

EXHIBIT 62

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Class Counsel for Indirect Purchaser Plaintiffs

**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 Documents Relates to:
ALL ACTIONS**

**DECLARATION OF PLAINTIFF
DAVID TOLCHIN IN SUPPORT OF
INDIRECT PURCHASER
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES, COSTS AND
SERVICE AWARDS**

Date: August 1, 2017

Time: 2:00 p.m.

Dept: Courtroom 1, 4th Floor

Judge: Hon. Yvonne Gonzalez Rogers

DATE ACTION FILED: Oct. 3, 2012

1 I, David Tolchin, declare as follows:

2 1. I am an individual over the age of 18. I have personal knowledge of the matters
3 stated herein and, if called upon, I could and would competently testify thereto.

4 2. I am a class representative in *In re Lithium Ion Batteries Antitrust Litigation*,
5 No. 13-md-02420, filed in the United States District Court for the Northern District of California.
6 I submit this affidavit, on behalf of myself and the settlement class, in support of Class Counsel's
7 motion for attorneys' fees, expenses, and service awards and in support of final approval of the
8 settlements with Hitachi Maxell, Ltd. and Maxell Corporation of America ("Hitachi Maxell"),
9 LG Chem, Ltd. and LG Chem America, Inc. ("LG Chem"), and NEC Corporation ("NEC")
10 (collectively, the "Settling Defendants").¹

11 3. As a class representative, I understand that it is my responsibility to be informed of
12 the work done by my attorneys on the case and make my own judgment about the fairness of any
13 settlement proposed by the lawyers.

14 4. I also understand that in evaluating the fairness of the settlement, I am required to
15 consider the interests of all members of the Class, as well as my own. I am free to disagree with
16 my attorneys about the merits of a settlement and make my views known to the court.

17 5. Over the past four years, I have diligently performed my duty to assist counsel in
18 prosecuting this case, investing significant time and effort to fulfill my role as a class
19 representative. Throughout this litigation, I have remained informed regarding the status of the
20 litigation by communicating with my attorneys, including reviewing periodic update
21 correspondence from my counsel and key case documents. Since the outset of the litigation, I have
22 also diligently retained all papers or electronic information that could be relevant to the litigation
23 and provided these to my attorneys.

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26 ¹ Throughout this declaration, the term "Co-Lead Counsel" refers to the law firms of
27 Cotchett, Pitre & McCarthy, LLP, Hagens Berman Sobol Shapiro LLP, and Lief Cabraser
28 Heimann & Bernstein, LLP. The term "Supporting Counsel" refers to the law firms that assisted
Co-Lead Counsel in litigating this case. The term "Class Counsel" refers to all the attorneys and
law firms that represented IPPs in this case, including Co-Lead Counsel and Supporting Counsel.

1 6. Throughout the case I have also assisted in responding to discovery. This included
2 reviewing discovery requests from defendants, discussing them with my counsel, reviewing
3 proposed responses, making any corrections, and signing off on the responses. In total, I assisted
4 counsel in reviewing and responding to a total of 22 interrogatories, 37 requests for production of
5 documents, and 4 requests for admission. I also spent a significant amount of time locating
6 purchase receipts and the other documents requested by the defendants in this litigation.

7 7. I have also contributed to the discovery process by sitting for a deposition. In total,
8 my videotaped deposition lasted 3 hours and 40 minutes of record time, where I was questioned by
9 counsel in this case. To ensure the accuracy of my transcript, I spent 2 hours reviewing it for
10 errors.

11 8. In total, I estimate that I have spent about 105 hours performing all of the above-
12 described duties on behalf of the class over the past four years. My attorneys have not made any
13 promises regarding compensation for my service, and I willingly agreed to participate in this case
14 with no guarantee of personal benefit. I believe that the time, effort, and information I provided
15 helped to make the settlement possible. I ask that the Court approve my service award in the
16 amount of \$1,500.

17 9. I have reviewed the terms of the settlements with the Hitachi Maxell, LG Chem and
18 NEC defendants, discussed those terms with my attorneys, and I am aware of and approve all terms
19 of the proposed settlements, as it affects me and the members of the Class.

20 10. Based upon this reading and my discussions with Class Counsel, I understand that
21 these defendants agree to settlements totaling \$44.95 million. I understand in general terms that
22 the monies will be distributed on a *pro rata* basis to class members based on: (1) the number of
23 Lithium Ion Batteries purchased by the class member; and (2) the number of valid claims filed.
24 I understand that there will be no reversion of unclaimed funds to any defendant. To the extent that
25 money is not able to be reasonably distributed to class members, I understand that the money may
26 escheat to federal or state governments.

27 11. I believe that the proposed settlements represent significant recoveries for the class,
28 and are excellent results considered in light of the risks associated with a complex and costly trial.

1 I recognize the uncertainty of success on any or all of the claims presented in this litigation if this
2 case were to go to trial.

3 12. I understand that after these settlements were reached, this Court denied class
4 certification. This denial highlights the risks that plaintiffs face in collective actions such as this.
5 I believe that litigation of this case on my own behalf, and not on behalf of a class, would not be
6 financially prudent given my damages in this case versus the resources available to the
7 international defendants who formed this cartel. The proposed settlements also permit an
8 immediate recovery to class members without the risk, delay, and expense of trial.

9 13. I believe these settlement agreements were reached at arms' length. Based upon my
10 understanding of the class claims asserted in this litigation and my understanding of the terms of
11 the settlement agreement, I believe the proposed settlements are fair, adequate and reasonable, and
12 in the best interests of class members, and should therefore be granted final approval.

13
14 I declare under penalty of perjury under the laws of the United States of America that the
15 foregoing is true and correct. Executed May 23, 2017, in New York, New York.

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17 

18 David Tolchin

