

EXHIBIT 29

1 *Counsel for Indirect Purchaser Plaintiffs*

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

**IN RE: LITHIUM ION BATTERIES
ANTITRUST LITIGATION**

Case No. 13-MD-02420 YGR (DMR)
MDL NO. 2420

**This Document Relates to:
ALL INDIRECT PURCHASER ACTIONS**

**DECLARATION OF CRAIG M.
NICHOLAS IN SUPPORT OF INDIRECT
PURCHASER PLAINTIFFS' MOTION
FOR AN AWARD OF ATTORNEYS'
FEES AND REIMBURSEMENT OF
EXPENSES ON BEHALF OF NICHOLAS
& TOMASEVIC, LLP**

1 I, Craig M. Nicholas, declare:

2 1. I am a founding partner of Nicholas & Tomasevic, LLP, Counsel for Indirect
3 Purchaser Plaintiffs (“IPPs” or “Plaintiffs”) in this action. I submit this declaration in support of
4 IPPs’ Motion for an Award of Attorneys’ Fees and Reimbursement of Expenses. I make this
5 declaration based on my personal knowledge and if called as a witness, I could and would
6 competently testify to the matters stated herein.

7 2. My firm has served as counsel to Bradley Van Patten and as counsel for IPPs
8 throughout the course of this litigation. The background and experience of Nicholas & Tomasevic,
9 LLP and its attorneys are summarized in the curriculum vitae attached hereto as **Exhibit A**.

10 3. Nicholas & Tomasevic, LLP has prosecuted this litigation solely on a contingent-
11 fee basis, and has been at risk that it would not receive any compensation for prosecuting claims
12 against the defendants. While Nicholas & Tomasevic, LLP devoted its time and resources to this
13 matter, it has foregone other legal work for which it would have been compensated.

14 4. During the pendency of the litigation, Nicholas & Tomasevic, LLP performed the
15 following work:

- 16 a. Read and review pleadings and briefs;
- 17 b. Litigation strategy, analysis, and case management; and
- 18 c. Review settlement agreement.

19 5. Attached hereto as **Exhibit B** is a billing summary of Nicholas & Tomasevic,
20 LLP’s total hours and lodestar, computed at current billing rates, from June 1, 2013 to February
21 28, 2017. Counsel for Plaintiffs are not seeking attorneys’ fees for any time billed prior to the
22 appointment of lead counsel. *See* Order dated May 17, 2013 (ECF No. 194). The total number of
23 hours spent by Nicholas & Tomasevic, LLP during this period of time was 10.40, with a
24 corresponding lodestar based on current rates of \$5,237.50. The lodestar amount reflected in
25 Exhibit B is for work assigned by Lead Counsel, and was performed by professional staff at my
26 law firm. This summary was prepared from contemporaneous, daily time records regularly
27 prepared and maintained by Nicholas & Tomasevic, LLP.

1 6. Attached hereto as **Exhibit C** is a list of the various billing rates each attorney and
2 staff member at my firm has billed at in this case.

3 7. Attached hereto as **Exhibit D** is a compilation of my firm's detailed records at
4 historical billing rates. The entries in **Exhibit D** have been redacted per the Court's Order in ECF
5 No. 1803.

6 8. Attached hereto as **Exhibit E** is a summary of the expenses Nicholas & Tomasevic,
7 LLP has incurred during the course of this litigation. Nicholas & Tomasevic, LLP expended a total
8 of \$106.84 in unreimbursed costs and expenses in connection with the prosecution of this case.
9 These expenses were incurred on behalf of IPPs by Nicholas & Tomasevic, LLP on a contingent
10 basis and have not been reimbursed. The expenses reflected in **Exhibit E** were prepared from
11 expense vouchers, receipts, and bank records, and thus represent an accurate recordation of the
12 expenses incurred.

13 9. I have reviewed the time and expenses reported by Nicholas & Tomasevic, LLP in
14 this case which are included in this declaration, and I affirm that they are true and accurate.

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16 I declare under penalty of perjury under the laws of the United States that the foregoing is
17 true and correct.

18 Executed on May 23, 2017, at San Diego, California.

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/s/ Craig M. Nicholas

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Craig M. Nicholas

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EXHIBIT A

NICHOLAS & TOMASEVIC_{LLP}

ATTORNEYS AT LAW

Tel: 619-325-0492
Fax: 619-325-0496

225 Broadway, 19th Floor
San Diego, CA 92101

FIRM RESUME

Nicholas & Tomasevic, LLP represents businesses and individuals in litigation across a spectrum of specialized practice areas, including business contract, tort and other business-to-business disputes. We provide the personal service offered by small law firms with the legal skills and litigation experience found in a large firm, by providing the highest quality legal representation, outstanding client service and cost effective representation.

The cornerstone of our firm is providing excellent legal representation to our clients. Our attorneys thoroughly prepare from the outset to maximize our clients' results in trial or settlement. We pride ourselves on winning cases – it is our business. We are client service driven. We stay in close contact. Telephone calls are returned promptly. We keep clients fully informed of developments. Our goal is not only to win, but to do so with the least disruption possible to our clients' business.

Efficient, cost-effective representation is a priority. By understanding our clients' objectives, and working hard to achieve them, the firm delivers high quality services at an acceptable cost.

By meeting these objectives, we seek to develop long-term client relationships and to exceed expectations with creative problem solving, untiring responsiveness, and use of cutting-edge technology. These components, combined with effective advocacy and hard work, bring results that our clients value.

The experience of the lawyers at Nicholas & Tomasevic, LLP includes, but is not limited to, California Superior Court certification of class action cases for purposes of trial and for settlement in a variety of contexts, including unfair competition, false advertising, and wage and hour litigation. Nicholas & Tomasevic, LLP has played a leading role in shaping class action law in California by obtaining Ninth Circuit decisions affirming that class action waivers contained in consumer contracts are void as unconscionable under California law, which have been followed and cited throughout the country.

Representative cases handled by Nicholas & Tomasevic, LLP include:

- i. *Laster v. T-Mobile* to represent a class of consumers who were charged sales tax on cellphones purchased as part of a “bundled” transaction. Nicholas & Tomasevic, LLP successfully argued both before the United States District Court and at the Ninth Circuit Court of Appeal that the waiver of class action rights is unconscionable under California law. N&T participated in the drafting of a United States Supreme Court certification petition opposition, requesting that the

Supreme Court deny certification, and prevailed on the certification issue at the United States Supreme Court.

ii. *Concepcion v. AT&T* to represent a class of consumers who were charged sales tax on cellphones advertised as “free.” Nicholas & Tomasevic, LLP (formerly Nicholas & Butler, LLP) participated in the successful defeat of a “second generation” arbitration provision which denies class action rights but includes additional provisions that the cell phone carrier argued were not unconscionable. Again, Nicholas & Tomasevic, LLP was successful both at the District Court and Ninth Circuit Court of Appeal in confirming the unconscionability of the arbitration clause. The *Concepcion* decision by the Ninth Circuit was challenged by another United States Supreme Court certification petition and Nicholas & Tomasevic, LLP participated in the opposition to that certification petition, and the briefing of the merits once the U.S. Supreme Court took it up.

iii. *Loera v. Akal Security* to represent a class of approximately 350 guards who did not receive appropriate overtime, breaks, or meal periods in accordance with California law.

iv. *Cohen v. Robert Bosch Tools* to represent a class of consumers who purchased saws that were mislabeled as “Made in the USA.”

v. *Nava v. Home Carpet Investment, Inc.* to represent a class of employees of Home Carpet who did not receive appropriate overtime, breaks, or meal periods in accordance with California law.

vi. *Maxwell v. Toys R Us* to represent a class of Toys R Us and Babies R Us customers for claims relating to Toys R Us’s gift card program.

vii. *Moyle v. Liberty Mutual Insurance Company* to represent a non-opt out class of 1,166 employees seeking past service credits resulting from Liberty Mutual’s purchase of Golden Eagle Insurance Company’s assets through the rehabilitation process.

viii. *LaGuardia v. Allegro Towers* to represent four classes of current and former tenants who had their security deposits unlawfully withheld, and who were charged unlawful late and insufficient funds fees.

Craig M. Nicholas, Partner

Craig M. Nicholas is a founding partner in the law firm of Nicholas & Tomasevic LLP. In 2009, *The San Diego Daily Transcript* identified Mr. Nicholas as one of the top 25 corporate litigators in San Diego County. *SuperLawyers* magazine twice selected Mr. Nicholas as one of the top attorneys in California - for 2008 and 2009. Only five percent of the lawyers in California are named by *SuperLawyers*. In April 2009, the Litigation Counsel of America Trial Lawyer Honor Society invited Mr. Nicholas to become a Fellow, an honor bestowed on less than one-half of one percent of American lawyers.

Mr. Nicholas is a leader in the San Diego litigation community. He has served on the Executive Board of Directors of the William Enright Chapter of the American Inns of Court. Mr. Nicholas was an Associate with the Louis Welsh Chapter of the American Inns of Court in 2001. Mr. Nicholas is a former President and a member of the Board of Directors of the State Bar of California Young Lawyers Division.

Mr. Nicholas received his Juris Doctor in 1995 with *cum laude* honors from the University of Arizona College of Law, where he served as a member of the National Moot Court team and Note & Comment Editor of the Arizona Journal of International and Comparative Law. He completed his undergraduate education at the University of California at San Diego, where he graduated *cum laude* with a BA in political science in 1992. Mr. Nicholas was a partner at the antitrust and business litigation law firm of Wright & L'Estrange from 2002-2004.

Mr. Nicholas has significant experience in complex litigation in state and federal court, including business disputes, officer and director liability, class action consumer rights, real estate and employment litigation. He has been a member of the San Diego County Bar Association, American Business Trial Lawyers Association San Diego Chapter, and the Federal Bar Association. Mr. Nicholas is admitted to practice before all California state courts and the United States District Courts in the Southern and Central Districts of California.

Alex Tomasevic, Partner

Mr. Tomasevic joined Nicholas & Tomasevic, LLP in 2006. Mr. Tomasevic's practice areas include consumer and employment class actions, business and employment litigation, arbitration, and appeals. Mr. Tomasevic's significant experience includes representing both individuals and large and small businesses in front of state and federal trial courts, and state and federal appellate courts. He has extensive experience in all phases of civil litigation including discovery, trials, arbitrations, settlement negotiations, and appeals.

Before joining the firm, Mr. Tomasevic gained criminal law and oral advocacy experience with the San Diego County Office of the Alternate Public Defender. While pursuing his Juris Doctorate, Mr. Tomasevic also served as a paid research assistant to University of San Diego professor Lynne L. Dallas where he researched and wrote on topics including law and economics, corporate governance and litigation, securities regulation, and international trade.

Mr. Tomasevic received his Juris Doctorate in 2006, *cum laude*, from the University Of San Diego School Of Law where he was a recipient of the Warren Family Scholarship. Mr. Tomasevic competed extensively in Moot Court and Mock Trial competitions garnering several semi-finalist and finalist honors including a First Place finish in the 2004 "ATLA Inter-School Mock Trial Tournament" between University of San Diego, Thomas Jefferson, and California Western law schools. Mr. Tomasevic also received highest grade distinction in 2004 in his class on "International Litigation and Arbitration."

Mr. Tomasevic is admitted to practice before all of the California state trial and appellate courts, the United States District Court for the Southern, Central, Eastern, and Northern Districts of California; the United States Court of Appeals for the Ninth Circuit; and the United States Supreme Court. He is a member of the San Diego County Bar Association and its Litigation Section.

Lacy Wells, Associate

Lacy Wells is an Associate Attorney with Nicholas & Tomasevic, LLP. Ms. Wells was admitted to the California Bar in 2015, but she has worked for the firm since 2012. Ms. Wells is admitted to practice before all of the California state trial courts and the United States District Court for the Southern and Central Districts of California.

In 2015, Ms. Wells received her Juris Doctor from California Western School of Law. Ms. Wells served as a student mediator at Vista Small Claims Court. While at California Western, Ms. Wells was awarded the highest grade distinction for Trial Practice and was on the Dean's List in 2014. Additionally, Ms. Wells was a summer intern with in-house corporate counsel for a prominent sports and entertainment company.

Ms. Wells completed her undergraduate education at Northern Arizona University, where she graduated with a Bachelor of Science in Accountancy and a minor in Criminal Justice. Ms. Wells worked for several years in accounting and human resource management.

David G. Greco, Associate

David Greco joined Nicholas and Tomasevic, LLP in 2016. He represents both defendants and plaintiffs in complex class actions, employment cases, insurance coverage claims, and business disputes. He counsels employers on compliance issues under state and federal law and has substantial experience drafting and refining employee handbooks. Prior to joining Nicholas and Tomasevic, LLP, Mr. Greco represented corporations, public entities, and non-profits in an array of matters including claims for employment discrimination, sexual misconduct, traumatic brain injury, as well as violations of consumer protection and privacy laws.

Mr. Greco graduated *magna cum laude* from the University Of San Diego School Of Law. While there, he founded and ran the Employment & Labor Law Society. In that capacity, he successfully petitioned the University to add an employment & labor concentration to its curriculum. He earned several accolades, including a "High Honors" designation and "Best Writing" award in Advanced Legal Writing. Mr. Greco later served as a teaching assistant for Advanced Legal Writing. Mr. Greco continues his dedication to student development by tutoring students in legal writing and bar exam preparation.

Mr. Greco's professional experience spans across various practice areas and all stages of litigation. While in law school, he interned with two judges—The Honorable Janis Sammartino of the U.S. District Court and the Honorable Terry O'Rourke of the California Court of Appeal. He also participated in the University of San Diego's first-ever Supreme Court Clinic, wherein a group of students filed an amicus brief with the United States Supreme Court in *Noel Canning v. National Labor Relations Board*. The United States Supreme Court cited to this brief in its final opinion. After law school, he worked as a volunteer attorney in the Employment & Administrative Mandate Section of the California Attorney General, where he represented various State of California entities in State Personnel Board disputes and lawsuits alleging employment discrimination.

Shaun Markley, Associate

Shaun Markley is an Associate Attorney with Nicholas & Tomasevic LLP. He represents both defendants and plaintiffs in business disputes, employment cases, insurance coverage claims, and complex class actions.

Prior to joining the firm, Mr. Markley gained substantial experience in all phases of litigation. He drafted and argued a variety of successful motions, eliminating potential liability faced by health care clients. Shaun also worked with businesses to obtain insurance coverage for litigation matters, in particular, those involving intellectual property rights.

Mr. Markley graduated from The Ohio State University's Moritz College of Law. While at Ohio State, Mr. Markley was an Academic Merit Scholar and received the CALI Award for Excellence in Professional Responsibility. Prior to attending law school, Mr. Markley double majored in Political Science as well as Criminology, Law, and Society at University of California, Irvine.

EXHIBIT B

IN RE: LITHIUM ION BATTERIES INDIRECT
TIME REPORT- MONTHLY

Firm Name: Nicholas & Tomasevic, LLP

Reporting Period: June 1, 2013 - February 28, 2017

Categories:

- (1) Investigations, Factual Research
- (2) Drafting Discovery Requests
- (3) Drafting Discovery Answers/Responses
- (4) Deposition Taking
- (5) Deposition Defending
- (6) Discovery Meet & Confer
- (7) Document Review

- (8) Drafting Pleadings, Briefs & Pretrial Motions
- (9) Reading/Reviewing Pleadings, Briefs, Discovery, Transcripts, etc.
- (10) Class Certification/Experts
- (11) Litigation Strategy, Analysis & Case Management
- (12) Negotiating Settlements
- (13) Trial and Trial Preparation
- (14) Court Appearance and Prep

- (P) Partner
- (A) Associate
- (LC) Law Clerk
- (PL) Paralegal
- (L) Librarian

ATTORNEYS	1	2	3	4	5	6	7	8	9	10	11	12	13	14	CURRENT HOURS	HOURLY RATE	CURRENT LODESTAR	CUMULATIVE HOURS	CUMULATIVE LODESTAR
(P) Craig Nicholas									1 00		1 80	1 40			4 20	\$600 00	\$2,520 00		
(P) Alex Tomasevic											4 90	0 80			5 70	\$450 00	\$2,565 00		
(A) Lacy Wells											0 40				0 40	\$350 00	\$140 00		
															0 00	\$0 00	\$0 00		
SUB-TOTAL	0.00	1.00	0.00	7.10	2.20	0.00	0.00	10.30	\$2,250.00	\$5,225.00									
NON-ATTORNEYS																			
Kayleigh Klinzman											0 10				0 10	\$125 00	\$12 50		
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															0 00	\$0 00	\$0 00		
															0 00	\$0 00	\$0 00		
															0 00	\$0 00	\$0 00		
SUB-TOTAL	0.00	0.10	0.00	0.00	0.00	0.10	\$125.00	\$12.50											
GRAND TOTAL:	0.00	1.00	0.00	7.20	2.20	0.00	0.00	10.40	\$2,375.00	\$5,237.50									

EXHIBIT C

EXHIBIT D

(REDACTED)

NICHOLAS & TOMASEVIC LLP

ATTORNEYS AT LAW

Tel: 619-325-0492
Fax: 619-325-0496

225 Broadway, 19th Floor
San Diego, CA 92101

Federal Tax I.D. No. 463474065

April 24, 2017

Bradley Van Patten

In Reference To: Van Patten v. LC Chem Ltd., et al.
Our File No.: V1378 .002
Invoice No.: 18437

Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>	
8/15/2013	CN	Review orders administratively dismissing related cases.	1.00 500.00/hr	500.00
8/27/2013	PL	Email G. Rikos re related cases dismissal.	0.10 125.00/hr	12.50
11/13/2013	AT	Confer with counsel re status of discovery and scheduling moving forward.	4.30 350.00/hr	1,505.00
1/2/2017	AT		0.40 450.00/hr	180.00
1/3/2017	AT		0.80 450.00/hr	360.00

Bradley Van Patten

April 24, 2017

Van Patten v. Panasonic Corp. V1378 .002

Invoice No.: 18437

Page 2

		<u>Hrs/Rate</u>	<u>Amount</u>
1/3/2017	AT [REDACTED]	0.20 450.00/hr	90.00
	CN [REDACTED]	1.40 600.00/hr	840.00
	CN Meeting with G. Rikos re concerns on attorneys fees division provisions and [REDACTED] [REDACTED]	0.80 600.00/hr	480.00
1/7/2017	CN Attention to stipulation resetting motion for preliminary approval.	0.10 600.00/hr	60.00
1/9/2017	CN Attention to Statement of Decision.	0.10 600.00/hr	60.00
1/20/2017	CN Review joint motion to dismiss amended complaint.	0.20 600.00/hr	120.00
1/24/2017	LW Attention to monthly time report status; review email notification history; correspond with lead counsel re updating contact information and past submissions of costs.	0.40 350.00/hr	140.00
	CN Attention to correspondence from lead counsel; coordinate update with L. Wells; review time report status.	0.30 600.00/hr	180.00
1/25/2017	CN Review Motion for Preliminary Approval of Settlement and supporting declarations.	0.30 600.00/hr	180.00
	For professional services rendered	<u>10.40</u>	<u>\$4,707.50</u>

EXHIBIT E

EXHIBIT E

In re Lithium Ion Batteries Antitrust Litigation
NICHOLAS & TOMASEVIC, LLP
 Reported Expenses Incurred on Behalf of IPPs

EXPENSE REPORT

CATEGORY	AMOUNT INCURRED
Attorney Service	\$0.00
Litigation Assessment	\$52.70
Court Fees (Filing, etc.)	\$0.00
Document Production	\$0.00
Experts/Consultants	\$0.00
Federal Express	\$0.00
Transcripts (Hearing, Deposition, etc.)	\$0.00
Investigation	\$0.00
Lexis/Westlaw	\$45.14
Messenger/Delivery	\$0.00
Photocopies – In House (capped at \$0.20 per copy)	\$6.30
Photocopies – Outside	\$0.00
Postage	\$2.70
Service of Process	\$0.00
Supplies	\$0.00
Telephone/Telecopier	\$0.00
Travel	\$0.00
Miscellaneous	\$0.00
TOTAL:	\$106.84