

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SCOTT BALFOUR, DON LEE,
KULDEEP SINGH, MATTHEW
TEMPLON, and SHELIA VORHEIS,

Case No. 23-cv-67-CFC

Plaintiffs,

v.

iFIT HEALTH AND FITNESS INC, a
Delaware Corporation,

Defendant.

**JOINT DECLARATION OF JOSEPH G. SAUDER AND DANIEL O.
HERRERA IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS'
FEES, EXPENSES, AND SERVICE AWARDS**

Joseph G. Sauder and Daniel O. Herrera, under penalty of perjury, declare as follows:

1. Joseph G. Sauder is a partner at the law firm of Sauder Schelkopf LLC in Berwyn, Pennsylvania, and admitted to practice in the Commonwealth of Pennsylvania and the State of New Jersey. Daniel O. Herrera is a partner at the law firm of Cafferty Clobes Meriwether & Sprengel LLP and admitted to practice in the State of Illinois. We are Class Counsel.

BACKGROUND ABOUT SAUDER SCHELKOPF LLC

2. Sauder Schelkopf is a national class action and personal injury law firm located in Berwyn, Pennsylvania. The attorneys at Sauder Schelkopf have been selected as Pennsylvania *SuperLawyers*, Pennsylvania *SuperLawyers Rising Stars*, *LawDragon*'s 500 Leading Plaintiff Consumer and Civil Rights Lawyers, as well as Trailblazers by *The Legal Intelligencer* and *The American Lawyer*. In addition, the 2024 edition of U.S. News & World Report, *Best Lawyers*® recognized our firm as a *Best Law Firm*. In 2024, the firm was recognized as the Products Liability Practice Group of the Year by *The National Law Journal*'s Elite Trial Lawyers.

3. I started my legal career as a prosecutor in the Philadelphia District Attorney's Office where, from 1998 to 2003, I successfully tried hundreds of criminal cases to verdict. *LawDragon* recognized me in its list of the "500 Leading Plaintiff Consumer Lawyers" for 2024. *The American Lawyer* named me to its 2021 Northeast Trailblazers. The honor recognizes 60 lawyers who are "truly agents of change." It "recognizes professionals in the Northeast who have moved the needle in the legal industry." *The Legal Intelligencer* named me in its 2020 Pennsylvania Trailblazers list recognizing 31 lawyers who "have taken extra measures to contribute to positive outcomes . . . and who are truly agents of change." *The Legal* highlights my innovative work on advocacy as class counsel in large institutional sex abuse cover-ups, women's, and children's rights.

4. Since 2011, I have been selected as a Pennsylvania *SuperLawyer*, a distinction held by the top 5% of attorneys in Pennsylvania, as chosen by their peers and through the independent research of Law & Politics.

5. I am currently serving or have served as lead or co-lead counsel in class actions in courts across the country. *See, e.g., McMahon v. Generac Power Systems, Inc.*, No. 2:21-cv-05560 (E.D. Pa.) (class action settlement that provided 100% relief to a class of approximately 230,000 individuals that included free safety inspections and reimbursements for out-of-pocket expenses incurred related to fuel plenum on standby home generators that were allegedly susceptible to corrosion); *Jackson v. Viking Group, Inc.*, No. 8:18-cv-02356-PJM, D.I. 46 (D. Md.) (class action settlement valued between \$30.45 million and \$50.75 million that provided a free replacement program to replace the allegedly defective sprinklers with non-defective sprinklers, and a claims program to reimburse those who experienced non-fire activations); *Bromley v. SXSX LLC*, No. 1:20-cv-439-LY (W.D. Tex.) (class action settlement related to ticket purchases for festival canceled by COVID-19 pandemic); *Cole v. NIBCO, Inc.*, No. 13-7871, D.I. 227 (D.N.J.) (\$43.5 million settlement related to allegedly defective plumbing products); *In re Checking Account Overdraft Litig.*, MDL No. 2036 (S.D. Fla.) (\$55 million class action settlement with US Bank and \$14.5 million class action settlement with Comerica); *Traxler v. PPG Indus., Inc.*, No. 1:15-cv-00912-DAP (N.D. Ohio); (\$6.5 million class action settlement on

behalf of homeowners who purchased and used defective deck resurfacer); *Klug v. Watts Regulator Co.*, No. 8:15-cv-61 (D. Neb.) and *Ponzo v. Watts Regulator Co.*, No. 8:16-200 (D. Neb.) (achieved \$14 million joint settlement related to defective toilet connectors and water heater connectors).

6. In addition, Sauder Schelkopf attorneys have been appointed to leadership positions in numerous class action cases throughout the United States, including: *In re: Hyundai and Kia Engine Litigation II*, No. 8:18-cv-02223 (C.D. Cal.) (appointed co-lead counsel in class action against Hyundai and Kia related to alleged engine defect and negotiated settlement covering approximately 2.1 million vehicles valued at approximately \$934 million); *In re: Hyundai and Kia Engine Litig.*, 8:17-cv-02208-JLS-JDE (C.D. Cal.) (appointed co-lead counsel in class action against Hyundai and Kia and negotiated a class settlement valued at approximately \$892 million related to alleged engine defect); *In re: Subaru Battery Drain Prod. Liab. Litig.*, No. 1:20-cv-03095-JHR-MJS (D.N.J.) (class action settlement related to allegedly defective vehicle batteries); *Zhao v. Volkswagen Group of Am., Inc.*, No. 2:21-cv-11251 (D.N.J.) (class action settlement related to allegedly defective vehicle water pumps); *In re: General Motors Air Conditioning Marketing and Sales Pracs. Litig.*, No. 18-md-02818 (E.D. Mich.) (class action related to allegedly defective vehicle air conditioning systems); *Salcedo v. Subaru of America, Inc.*, No. 1:17-cv-08173(JHR)(AMD) (D.N.J.) (appointed as lead

counsel in class action against Subaru and negotiated a class settlement related to an alleged engine defect); *Bang v. BMW of North America, LLC*, No. 2:15-cv-69450(MCA)(LDW) (D.N.J.) (appointed as co-lead counsel in class action against BMW and negotiated a class settlement related to an alleged oil consumption defect); *Yaeger v. Subaru of America, Inc.*, No. 1:14-cv-04490(JBS) (KMW) (D.N.J.) (appointed as co-lead counsel in class action against Subaru and negotiated a class settlement related to an alleged oil consumption defect); *Davitt v. Honda North America, Inc.*, No. 2:13-cv-00381-MCA-JBC (D.N.J.) (appointed lead counsel in class action against Honda and negotiated a class settlement related to alleged door lock actuator defect); *Fath v. American Honda Motor Co.*, No. 18-cv-01549-WMW (D. Minn.) (appointed lead counsel in class action against Honda and negotiated a class settlement related to an alleged oil dilution defect); and *Tolmasoff v General Motors, LLC*, No. 2:16-cv-11747 (E.D. Mich.) (class action settlement related to GM vehicles with overstated fuel economy).

SAUDER SCHELKOPF’S LODESTAR AND EXPENSES

7. As of August 16, 2024, Sauder Schelkopf has spent over 309 hours working on this case, for a total lodestar of \$229,247.50.

Name	Role	Rate	Hours	Lodestar
Joseph Sauder	Partner	\$900	137.8	\$124,020.00
Matthew Schelkopf	Partner	\$850	10.4	\$8,840.00
Joseph Kenney	Partner	\$650	89.7	\$58,305.00
Mark DeSanto (Former)	Associate	\$575	58.3	\$33,522.50

Juliette Mogenson	Associate	\$375	11.6	\$4,350
Archita Rutkowski	Paralegal	\$150	1.4	\$210.00
Totals			309.2	\$229,247.50

8. The hourly rate of Sauder Schelkopf attorneys ranged from \$375 per hour for associate work, to \$900 per hour for partner work.

9. Due to the amount of privileged information contained in the hourly billing records, those detailed records are not attached here, but they will be provided *in camera* for the Court’s review prior to the Final Fairness Hearing.

10. The work performed in this case was reasonable and necessary to the prosecution and settlement of this case. Class Counsel conducted a significant factual investigation during the prosecution of this action. Because of their comprehensive evaluation of the facts and law, Class Counsel was able to settle this case for a substantial sum and provide significant benefits to Settlement Class Members. Class Counsel provided Settlement Class Members with substantive and certain relief much sooner than if litigation of this matter had continued.

11. As settlement administration is ongoing and based on my experience in previous consumer protection class actions, the lodestar figures reported herein will meaningfully increase by the time the settlement is completely and finally administered.

12. This litigation required Class Counsel to advance costs. Where corporate defendants and their attorneys are well funded, as was true here and in most national consumer protection cases, this type of litigation can prove to be expensive and risky. Because the risk of advancing costs in this type of litigation is significant, doing so is often cost prohibitive to many attorneys.

13. As of August 16, 2024, my firm has expended costs of \$18,280.98. These expenses are reflected in the books and records of my firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred. All the expenses incurred were reasonable and necessary to the prosecution of this case.

14. Specifically, the costs incurred include: \$16,275.00 for mediation, \$300 for *pro hac vice* fees, \$342.72 for the filing fee, \$17.15 for postage and mailing fees, \$50.20 in PACER fees, and \$1,295.91 in mediation-related travel costs (specifically, \$899.70 for a roundtrip flight to California for mediation, and \$396.21 for a hotel room the night prior to the mediation).

15. On behalf of Plaintiffs, I respectfully request that the Court award the requested attorneys' fees and costs.

BACKGROUND ABOUT CAFFERTY CLOBES

16. Cafferty Clobes Meriwether & Sprengel LLP ("Cafferty Clobes") has for more than 30 years led, litigated, and successfully resolved national consumer,

antitrust, and other commercial class actions, recovering billions of dollars and obtaining prophylactic relief through leadership roles in cases litigated in state and federal courts across the country.

17. I, Daniel O. Herrera, am a partner in Cafferty Clobes and have led the firm's efforts in this case. During my fifteen years of practice, I have developed a proven track record of successfully resolving complex class actions on behalf of consumers nationwide. *See e.g., In re Disposable Contact Lens Antitrust Litig.*, MDL No. 2626 (M.D. Fla.) (Mr. Herrera represented Cafferty Clobes on PSC in action that produced over \$100 million in settlements for purchasers of contact lenses subject vertical price restraints); *Bromley vs. SXSW*, No. 20-cv-439 (W.D. Tex.) (co-lead counsel in action that resulted in \$6 million in refunds following cancellation of 2020 festival); *In re Behr DeckOver Marketing, Sales Practices, and Products Liability Litig.*, No. 17-cv-4464 (N.D. Ill.) (co-lead counsel in uncapped settlement entitling class members to 75% of all documented repair costs); *Sharp v. Watts Regulator Co.*, No. 8:16CV200, 2017 WL 1373860, at *3 (D. Neb. Apr. 13, 2017 (co-lead counsel in action in which the parties reached a \$14 million settlement to resolve property damage claims); *Klug v. Watts Regulator Co.*, No. 8:15CV61, 2017 WL 1373857, at *3 (D. Neb. Apr. 13, 2017) (co-lead counsel in action in which the parties reached a \$12 million settlement); *In re Autoparts Antitrust Litig.*, MDL No. 2311 (E.D. Mich.) (representing Cafferty Clobes on Plaintiffs' Discovery

Committee in multidistrict litigation that has secured more than \$1.2 billion in settlements for affected vehicle owners); *Traxler v. PPG Indus., Inc.*, No. 15-cv-00912 (N.D. Ohio) (co-lead counsel in action that resulted in \$6.5 million settlement on behalf of affected property owners).

18. I also currently lead the firm's efforts in groundbreaking, multidistrict antitrust class actions challenging longstanding anticompetitive practices in two of America's largest industries. My colleagues and I presently serve as co-lead counsel on behalf of a class of ranchers in *In re Cattle and Beef Antitrust Litig.*, No. 22-md-03031 (D. Minn.), in which the plaintiffs allege the nation's four largest beef packers conspired to reduce fed cattle prices and caused billions of dollars in damages to the ranchers on whom the nation's food chain relies. And I recently was appointed to the Plaintiffs' Steering Committee in *In re Apartment Rental Software Antitrust Litig.*, No. 23-md-3071 (M.D. Tenn.), in which the defendants are alleged to have conspired to inflate residential rental prices in the nation's largest geographic markets.

19. Cafferty Clobes' experience also extends to consumer privacy class actions, in addition to the antitrust and consumer class action matters described above. *See e.g., Sharma vs. Accutech Sys. Corp.*, No. 18C02-2210-CT-000135 (Del. Co. Ind. Cir. Ct.) (appointing Cafferty Clobes and others Class Counsel, and approving the settlement that provided monetary reimbursement for ordinary losses

(including lost time), extraordinary losses, two years of credit monitoring, and required defendant to change business practices); *In re California Pizza Kitchen Data Breach Litig.*, No. 8:21-cv-01928 (C.D. Cal.) (same); *Hough v. Navistar, Inc.*, No. 2021L001161 (DuPage County Cir. Ct.) (Cafferty Clobes appointed Co-Lead Counsel and obtained a \$1.25 million settlement that also included, free identity theft protection services, and required defendant to change its data security practices); *In re TikTok, Inc. Consumer Privacy Litig.*, MDL No. 2948 (N.D. Ill.) (Mr. Herrera and Cafferty Clobes were responsible for drafting pleadings and discovery leading to a \$92 million settlement); *Carroll v. Crème de la Crème, Inc.*, No. 17-CH-1624 (Cook County Cir. Ct.) (Cafferty Clobes appointed Co-Lead Counsel and obtained a settlement providing significant relief, including requiring the defendant to change its biometric collection and storage practices).

CAFFERTY CLOBES’ LODESTAR AND EXPENSES

20. As of August 16, 2024, Cafferty Clobes has spent over 303 working on this case, for a total lodestar of \$239,025.

Name	Role	Rate	Hours	Lodestar
Daniel Herrera	Partner	\$950.00	135.6	\$128,820.00
Edward Khatskin (Former)	Associate	\$700.00	26.6	\$18,620.00
Alex Lee	Associate	\$650.00	138.3	\$89,895.00
Alexander Sweatman	Associate	\$650.00	2.6	\$1,690.00
Totals			303.1	\$239,025.00

21. The hourly rate of Cafferty Clobes attorneys ranged from \$650.00 per hour for associate work, to \$950.00 per hour for partner work.

22. As of August 16, 2024, my firm has expended costs of \$10,482.86. These expenses are reflected in the books and records of my firm. These books and records are prepared from expense vouchers and check records and are an accurate record of the expenses incurred. All the expenses incurred were reasonable and necessary to the prosecution of this case.

23. Specifically, the costs incurred include: \$8,725.00 for mediation, \$1,616.79 in mediation-related travel costs (specifically, \$812.80 for a roundtrip flight to California for mediation, and \$647.75 for a hotel room and meals the night prior to the mediation); \$125.07 for computer research; and \$16.00 for in-house copying costs.

24. On behalf of Plaintiffs, I respectfully request that the Court award the requested attorneys' fees and costs

LOCAL COUNSEL TIME AND EXPENSES

25. In addition to Class Counsel's time and expenses, Class Counsel associated with two local Delaware firms who have incurred modest time and expenses in connection with the prosecution of this case.

26. From the inception of the case until October of 2023, The Bifferato Firm, P.A. spent 2.7 hours litigating the case and incurred a total lodestar of

\$1,773.00. Specifically, Connor Bifferato, a partner at the firm, billed 1.6 hours at an hourly rate of \$950 for a total lodestar of \$1,520.00. Molly Ferraro, a paralegal at the firm, billed 1.1 hours at an hourly rate of \$230 for a total lodestar of \$253.00. In October of 2023, Connor was named as Legal Counsel to Wilmington University, and as a result of his new responsibilities, Connor recommended that the Farnan Firm serve as local counsel for the remainder of the litigation.

27. From October of 2023 to the present, the Farnan Firm spent a total of 10.9 hours litigating the case and incurred a total lodestar of \$8,038.50. Specifically, Brian Farnan, a partner at the firm, billed 1.9 hours at an hour rate of \$975 for a total lodestar of \$1,852.50. Michael Farnan, a partner at the firm, billed 2.8 hours at an hourly rate of \$895 for a total lodestar of \$2,506. Rosemary Piergiovanni, counsel for the firm, billed a total of 4.5 hours for a total lodestar of \$3,127.50. The Farnan Firm also billed 1.7 hours of paralegal time at an hourly rate of \$325 for a total lodestar of \$552.50.

We declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: August 20, 2024

/s/ Joseph G. Sauder
Joseph G. Sauder

/s/ Daniel O. Herrera
Daniel O. Herrera