

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MICHELE BAKER; CHARLES CARR; ANGELA CORBETT; PAMELA FORREST; MICHAEL HICKEY, individually and as parent and natural guardian of O.H., infant; KATHLEEN MAIN-LINGENER; KRISTIN MILLER, as parent and natural guardian of K.M., infant; JENNIFER PLOUFFE; SILVIA POTTER, individually and as parent and natural guardian of C.P., infant; and DANIEL SCHUTTIG, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS CORP., HONEYWELL INTERNATIONAL INC. f/k/a ALLIED-SIGNAL INC. and/or ALLIEDSIGNAL LAMINATE SYSTEMS, INC., E.I. DUPONT DE NEMOURS AND COMPANY and 3M CO.,

Defendants.

Civ. No. 1:16-CV-917 (LEK/DJS)

**DECLARATION OF JAMES J.
BILSBORROW IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

I, James J. Bilsborrow, declare and state as follows:

1. I am an attorney duly licensed to practice in the State of New York and am counsel with the law firm Weitz & Luxenberg, P.C., appointed co-lead interim class counsel herein. I am fully familiar with the facts and circumstances surrounding this action. I make this declaration in support of Plaintiffs' Motion for Class Certification.

2. After it was disclosed that the Village of Hoosick Falls' municipal water supply was contaminated with perfluorooctanoic acid (PFOA) in December 2015, my colleague Robin Greenwald and I began to investigate potential claims on behalf of a number of current residents of the Village of Hoosick Falls and the Town of Hoosick. On February 24, 2016, Ms. Greenwald

and I filed the first suit on behalf of a putative class of Hoosick Falls residents. *See Baker v. Saint-Gobain Performance Plastics Corp.*, No. 1:16-cv-220-LEK-DJS (N.D.N.Y.).

3. Several putative class action lawsuits were subsequently filed in the Northern District of New York. Those suits were consolidated and on July 27, 2016, the Court appointed the law firms Weitz & Luxenberg, P.C., and Faraci Lange, LLP as co-lead interim class counsel (hereafter “Co-Lead Counsel”), and appointed Powers & Santola LLP as Liaison Counsel. (Dkt. 1.) The Court’s order made Co-Lead Counsel responsible for all aspects of the above-captioned suit as well as for providing “general supervision of all Plaintiffs’ Counsel in the Consolidated Actions.” (*Id.* at 14.)

4. Since the Court’s appointment order, Ms. Greenwald and I, along with our co-counsel at Faraci Lange, Stephen Schwarz and Hadley Matarazzo, and Plaintiffs’ Liaison Counsel, John Powers, have undertaken the responsibilities necessary to litigate this complex case. We have enlisted other attorneys at our respective firms and we have also assigned responsibilities to attorneys from other law firms who were interested in assisting.

5. To briefly summarize the tasks that Co-Lead Counsel have undertaken to move the litigation to its current stage: counsel has (i) organized, reviewed, and coded hundreds of thousands of documents produced by Defendants and third parties; (ii) conducted more than a dozen depositions of current and former employees of Defendants, including two corporate representative depositions, and third-party depositions; (iii) briefed and argued Defendants’ motion to dismiss papers before this Court as well as the Second Circuit Court of Appeals; (iv) worked with the named Plaintiffs to respond to discovery requests; and (v) defended named Plaintiffs’ depositions. In addition, pursuant to the Court’s appointment order requiring Co-Lead Counsel to undertake “general supervision of all Plaintiffs’ Counsel in the Consolidated Actions,”

we have worked with other counsel and Defendants to negotiate a coordination order to organize the dozens of personal injury cases filed in this matter. Co-Lead Counsel has also assisted other counsel in obtaining discovery materials and completing plaintiff discovery obligations, such as the Plaintiff Fact Sheets, in those individual personal injury suits.

6. To ensure that any time worked for the common benefit is time spent moving forward the above-captioned matter, Weitz & Luxenberg has collected monthly time submissions from all counsel performing common benefit work.

7. Throughout the course of this litigation, I have worked closely with Ms. Greenwald, Mr. Schwarz, Ms. Matarazzo, and Mr. Powers. I, along with my co-counsel in this matter, have the experience to adequately represent the Plaintiffs and the classes sought to be certified. Accordingly, Co-Lead Counsel and Liaison Counsel meet the requirements of Rule 23(g) and Plaintiffs respectfully request that the Court appoint Robin L. Greenwald and James J. Bilsborrow of Weitz & Luxenberg, P.C., and Stephen G. Schwarz and Hadley L. Matarazzo of Faraci Lange, LLP as Co-Lead Class Counsel, and appoint John K. Powers of Powers & Santola, LLP as Plaintiffs' Liaison Counsel.

WEITZ & LUXENBERG'S RELEVANT EXPERIENCE

8. Weitz & Luxenberg, P.C. ("Weitz") is an AV-rated law firm of approximately 80 attorneys and 300 support staff. For over 35 years, Weitz has represented individuals, groups, communities, and classes across the country and in New York to obtain redress from corporate wrongdoing. Of particular relevance here, Weitz has extensive experience in both class action litigation and in large, complex environmental suits such as this one.

9. Ms. Greenwald and I have significant experience in class action litigation and environmental tort lawsuits, and we are both familiar with the legal and factual issues in this case.

10. I practice in Weitz's Environmental Tort and Consumer Class Action unit. During my ten years with the firm, I have served as court-appointed counsel or second chair to court-appointed counsel in a number of litigations. Of particular relevance to these proceedings, I am currently co-lead class counsel in *Burdick v. Tonoga, Inc. (d/b/a Taconic)*, No. 00253835 (N.Y. Sup. Ct. Rensselaer Cnty.). In *Burdick*, the court certified four classes impacted by PFOA contamination caused by the Taconic Plastics facility in Petersburg, New York. The case is factually similar to the instant matter and I was appointed co-lead class counsel along with Mr. Schwarz and Ms. Matarazzo. The Supreme Court in *Burdick* granted plaintiffs' motion to certify all four classes (two for property damage, one for nuisance, and one seeking medical monitoring relief). I successfully argued defendant's appeal of the trial court's class certification order. The Third Department affirmed certification of all four classes. *See Burdick v. Tonoga, Inc.*, 179 A.D.3d 53 (3d Dep't 2019).

11. My experience litigating *Burdick* with Mr. Schwarz and Ms. Matarazzo makes us uniquely qualified for appointment here. *Burdick* involves the same fabric coating operation at issue in this case. Many of the scientific and medical issues raised in *Burdick* have been or will be raised here.

12. In April 2019, I was appointed to the Plaintiffs' Executive Committee in *In re Dicamba Herbicides Litigation*, MDL No. 2820, pending in the Eastern District of Missouri. In that multi-district litigation, plaintiffs claim that a defectively manufactured herbicide caused millions of acres of crop damage to farms across the United States. Plaintiffs raise negligence claims, violations of various state law consumer protection statutes, the Lanham Act, and certain property-damage claims related to the marketing and use of dicamba herbicides. In February 2020,

a jury returned a verdict of \$15 million in compensatory damages and \$250 million in punitive damages in the first bellwether trial.

13. I served as second chair to Ms. Greenwald in *In re Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*, No. 10-2179 (E.D. La.), the multidistrict litigation arising out of the 2010 BP oil spill in the Gulf of Mexico. Ultimately, this litigation resulted in two certified class action—one for economic losses suffered by a class of individuals and Gulf Coast businesses, and one for personal injuries suffered by a class of clean-up workers exposed to oil and other hydrocarbons. Among other things, Plaintiffs successfully litigated issues concerning the propriety of class certification of these actions before the Fifth Circuit Court of Appeals and the United States Supreme Court. The economic loss class settlement paid over \$15 billion in claims.

14. Ms. Greenwald has litigated environmental cases for the entirety of her 36-year law practice, and many of those cases involved property damage and personal injury stemming from chemical exposure. She began her career as an attorney with the Department of Justice for 16 years, first as an Assistant U.S. Attorney for the Eastern District of New York and then as an Assistant Chief of the Environmental Crimes Section. Ms. Greenwald was then appointed General Counsel for the Inspector General, U.S. Department of the Interior. After 18 years in public service, she became the Executive Director of Waterkeeper Alliance, a not-for-profit water protection organization with hundreds of member programs around the world. Following that position, Ms. Greenwald became a Clinical Professor of Law at Rutgers Law School.

15. In 2005, Ms. Greenwald joined Weitz & Luxenberg as the Managing Attorney of the firm’s Environmental Tort and Consumer Class Action unit. Ms. Greenwald has served in lead counsel roles in several large environmental and products liability cases. In MDL No. 1358 (*In re*

Methyl Tertiary Butyl Ether (MTBE) Products Liability Litigation), before the retired Honorable Shira Scheindlin in the Southern District of New York, Ms. Greenwald served as Plaintiffs' Liaison/Lead Counsel. That case involved over 200 lawsuits brought by public water providers and state governments against 50 oil company defendants for contamination of the nation's groundwater with the gasoline additive MTBE. She was also lead counsel in one of four focus cases selected for trial and successfully defeated defendants' interlocutory appeal in the Second Circuit Court of Appeals. Her efforts, along with other team members, resulted in a settlement of over 90% of the cases for \$423 million.

16. Ms. Greenwald was also appointed by the Honorable Carl J. Barbier of the Eastern District of Louisiana to the Plaintiffs' Steering Committee for the BP Oil Spill Litigation, MDL No. 2179, also referenced above. Ms. Greenwald worked on all facets of the case, including arguing the fairness hearing and class certification for a class of clean-up workers exposed to oil and hydrocarbons. Ms. Greenwald was also trial counsel in one phase of a maritime bench trial. Judge Barbier appointed Ms. Greenwald to serve on the Fee and Cost Committee in July 2015. I served as Ms. Greenwald's second chair throughout this litigation.

17. Ms. Greenwald also served on the Volkswagen Defeat Device multidistrict litigation, MDL No. 2672, before the Honorable Charles Breyer in the Northern District of California, where she participated in coordinating settlement discussions among the Plaintiffs' Steering Committee, the Department of Justice, and counsel for Volkswagen, and presented the environmental component of the class settlement at the fairness hearing.

18. Ms. Greenwald currently serves as Co-Lead Counsel in the Roundup Products Liability multidistrict litigation, MDL No. 2741, before the Honorable Vince Chhabria in the Northern District of California. In that case, she has overseen all aspects of the litigation, including

the development of the liability and damages case theories, *Daubert* challenges and summary judgment motions, and trial preparation. In May 2019, Judge Chhabria ordered mediation and appointed Ken Feinberg as the settlement master of the Roundup cases. Ms. Greenwald serves as chief negotiator in that ongoing mediation.

19. In sum, Co-Lead Counsel and Liasion Counsel have worked cooperatively and productively throughout this matter to develop strategy, efficiently manage our resources, and litigate this action in the best interests of the class. We request that the Court appoint us as class counsel so that we may continue pursuing justice for the people of Hoosick Falls.

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

Dated: April 6, 2020
New York, New York

/s/ James J. Bilsborrow
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