

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

LOUISE LIVINGSTON,  
MELISSA RAINEY, DAVID  
SMITH, RAYMOND  
SABBATINE, PETER GOLDIS,  
and BILL COLBERT, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

TRANE U.S. INC.,

Defendant.

Civ. A. No. 2:17-cv-06480-ES-MAH

The Honorable Esther Salas, U.S.D.J.

The Honorable Michael A. Hammer,  
U.S.M.J.

Return Date: August 12, 2020  
(pursuant to Order, Dkt. No. 104)

**CLASS ACTION**

**DECLARATION OF TIMOTHY N. MATHEWS IN SUPPORT OF  
PLAINTIFFS' MOTION FOR AWARD OF ATTORNEYS' FEES AND  
EXPENSES AND PLAINTIFFS' INCENTIVE AWARDS**

Timothy N. Mathews  
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*Counsel for Plaintiffs and the Settlement Class*

I, Timothy N. Mathews, declare as follows:

1. I am co-lead Class Counsel for Plaintiffs in this action and a partner at the law firm of Chimicles Schwartz Kriner & Donaldson-Smith (“CSK&D) in Haverford, Pennsylvania. I submit this declaration in support of Plaintiffs’ Motion for Award of Attorneys’ Fees and Expenses and Plaintiffs’ Incentive Awards in connection with services rendered in this action.

2. I have personal knowledge of the facts set forth in this declaration and if called as a witness would testify competently thereto.

3. CSK&D is a leading national class action law firm with offices in Haverford, Pennsylvania and Wilmington, Delaware. A copy of my firm’s resume was previously filed at ECF No. 93-18 and includes biographical information of the professional staff from my firm who worked on this case. For over twenty-five years, CSK&D attorneys have concentrated in prosecuting class actions in federal and state courts across the country. CSK&D has recovered billions of dollars on behalf of institutional, individual, and business clients in securities, corporate derivative, consumer, and antitrust litigation nationwide. With top-to-bottom staffing and wide-ranging experience, CSK&D has successfully litigated numerous cases where we have achieved exceptional results.

4. CSK&D was involved in all aspects of this litigation, including initial case investigation and development; communications with clients; drafting

complaints; motion practice; discovery; discovery disputes; expert discovery; settlement negotiations; four mediations; and settlement administration.

5. During this litigation, my firm kept contemporaneous time records. All professional staff bill in six-minute increments. The schedule attached as Exhibit A is a summary derived from our daily time records and reflects the amount of time spent by the partners, attorneys, and other professional support staff of my firm who were involved in this action. This total excludes certain time that I have reduced or eliminated based on the exercise of my billing judgment. I have also removed from this schedule any work performed by lawyers or paralegals who spent less than five hours on this litigation. This schedule was prepared from contemporaneous, daily time records regularly prepared and maintained by my firm. Upon request, my firm's detailed daily time records are available to the Court for inspection.

6. As reflected in Exhibit A, from the inception of this case through May 31, 2020, my firm devoted a total of 2,031.30 billable hours of work to this case. Based upon hourly rates currently charged to my firm's clients, the total lodestar value of my firm's billable time is \$1,031,245.00. My firm has not been reimbursed for this time. Based on my experience, and our track record overseeing the notice and claims process as vigorously as the underlying litigation, we also expect to spend substantial additional time to shepherd the case through final approval, any possible appeals, and to ensure that Defendant and the Settlement Administrator fairly

process and pay all relief as required under the Settlement, including performing a claims adjudication audit as set forth in the settlement agreement.

7. My firm's rates as reflected in Exhibit A are within the range of market rates charged by attorneys of equivalent experience, skill, and expertise. We set our rates based on an analysis of rates charged by our peers and approved by courts throughout the country. Over the past two decades, our rates have been approved by state and federal courts throughout the country, including successful consumer class cases where my firm served as lead class counsel. *See, e.g., In re Cigna-American Specialty Health Admin. Fee Litig.*, 2019 U.S. Dist. LEXIS 146899, at \*39 (E.D. Pa. Aug. 29, 2019) (approving CSK&D rates up to \$950); *Rodman v. Safeway Inc.*, 2018 U.S. Dist. LEXIS 143867, at \*16 (N.D. Cal. Aug. 22, 20218) (approving in a lodestar cross check CSK&D rates up to \$750, where my co-counsel, Mr. Shah, and I recovered a \$42.3 million judgment on behalf of the class); *In re Elk Cross Timbers Decking Mktg., Sales Practices & Prods. Liab. Litig.*, 2017 U.S. Dist. LEXIS 223038, at \*20 (D.N.J. Feb. 27, 2017) (approving CSK&D rates); *Chambers v. Whirlpool Corp.*, 214 F. Supp. 3d 877, 899 (C.D. Cal. 2016) (approving CSK&D rates up to \$750); *Henderson v. Volvo Cars of N. Am., LLC*, 2013 U.S. Dist. LEXIS 46291 \*4-47 (D.N.J. Mar. 22, 2013) (CSK&D's rates "are entirely consistent with hourly rates routinely approved by this Court in complex class action litigation"); *In re Philips/Magnavox TV Litig.*, 2012 U.S. Dist. LEXIS 67287, 44-48 (D.N.J. May 14,

2012) (“The Court finds the billing rates to be appropriate and the billable time to have been reasonably expended.”).

8. My firm has also represented consumers against other air conditioner manufacturers arising out of the same alleged defect in this case, including an action against ClimateMaster, Inc., *Emmert v. ClimateMaster, Inc.*, No. 5:15-458 (W.D. Okla.) [“*ClimateMaster*”], and two related actions against Carrier Corporation that are currently pending in the Central District of California *Oddo v. Arcoaire Air Conditioning & Heating*, No. 8:15-cv-01985-CAS (C.D. Cal.) and *Cormier v. Carrier Corp.*, No. 2:18-cv-07030 (C.D. Cal.) [together, “*Carrier*”]. In *ClimateMaster*, my firm first obtained discovery from Emerson Climate Technologies, Inc. (“Emerson”), which is the relevant industry-compressor manufacturer, and other nonparties that were involved in the industry response to this defect. My firm expected that certain time of the time we expended to conduct this nonparty discovery would likely benefit more than one case. My firm, therefore, billed such time to a “TXV General” category. Much of the TXV General time was spent on initial review of nonparty documents, which were related to the defect and not specific to any one air conditioner manufacturer. After removing some of the time recorded in the TXV General category that I determined did not contribute to or benefit the instant action against Trane, I determined that my firm expended 628.6 hours and \$324,430.75 in lodestar for TXV General discovery work that provided a

benefit in this action, along with the *ClimateMaster* and *Carrier* actions. Because this time benefitted all three cases, I believe it is appropriate to allocate one-third of that lodestar (209.5 hours and \$108,143.58) to this lawsuit. That lodestar has not been reimbursed in any other case. Exhibit B is a summary derived from our daily time records that reflects the amount of time spent by the partners, attorneys, and other professional support staff of my firm on time recorded as TXV General time that benefitted this case. Exhibit B also reflects the one-third allocation of that lodestar to this case.

9. As detailed in Exhibit C, my firm has incurred a total of \$50,346.12 in unreimbursed expenses in connection with the prosecution of this litigation through May 31, 2020. The expenses include expert fees, mediation fees, travel expenses for hearings and mediation, electronic discovery costs, transcription costs for hearings and depositions, printing and mailing expenses, and legal research fees. As with our billable time, my firm has not been reimbursed for these expenses.

I declare pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: June 4, 2020

By: s/ Timothy N. Mathews  
Timothy N. Mathews