

# **EXHIBIT 37**

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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 GREGORY P.  
FORNEY IN SUPPORT OF INDIRECT  
PURCHASER PLAINTIFFS' MOTION  
FOR AN AWARD OF ATTORNEYS'  
FEES AND REIMBURSEMENT OF  
EXPENSES ON BEHALF OF SHAFFER  
LOMBARDO SHURIN**

1 I, Gregory P. Forney, declare:

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

7 2. My firm has served as counsel to Joseph O’Daniel and as counsel for IPPs  
8 throughout the course of this litigation. The background and experience of Shaffer Lombardo  
9 Shurin and its attorneys are summarized in the curriculum vitae attached hereto as **Exhibit A**.

10 3. Shaffer Lombardo Shurin has prosecuted this litigation solely on a contingent-fee  
11 basis, and has been at risk that it would not receive any compensation for prosecuting claims  
12 against the defendants. While Shaffer Lombardo Shurin 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, Shaffer Lombardo Shurin performed the  
15 following work: Our firm secured a class representative for affected residents of the State of  
16 Missouri. Our work was primarily involved in acting as counsel for the Missouri class  
17 representative as well as coordinating with lead class counsel in the preparation and production of  
18 the Missouri Class Representatives documentation of proof of purchase of Lithium Ion Batteries.  
19 Our firm also assisted in the preparation and production of the Missouri class representative,  
20 Joseph O’Daniel, for his deposition.

21 5. Attached hereto as **Exhibit B** is a billing summary of Shaffer Lombardo Shurin’s  
22 total hours and lodestar, computed at current billing rates, from June 1, 2013 to February 28, 2017.  
23 Counsel for Plaintiffs are not seeking attorneys’ fees for any time billed prior to the appointment  
24 of lead counsel. *See* Order dated May 17, 2013 (ECF No. 194). The total number of hours spent  
25 by Shaffer Lombardo Shurin during this period of time was 43.8, with a corresponding lodestar  
26 based on current rates of \$25,875.00. The lodestar amount reflected in Exhibit B is for work  
27 assigned by Lead Counsel, and was performed by professional staff at my law firm. This

28 {9687/0019: 00334977.DOC;}DECLARATION OF GREGORY P. FORNEY IN SUPPORT OF IPPS’  
MOTION FOR AN AWARD OF ATTORNEYS’ FEES AND REIMBURSEMENT OF  
EXPENSES ON BEHALF OF SHAFFER LOMBARDO SHURIN; Case No. 13-md-02420-YGR  
(DMR)

1 summary was prepared from contemporaneous, daily time records regularly prepared and  
2 maintained by Shaffer Lombardo Shurin.

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

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

8 8. Attached hereto as Exhibit E is a summary of the expenses Shaffer Lombardo  
9 Shurin has incurred during the course of this litigation. Shaffer Lombardo Shurin expended a total  
10 of \$44.89 in unreimbursed costs and expenses in connection with the prosecution of this case.  
11 These expenses were incurred on behalf of IPPs by Shaffer Lombardo Shurin on a contingent  
12 basis and have not been reimbursed. The expenses reflected in Exhibit E were prepared from  
13 expense vouchers, receipts, and bank records, and thus represent an accurate recordation of the  
14 expenses incurred.

15 9. I have reviewed the time and expenses reported by Shaffer Lombardo Shurin in this  
16 case which are included in this declaration, and I affirm that they are true and accurate.

17

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

20 Executed on this 23<sup>rd</sup> day of May, 2017 at Kansas City, Missouri.

21

22

*/s/ Gregory P. Forney*

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\_\_\_\_\_  
Gregory P. Forney

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**ATTESTATION**

I, Steven N. Williams, hereby attest, pursuant to United States District Court, Northern District of California Civil Local Rule 5-1(i)(3), that concurrence to the filing of this document has been obtained from the signatory hereto.

By:                                  /s/ Steven N. Williams

Steven N. Williams

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# **EXHIBIT A**

**EXHIBIT A**

**SHAFFER LOMBARDO SHURIN**

**CURRICULUM VITAE**

Shaffer Lombardo Shurin is a law firm located in Kansas City, Missouri which has been involved over the past twenty years in a variety of complex commercial cases and class action related litigation. The members of the firm principally involved in these activities are as follows:

1. Richard Lombardo, Shareholder – Mr. Lombardo has served as lead counsel in recovery in excess of \$250,000,000.00 for the bankruptcy receiver as part of the *General American* litigation. Mr. Lombardo is currently active as affiliate/co-lead counsel on behalf of clients in the corrugated box class action litigation currently pending in the United States District Court Northern District of Illinois and styled *Kleen Products LLC, et. Al. vs. Packaging Corporation of America, et al., Case No. 1:1-cv-05711*. Mr. Lombardo is also serving as lead counsel in a class action case on behalf of independent truck drivers filed in the United States District Court for the District of Kansas and styled *Fox vs. Trans Am Trucking, et al., Case No. 12-cv-2706*. Mr. Lombardo has also been lead counsel in numerous other complex commercial actions involving recovery of millions of dollars on behalf of commercial clients.

2. Gregory Forney, Shareholder – Mr. Forney has 29 years-experience in handling both commercial matters and professional negligence matters. Mr. Forney has served as lead counsel on indirect purchaser claims arising out of the price fixing of vitamins which resulting in the multi-million dollar award for his individually represented clients. Mr. Forney is also class counsel on behalf of Iowa farmers who are presently part of the *Syngenta Corn* litigation pending in both United States District Court for the District of Kansas and Hennepin County Court in

**Minneapolis, Minnesota. Mr. Forney also assists Mr. Lombardo with various class action cases or complex commercial actions.**

**3. James Myers, Shareholder – Mr. Myers has been intimately involved in assisting Mr. Lombardo with handling the cases described above in which this firm has served as lead counsel or otherwise represented class representatives as so indicated above.**



# **EXHIBIT B**

**EXHIBIT B**

**IN RE: LITHIUM ION BATTERIES INDIRECT  
REPORTED HOURS AND LODESTAR AT CURRENT HOURLY RATES**

**Firm Name:**

**Reporting Period: June 1, 2013 through 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	TOTAL HOURS	CURRENT HOURLY RATE	TOTAL LODESTAR
Greg Fomey (P)									0.80		2.20				3.00	\$600.00	\$1,800.00
James Myers (P)			10.50				5.90				16.60	6.90			39.90	\$600.00	\$23,940.00
Name (P)															0.00	\$0.00	\$0.00
Name (OC)															0.00	\$0.00	\$0.00
Name (A)															0.00	\$0.00	\$0.00
															0.00	\$0.00	\$0.00
<b>SUB-TOTAL</b>	<b>0.00</b>	<b>0.00</b>	<b>10.50</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>5.90</b>	<b>0.00</b>	<b>0.80</b>	<b>0.00</b>	<b>18.80</b>	<b>6.90</b>	<b>0.00</b>	<b>0.00</b>	<b>42.90</b>		<b>\$25,740.00</b>
<b>NON-ATTORNEYS</b>																	
Dawn Miller (PL)											0.90				0.90	\$150.00	\$135.00
Name (LC)															0.00	\$0.00	\$0.00
															0.00	\$0.00	\$0.00
															0.00	\$0.00	\$0.00
															0.00	\$0.00	\$0.00
<b>SUB-TOTAL</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.90</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.90</b>		<b>\$135.00</b>
<b>GRAND TOTAL:</b>	<b>0.00</b>	<b>0.00</b>	<b>10.50</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>5.90</b>	<b>0.00</b>	<b>0.80</b>	<b>0.00</b>	<b>19.70</b>	<b>6.90</b>	<b>0.00</b>	<b>0.00</b>	<b>43.80</b>		<b>\$25,875.00</b>

# **EXHIBIT C**



# **EXHIBIT D**

**(REDACTED)**

## Shaffer Lombardo Shurin

Mic Jurgens

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3/31/2017

Account No: 9687-0019

Statement No: 41869

Re: Lithium Ion Batteries

Date	Atty	Task	Description	Hours	Amount
03-11-2014	GPF	11	[REDACTED]	0.20	110
03-11-2014	GPF	9	[REDACTED]	0.80	440
09-22-2014	GPF	11	Telephone call with Tom Brill regarding update on case. Read client information forms and begin completing information.	1.00	550
09-23-2014	JDM	7	Work with Greg Forney regarding information needed from [REDACTED] and review Document Preservation Declaration.	0.40	220
09-24-2014	JDM	11	Revise declaration (.2); Correspondence to client regarding declaration and obligations thereunder (.2).	0.40	220
10-06-2014	JDM	11	[REDACTED]	0.20	110
10-07-2014	JDM	7	[REDACTED]	0.20	110
04-23-2015	JDM	11	Multiple correspondence and telephone call with J. Prince regarding [REDACTED]	0.40	230
04-24-2015	JDM	3	Review discovery from defendants (.4); Correspondence and telephone conversation [REDACTED]	1.20	690
04-28-2015	JDM	11	[REDACTED] regarding scheduling discovery conference call [REDACTED]	0.10	57.5
04-29-2015	JDM	3	Telephone call with [REDACTED] about discovery responses.	0.40	230
05-04-2015	GPF	11	Participate in conference call with [REDACTED] and liaison discovery counsel regarding complete answers to pending discovery.	1.00	575
05-04-2015	JDM	3	Conference call with J. Prince and [REDACTED] regarding answers to interrogatories and document requests (.6); [REDACTED]	0.80	460
09-15-2015	JDM	3	[REDACTED]	0.20	115
09-29-2015	JDM	11	Correspondence to and from J. Prince regarding [REDACTED]	0.20	115
10-05-2015	JDM	3	Work with J. Prince regarding discovery issues related to RFP. [REDACTED]	0.30	172.5

## Shaffer Lombardo Shurin

Mic Jurgens

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Account No: 9687-0019

Statement No: 41869

Re: Lithium Ion Batteries

Date	Atty	Task	Description	Hours	Amount
10-08-2015	JDM	3	Work with J. Prince on discovery issues related to [REDACTED]	1.20	690
01-06-2016	JDM	3	[REDACTED]	0.10	60
01-13-2016	JDM	3	Draft verification for Supp. Response to Second Roggs (.2); [REDACTED] regarding same (.1).	0.30	180
02-01-2016	JDM	3	[REDACTED]	0.30	180
02-02-2016	JDM	3	Receive signed verification from [REDACTED]	0.20	120
03-01-2016	JDM	11	Multiple telephone calls and correspondence with [REDACTED]	0.60	360
03-02-2016	JDM	11	Multiple correspondence with co-counsel [REDACTED] regarding deposition of [REDACTED]	1.20	720
03-02-2016	JDM	7	Review deposition preparation outline and deposition transcript from [REDACTED] deposition (3.4).	3.40	2040
03-05-2016	JDM	11	Multiple correspondence with counsel Pachman about Case Management Conference.	0.20	120
03-05-2016	JDM	11	Correspondence with Ms. Pachman regarding deposition of [REDACTED] and deposition preparation meeting.	0.20	120
03-08-2016	JDM	3	Review Amended discovery responses (.3) and work with class representative and Ms. Pachman regarding same (.3).	0.60	360
03-11-2016	JDM	3	Work with Ms., Pachman on 3/10 ruling on discovery and need for additional information from [REDACTED] verifications, etc...	0.50	300
03-14-2016	JDM	11	Work with Class Representative on protective order issues (.4)	0.40	240
03-14-2016	JDM	3	[REDACTED]	0.40	240
03-15-2016	JDM	3	(.2); Work with co-counsel on finalizing discovery issues (.2)	0.40	240
03-15-2016	JDM	3	Telephone call and correspondence with Mr. Lambrinos recovery discovery matters (.3); Forward executed verifications to counsel (.1)	0.40	240
03-18-2016	JDM	12	Correspondence from co-counsel Lambrinos regarding Sony proposed settlement ([REDACTED])	1.80	1080

## Shaffer Lombardo Shurin

Mic Jurgens						Page 4
Re: Lithium Ion Batteries						3/31/2017
						Account No: 9687-0019
						Statement No: 41869
Date	Atty	Task	Description	Hours	Amount	
03-19-2016	JDM	12	[REDACTED]	2.60	1560	
03-19-2016	JDM	3	Multiple correspondence with lead counsel regarding discovery matters and need for vendor to run search on [REDACTED]	0.30	180	
03-20-2016	JDM	3	Travel to and from meeting with [REDACTED] get computer/battery at issue for discovery.	1.40	840	
03-24-2016	JDM	11	Multiple correspondence with Ms. Pachman and [REDACTED] (.3); Multiple correspondence with Mr. Lambrinos regarding vendor's review of [REDACTED]	0.50	300	
03-27-2016	JDM	11	Multiple correspondence with [REDACTED] in preparation for 3/28 conference call with discovery vendor.	0.50	300	
03-28-2016	JDM	11	Work with [REDACTED] to prepare for discovery conference call (.5); Correspondence with principal counsel to finalize deposition prep session (.2); Conference call with [REDACTED] (.9); Principal counsel and vendor [REDACTED]	1.90	1140	
03-29-2016	JDM	11	Correspondence to and from D. Lambrinos regarding discovery issues, meta data for photos of computer and battery	0.20	120	
03-31-2016	JDM	11	[REDACTED]	0.30	180	
04-04-2016	JDM	7	Review documents for [REDACTED]	1.90	1140	
04-08-2016	JDM	3	[REDACTED] confirming review of Second Request for Production.	0.10	60	
04-12-2016	JDM	11	Multiple correspondence with client and Ms. Pachman regarding discovery issues(.3); [REDACTED]	2.30	1380	
04-14-2016	JDM	11	Prepare for deposition preparation of [REDACTED]	2.60	1560	
04-15-2016	JDM	11	Participate in deposition prep of [REDACTED] (3.7).	3.70	2220	
04-15-2016	JDM	3	Work with Ms. Pachman on discovery issues (.5).	0.50	300	
04-21-2016	JDM	3	Multiple correspondence with counsel and Mo Class [REDACTED]; Secure verification and forward same to K. Pachman (.2); Multiple correspondence with counsel regarding photo (.2)	0.60	360	



Shaffer Lombardo Shurin

Mic Jurgens						Page 5
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Re: Lithium Ion Batteries						Account No: 9687-0019
						Statement No: 41869
Date	Atty	Task	Description	Hours	Amount	
04-26-2016	JDM	3	Correspondence from Ms. Pachman regarding revision to interrogatory response.	0.10	60	
05-09-2016	JDM	11	Correspondence from co-counsel with [REDACTED] deposition (.1); Correspondence to [REDACTED] with instructions regarding deposition review ( 2)	0.30	180	
05-16-2016	DAM	11	Work with Time and Expense reports.	0.70	105	
05-18-2016	JDM	11	Correspondence from [REDACTED] regarding depo review and correction.	0.20	120	
05-19-2016	JDM	11	Work with [REDACTED] on Eratta Sheet.	0.20	120	
05-20-2016	DAM	11	Complete and submit Time & Expense Reports for March and April 2016 to Mr. Myers for review.	0.20	30	
06-21-2016	JDM	3	Correspondence from co-counsel Pachman re: additional information needed from laptop (.1); work with staff and [REDACTED] to get additional information ( 3)	0.40	240	
07-01-2016	JDM	3	Correspondence with co-counsel Pachman on receipt of UL numbers, etc.	0.20	120	
11-29-2016	JDM	12	[REDACTED]	1.40	840	
01-04-2017	JDM	12	[REDACTED]	0.20	120	
01-06-2017	JDM	12	[REDACTED]	0.90	540	
<b>For Current Services Rendered</b>				<b>43.80</b>	<b>25,570.00</b>	

# EXHIBIT E

**EXHIBIT E**

In re Lithium Ion Batteries Antitrust Litigation  
**SHAFFER LOMBARDO SHURIN**  
 Reported Expenses Incurred on Behalf of IPPs

**EXPENSE REPORT**

<b>CATEGORY</b>	<b>AMOUNT INCURRED</b>
Attorney Service	
Litigation Assessment	
Court Fees (Filing, etc.)	
Document Production	
Experts/Consultants	
Federal Express	
Transcripts (Hearing, Deposition, etc.)	
Investigation	
Lexis/Westlaw	
Messenger/Delivery	
Photocopies – In House (capped at \$0.20 per copy)	13.50
Photocopies – Outside	
Postage	
Service of Process	
Supplies	
Telephone/Telecopier	
Travel	
Miscellaneous	31.39
<b>TOTAL:</b>	<b>\$44.89</b>