions that have altered Michigan law, including:

374801	<i>Hassan M. Ahmad v. Univ. of Mich.</i>	2026 WL 407655
368834	<i>Fraser Twp v. Haney</i>	Mich App (2025)
329190	<i>T.M. v. M.Z.</i>	326 Mich App 227
318623	<i>Arabo v. Mich Gaming Control Bd.</i>	310 Mich App 370
320984	<i>Bitterman v. Village of Oakley</i>	309 Mich App 53
344091	<i>Ellison v. Dep't of State</i>	320 Mich App 169
334886	<i>Zoran v. Twp. of Cottrellville</i>	322 Mich App 470

11. I have been appointed class counsel or co-class counsel in multiple class actions involving similar constitutional claims as those in this case, including:

- *Zettel v. County of Charlevoix*
- *Arkona LLC v. County of Cheboygan*
- *Rafaeli v. County of Oakland*
- *Hathon v. State of Michigan*

I have prosecuted other class actions involving thousands of class members through final judgment or settlement, including the warrantless tire-chalking

litigation (*Taylor v. City of Saginaw*; *Yannotti v. City of Ann Arbor*). I currently have additional class actions pending in both state and federal courts.

12. From 2021 through 2026, I have been selected as a Super Lawyer. I was also named one of Michigan Lawyers Weekly's "Up and Coming Lawyers" in 2014.

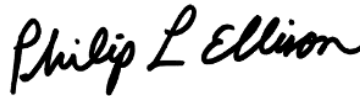
13. I have testified before committees of the Michigan Legislature regarding proposed statutory amendments that resulted in changes to Michigan law.

14. I previously served as an adjunct lecturer/professor of law at Saginaw Valley State University.

15. I hold a Master of Business Administration from Central Michigan University, and I graduated cum laude with a Bachelor of Science in Business Administration from Lake Superior State University. I earned my Juris Doctor from Michigan State University College of Law, where I served as co-editor-in-chief of a law journal.

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

Executed on March 31, 2026



Philip L. Ellison

Exhibit 3

CHART OF COSTS

CATEGORY	AMOUNT
Mail Services and Postage	\$1,774.91
Copying Charges	\$6,856.50
Research Database Charges	\$14,962.75
Process Server Fees	\$381.41
Transcript Costs	\$2,114.17
Charges from Epiq Systems relating to 2022 Notice Efforts	\$14,765.50
TOTAL	\$40,855.24