



2. I am one of the attorneys principally responsible for the handling of this case. I am personally familiar with the facts set forth in this declaration. If called as a witness, I could and would competently testify to the matters stated herein.

3. This Court granted Plaintiffs' unopposed Motion for Preliminary Approval of Class Action Settlement, Preliminary Certification of Settlement Class and Approval of Notice Plan ("Motion for Preliminary Approval") on June 8, 2021. Plaintiffs, by and through Class Counsel and the Settlement Administrator, successfully implemented the Notice Plan and process approved by the Court, and the Settlement Class has been notified about the settlement beginning June 22, 2021.

4. Although the Settlement Class can file objections through September 7, 2021, the initial reaction to the Settlement Agreement is favorable.

5. To date, no objections or valid requests for exclusion have been filed.

6. One request for exclusion was submitted to the Settlement Administrator. The individual stated that she does not want to participate in the settlement but has no interest in pursuing claims against Defendants. The opt out does not comply with the Court's Preliminary Approval Order because the individual failed to include the required information (e.g., a telephone number, email address, and date of birth).

7. At all times, Plaintiffs, by and through their counsel, have diligently co-prosecuted the Litigation.

8. Throughout the Litigation, GSK has strongly contested jurisdiction, venue, liability, damages, and class certification.

9. Before commencing the Litigation, Class Counsel extensively investigated and analyzed, among other things, GSK's marketing campaign, manufacturing process to derive wheat dextrin, studies that purportedly supported the satiety claim, and market share.

10. On June 19, 2020, Plaintiff Susan Swetz filed a Class Action Complaint against GSK to assert claims based on GSK's false advertisement of the Covered Products as "100% Natural" on behalf of a putative nationwide class. ECF 1 at ¶¶ 1-2.

11. After submitting a robust opposition on the merits to GSK's request for leave to file motions to dismiss and transfer venue on August 18, 2020 (ECF 9), pursuant to the parties' stipulation and orders of this Court entered on December 8 and 10, 2020 (ECF 18, 20), Plaintiff Swetz filed the First Amended Class Action Complaint on December 16, 2020 (ECF 21), to include claims based on GSK's false advertisement of Benefiber Health Shape as "clinically proven to curb cravings" as well as claims for breach of express warranty, violation of the Magnuson Moss Warranty Act, fraudulent misrepresentation, and fraudulent concealment. Following the *White* parties' completion of the initial Rule 26(f)<sup>2</sup> conference, Plaintiffs initiated coordinated discovery.

12. To work efficiently, conserve resources, and serve judicial economy, without any prejudice to the interests of absentee class members, Plaintiffs agreed to hold the outstanding discovery in abeyance, given the pending motions to dismiss and transfer, in exchange for GSK's agreement to engage in early private mediation and produce critical documents and information requested pre-mediation.

13. Class Counsel requested, and GSK produced, critical discovery to evaluate the claims and position themselves to negotiate a settlement that would be fair and reasonable on

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<sup>2</sup> References to "Rule" or "Rules" herein shall refer to the Federal Rules of Civil Procedure unless expressly stated to the contrary.

behalf of the Settlement Class. This information included information concerning GSK's labels throughout the Class Period, substantiation of the claims at issue, the manufacturing process, market research and related campaign information, and sales figures.

14. Additionally, Class Counsel also conducted significant legal research and an investigation into industry reports, scientific literature, and the Covered Products' market segment as follows:

- a. Class Counsel thoroughly analyzed the legal landscape and evaluated the risks and benefits of prosecuting the Litigation and an early resolution, including research into the various state consumer protection laws and available remedies, and evaluation of certification.
- b. Class Counsel extensively analyzed, in detail, the claims alleged in the respective complaints, GSK's advertising campaigns, the manufacturing process to derive wheat dextrin, and the industry and scientific literature regarding the ability of fiber supplements to reduce appetite.
- c. Class Counsel analyzed reports issued by the Better Business Bureau non-profit organizations, the National Advertising Division ("NAD") and NARB, a non-profit industry self-regulatory group that evaluates allegedly deceptive advertising, to use its findings, conclusions, and recommendations regarding the Covered Products' deceptive advertising claims to advance the Litigation.
- d. Additionally, Class Counsel conducted research into the market segment related to the Covered Products to understand the potential scope of this matter, economic losses to Class Members, and marketing and sales trends, practices, and patterns.

15. Based on the Plaintiffs' receipt of discovery and investigation, they agreed to mediation.

16. The settlement negotiations were conducted at arm's-length over a period of several months by counsel experienced in complex litigation, class actions, and false advertising cases.

17. The parties participated in two full-day mediations with the Honorable Morton Denlow (Ret.), a former judge for the United States District Court for the Northern District of Illinois.

18. The matter did not resolve during the live mediation sessions, however, the parties—with the assistance of Judge Denlow—continued to pursue settlement discussions for several weeks until they reached a settlement in principle.

19. The parties then spent months working out the details in the Settlement Agreement, which is the product of hard-fought, arm's length negotiations.

20. On May 10, 2021, the Parties reached an agreement and executed the Settlement Agreement. Thereafter, Class Counsel drafted the Settlement Agreement in accordance with the term sheet.

21. The Gross Settlement Fund will be used to pay the Settlement Administrator Costs not to exceed \$675,000, Attorneys' Fees (not to exceed one-third of the fund) and Costs of approximately \$22,903.98, and Service Awards to Plaintiffs of \$3,000 each.

22. Unredeemed Settlement Payments will be distributed *cy pres* to the National Consumer Law Center, an independent, nonprofit organization that works with consumers to create a safe, fair, and transparent marketplace. Neither Plaintiffs nor Class Counsel have any interest or involvement in the governance or operation of National Consumer Law Center.

23. In addition, Class Counsel sought bids from notice providers and ultimately engaged the services of JND Legal Administration (“JND”).

24. Class Counsel worked to develop a notice plan and the notice documents that would be submitted to the Court with Plaintiffs’ motion for preliminary approval.

25. The Settlement Agreement mitigates risks and costs by providing an immediate and certain substantial monetary recovery and alleviates the risk of continued litigation. If Litigation proceeds, GSK’s arguments could completely defeat, or significantly narrow, the scope of the Settlement Class and its claims through, *inter alia*, successful dispositive motions or opposition to class certification.

26. If the Litigation proceeded to trial, both sides would offer expert testimony on liability and damages.

27. Plaintiffs would undoubtedly face a challenge to their class-wide damages expert who would proffer a methodology for calculating aggregate class-wide economic injury. Such an expert undertaking is costly, and Plaintiffs expect GSK would challenge Plaintiffs’ ability to calculate a price premium class-wide.

28. Plaintiffs acknowledge the complexity in the resolution of whether advertising claims deceive reasonable consumers. A rigorous battle of the experts would include survey analyses regarding the natural and satiety claims and disputed damages analyses.

29. There is a substantial risk that a jury may accept GSK’s experts’ testimony and damages arguments or award far less than the settlement amount or nothing at all.

30. While Plaintiffs prevailed, in substantial part, at the pleading stage, Plaintiffs nonetheless face significant risks in establishing liability.

31. If the Litigation continues, Plaintiffs expect GSK to continue to defend vigorously all aspects of Plaintiffs' claims including at class certification and summary judgment.

32. The outcome of these proceedings cannot be certain, and if the Litigation proceeds to trial, it will be a lengthy and complex affair with appeals likely to follow.

33. Consistent with Second Circuit jurisprudence, in settling the Litigation, Plaintiffs accounted for the estimated damages, the benefits and risks of continuing litigation against GSK, and the range of possible outcomes should the Litigation continue.

34. Although Plaintiffs allege that GSK sold millions of Covered Products during the Class Period, the damages calculation is inherently complex and subject to varying interpretations.

35. The \$10 and \$12 estimated claim amounts for each unit of Benefiber Original and Healthy Shape, likely exceeds each consumer's best case economic loss per unit. An adjustment based on the product purchased ensures fair and equitable treatment of Settlement Class Members who bought Benefiber Original based on one alleged false advertising claim (100% Natural) and those who bought Healthy Shape based on two alleged false advertising claims (100% Natural and "clinically proven to curb cravings"). The claimed economic loss to Benefiber Healthy Shape customers is greater than Benefiber Original as a result of the additional falsely advertised satiety benefits and increased purchase price, warranting an increased allocation.

36. In Class Counsel's experience litigating natural and weight loss related false advertising class actions, these recovered amounts likely exceed the economic losses per unit of product.

37. Moreover, during the mediation, GSK took the position that, after a risk assessment, any potential damages are *de minimis* and the best-case value of the case falls well below \$6.5 million.

38. Additionally, the Settlement Agreement requires complete cessation of the “100% Natural” and satiety claims on the Covered Products. *See* § C.14. Regardless of whether Class Members submit a Claim, they and the consuming public will avoid millions in economic losses from being duped into buying the Covered Products that allegedly are not worth the purchase price.

39. Cessation of deceptive advertising claims facilitates a highly visible and competitive marketplace by promoting credibility and fair competition, raises the floor of truth telling in advertising by elevating the customary standard of practice across the industry, and ensures fidelity to consumer protection laws that benefits consumers, the public, and the market.

40. The settlement also will provide an immediate and certain benefit to the Settlement Class and will avoid the substantial burdens and costs that continued and uncertain litigation would impose on the parties, non-party witnesses, and the courts. Furthermore, there are many steps between here and any potential verdict.

41. Even assuming *arguendo* that continued litigation might result in a larger recovery than the settlement, it would occur only after the expenditure of hundreds of thousands of dollars in costs and expenses (at best) that would eat up much of any increased recovery.

42. The cap on claims per household without proof of purchase mitigates the risk of fraudulent claims. At the same time, claims supported by some reasonably reliable proof of purchase (e.g., receipts or photos of UPCs), which serve as additional evidence of the claim’s validity beyond a statement under penalty of perjury, warrant eligibility for unlimited corroborated claims.

43. At this time, Plaintiffs cannot calculate a final amount for each Settlement Class Member’s share of the Net Settlement Fund until all claims are submitted and any *pro rata* adjustments are applied.



44. After the Claim Deadline lapses on October 6, 2021, and the Settlement Administrator provides any necessary supplemental declaration on November 12, 2021, Plaintiffs can better estimate how much each Claimant will receive.

45. Plaintiffs and JND designed the Notice Plan that provides Settlement Class Members with the best notice practicable under the circumstances to reach 70% of Settlement Class Members.

46. Class Counsel has been working on this case since at least May 2020, when they began its investigations into GSK's products and "Natural" and "100% Natural" representations.

47. Class Counsel interviewed numerous potential class representatives and reviewed publicly available information as part of their investigations.

48. Class Counsel also spent time and resources drafting pleadings including the complaints and amended complaints.

49. Further, Class Counsel opposed Defendant's motion to dismiss in the *White* action.

50. Shortly after the Court's ruling on Defendant's motion to dismiss in *White*, the Parties engaged in settlement discussions.

51. The Sultzer Law Group and all Class Counsel undertook and litigated this case on a fully contingent bases.

52. Here, Class Counsel have incurred \$22,903.98 in reasonable and necessary litigation costs and expenses, including all filing, general litigation, and mediation-related expenses that were all incurred in the normal course of business and were essential to the successful prosecution of this lawsuit.

**The Sultzer Law Group's Lodestar and Litigation Expenses**

53. The Sultzer Law Group began its investigation into GSK's false advertising in May 2020. The Sultzer Law Group reviewed publicly available documents, conducted research on claims, communicated with potential and retained class representatives, and conferred with other counsel in advance of filing the complaint in the above captioned matter on June 19, 2020.

54. The current and former attorneys from The Sultzer Law Group, in addition to myself, who have worked on this Litigation are Mindy Dolgoff, Jeremy Francis, and Benjamin Zakarin.

55. Since its inception, The Sultzer Law Group has actively participated in all aspects of the case, including, but not limited to: (1) case investigation; (2) drafting of the complaints; (3) settlement discovery; (4) legal research; (5) drafting of motions and briefs; (6) participating in case strategy decisions; (7) participating in mediation and settlement negotiations; (8) communicating frequently with defense counsel regarding litigation and settlement matters; (9) documenting the settlement agreement and preparation of exhibits; (10) working closely with the Settlement Administrator regarding implementation of the Notice Plan; and (11) preparing the settlement approval documents. Thus, I am fully familiar with the proceedings. These tasks required extensive legal research and attention to detail.

56. Additionally, The Sultzer Law Group participated in regular calls with Class Counsel. During these weekly calls, various aspects of this Litigation were discussed.

57. This declaration generally summarizes the work performed by The Sultzer Law Group for Plaintiffs and the Settlement Class Members in this litigation. As demonstrated below, The Sultzer Law Group has worked diligently to perform tasks throughout the entire course of this litigation, including initial case investigation, filing of the initial Complaint, discovery, settlement

discussions, motions for settlement approval and assistance with settlement administration for the Class Members.

58. Before initiating any action, Class Counsel conducted a thorough investigation of the claims, both legal and factual. Specifically, The Sultzer Law Group thoroughly investigated and researched the claims, which allowed Plaintiffs' Counsel to better evaluate the factual claims regarding GSK's representations on the Covered Products.

59. Not including the time expended in preparing the application for fees and expenses, the table below details the hours billed and the amount billed at current rates through August 1, 2021 for The Sultzer Law Group's attorneys and paralegals:<sup>3</sup>

<b>Attorney</b>	<b>Total Hours</b>	<b>Hourly Rate</b>	<b>Amount</b>
<b>Jason P. Sultzer</b>	402.51	795.00	\$320,000.00
<b>Mindy Dolgoff</b>	130.20	475.00	\$61,845.00
<b>Jeremy Francis</b>	40.80	475.00	\$19,380.00
<b>Benjamin Zakarin</b>	3.10	475.00	\$1,472.50
<b>Total:</b>	<b>576.61</b>		<b>\$402,697.50</b>

This summary was prepared from contemporaneous, daily time records regularly prepared and maintained by The Sultzer Law Group.

60. The attorneys of The Sultzer Law Group billed this case at their usual and customary hourly billing rates, which have been approved by courts presiding over similar complex class action lawsuits, and which are commensurate with the prevailing market rates attorneys of comparable experience and skill handling complex litigation, including: *Vincent, Wesley, et al. v. People Against Dirty, PBC. and Method Products, PBC.*, Case No. 7:16-cv-06936

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<sup>3</sup> If the Court wishes, The Sultzer Law Group can provide more detailed time entries describing the work of these attorneys and paralegals, as well as The Sultzer Law Group's expenses.

(S.D.N.Y.); *Rapoport-Hecht, Tziva et al. v. Seventh Generation, Inc.*, Case No. 14-cv-9087 (S.D.N.Y.); *Patora v. Tarte, Inc.*, Case No. 7:18-cv-11760-KMK (S.D.N.Y.).

61. During the course of this Action, The Sultzter Law Group incurred \$7,305.86 in unreimbursed expenses. These expenses were reasonably and necessarily incurred in connection with the prosecution of this litigation. These expenses are reflected in the books and records of The Sultzter Law Group and are a true and accurate summary of the expenses for this case. The chart below details the expenses incurred by category:

CATEGORY	EXPENSE AMOUNT
Court Costs, Filing Fees and Transcripts	\$400.00
Service of Process	\$154 .00
Mediation	\$6,751.86
<b>TOTAL</b>	<b>\$7,305.86</b>

### **The Sultzter Law Group Has Extensive History of Representing Consumers**

62. The Sultzter Law Group is one of the preeminent plaintiff's class-action and complex commercial law firms in the nation with particular expertise in consumer class-actions. Since its founding in 2013, The Sultzter Law Group has served as lead counsel in numerous high-profile consumer class action cases. The firm is included in Martindale-Hubbell's Bar Register of Preeminent Lawyers for its class action practice. All of the partners in the firm are AV rated by Martindale-Hubbell and have been selected as Super Lawyers. In addition, they have also been selected as the American Law Media's Mass Tort Lawyers of the Year.

63. The firm's attorneys have contributed to or been featured in various well-known publications regarding their class action practice, including: Law360, Inside Counsel Magazine, Risk Management Magazine, CNBC News, Reuters, Bloomberg News, and the New York Post.

The Sultzer Law Group was named the best nationwide civil dispute firm in the U.S. Business News Legal Elite Awards in 2020.

64. The Sultzer Law Group has extensive experience in the area of consumer fraud class-actions and have successfully challenged some of the nation's largest and most powerful corporations for a variety of unfair and deceptive business practices, including false advertising and mislabeling.

65. As demonstrated by the cases described in our firm's resume, attached as Exhibit A, The Sultzer Law Group has achieved great success for consumers throughout the nation.

66. The Sultzer Law Group has been particularly active within the Second Circuit and has created extensive case law and has obtained significant class-wide settlements in this Circuit in false advertising and mislabeling class actions involving all types of consumer products and food, including: *Luib v. Henkel Consumer Goods, Inc.*, No. 1:17-cv-03021-BMC, 2018 U.S. Dist. LEXIS 18598 (S.D.N.Y. Feb. 5, 2018); *Barton v. Pret A Manger (USA) Ltd.*, No. 1:20-cv-04815 GHW, 2021 U.S. Dist. LEXIS 81336 (S.D.N.Y. Apr. 27, 2021); *Rapoport-Hecht, Tziva et al. v. Seventh Generation, Inc.*, No. 14-CV-9087 (KMK), 2017 U.S. Dist. LEXIS 218781 (S.D.N.Y. Apr. 28, 2017); *Vincent, Wesley, et al. v. People Against Dirty, PBC. and Method Products, PBC.*, No. 16-cv-6936 (NSR), Dkt. 41 (S.D.N.Y. March 13, 2017); *Mayhew, Tanya, et al., v. KAS Direct, LLC and S.C. Johnson & Son, Inc.*, No. 16 CV 6981 (VB), 2018 U.S. Dist. LEXIS 106680 (S.D.N.Y. June 26, 2008); *Patora v. Tarte, Inc.*, No. 7:18-cv-11760-KMK, Dkt. 50 (S.D.N.Y. Jan. 29, 2020); *Sitt v. Nature's Bounty, Inc.*, No. 15-cv-4199-MKB-MDG, 2016 U.S. Dist. LEXIS 131564 (E.D.N.Y. Sept. 26, 2016); *Silva v. Smucker Natural Foods, Inc.*, No. 14-cv-6154 (JG)(RML), 2015 U.S. Dist. LEXIS 122186 (E.D.N.Y. Sept. 14, 2015); *Grossman v. Simply Nourish Pet Food Company LLC*, No. 2:20-cv-01603-KAM-ST, 2021 U.S. Dist. LEXIS 15864

(E.D.N.Y. Jan. 27, 2021); *Silva v. Hornell Brewing Co.*, No. 20-cv-756 (ARR) (PL), 2020 U.S. Dist. LEXIS 142900 (E.D.N.Y. Aug. 10, 2020); *Petrosino v. Stearn's Products, Inc.*, No 7:16-cv-007735-NSR, 2018 U.S. Dist. LEXIS 55818 (S.D.N.Y. Mar. 30, 2018); *Wedra v. Cree, Inc.*, No. 19 CV 3162 (VB), 2020 U.S. Dist. LEXIS 49266 (S.D.N.Y. Mar. 20, 2020).

67. Courts in this Circuit have recognized The Sultzer Law Group's significant experience with regards to its class action practice. *See Griffin, Anthony, et al., v. Aldi, Inc., Doe Defendants 1-10*, Case No. 16-cv-00354 (N.D.N.Y.) (Judge Lawrence E. Kahn stated that "Plaintiffs' Counsel have worked diligently and are experienced and well-versed in wage and hour cases and class actions."); *see also Patora v. Tarte, Inc.*, Case No. 18-cv-11760-KMK (S.D.N.Y.) (Judge Kenneth M. Karas stated that "[t]he plaintiff here was ably represented by class counsel, who is clearly well-versed in complex class action litigation. I can speak from personal experience dealing with The Sultzer Firm, which has many highly-qualified and capable and experienced lawyers representing plaintiffs in consumer class actions. . ."); *Shiv Patel v. St. John's University*, Case No. 1:20-cv-02114 (EDNY) (Judge Steven Gold observed that, "The firms' expertise and competency in the class action context are reflected by the favorable outcomes they have obtained in previous suits. . . particularly in light of their impressive record.").

68. As the firm's founding partner, I have earned selection as a Senior Fellow of the Litigation Counsel of America (LCA), recognizing the country's top trial attorneys, and am a member of their Trial Law and Diversity Institute. I have also been recognized as a Super Lawyer for the last ten years, and was selected for Lawdragon's list of 500 Leading Plaintiff Financial Lawyers for 2019 and 2020. For a full list of my accomplishments, see our firm resume attached as Exhibit A.

**Class Counsel's Lodestar and Expenses**

69. The table below denotes the total hours billed by attorneys and paralegals at current rates for each of the Class Counsel firms through August 1, 2021.

<b>Firm</b>	<b>Total Hours</b>	<b>Amount</b>
<b>The Sultz Law Group, P.C.</b>	576.61	\$402,697.50
<b>Pearson, Simon &amp; Warshaw, LLP</b>	262.40	\$220,924.00
<b>Cohen Milstein &amp; Toll PLLC</b>	116.50	\$78,755.00
<b>Mason Lietz &amp; Klinger LLP</b>	61.70	\$30,878.00
<b>Levin Sedran &amp; Berman LLP</b>	85.25	\$77,275.00
<b>Clarkson Law Firm, P.C.</b>	546.40	\$391,445.00
<b>Moon Law APC</b>	437.20	\$371,620.00
<b>Total:</b>	<b>2,086.06</b>	<b>\$1,573,594.5</b>

70. During the course of this Action, Class Counsel together incurred \$22,903.98 in unreimbursed expenses. These expenses were reasonably and necessarily incurred in connection with the prosecution of this litigation. These expenses are reflected in the books and records of each Class Counsel firm and are a true and accurate summary of the expenses for this case. The chart below details the total expenses incurred by firm:

<b>Firm</b>	<b>Expenses</b>
<b>The Sultz Law Group, P.C.</b>	\$7,305.86
<b>Pearson, Simon &amp; Warshaw, LLP</b>	\$2,728.91
<b>Cohen Milstein &amp; Toll PLLC</b>	\$3,755.62
<b>Mason Lietz &amp; Klinger LLP</b>	\$600
<b>Levin Sedran &amp; Berman LLP</b>	\$1,351.74
<b>Clarkson Law Firm, P.C.</b>	\$7,161.85
<b>Total:</b>	<b>\$22,903.98</b>

I hereby declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge.

Dated: August 3, 2021

*/s/ Jason P. Sultzer*

Jason P. Sultzer



# **EXHIBIT A**



NEW YORK | PENNSYLVANIA | NEW JERSEY | CALIFORNIA

The Sultzer Law Group, P.C. focuses on consumer class actions and other complex civil litigation. The firm is headquartered in Poughkeepsie, New York, and maintains offices in New York City, New Jersey, California, and Pennsylvania. Since its founding in 2013, The Sultzer Law Group, P.C. has served as lead counsel in numerous high-profile consumer class action cases. The firm is included in Martindale-Hubbell's Bar Register of Preeminent Lawyers for its class action practice. All of the partners in the firm are AV rated by Martindale-Hubbell and have been selected as Super Lawyers. In addition, they have also been selected as the American Law Media's Mass Tort Lawyers of the Year. The firm's founding partner, Mr. Sultzer, has earned selection as a Senior Fellow of the Litigation Counsel of America (LCA), recognizing the country's top trial attorneys, and is a member of their Trial Law and Diversity Institute. Mr. Sultzer has also been named in Lawdragon's list of 500 Leading Plaintiff Financial Lawyers for 2019 and 2020. The firm's attorneys have contributed to or been featured in various well-known publications regarding their class action practice, including: *Law360*, *Inside Counsel Magazine*, *Risk Management Magazine*, *CNBC News*, *Reuters*, *Bloomberg News*, and the *New York Post*. The Sultzer Law Group was named the best nationwide civil dispute firm in the U.S. Business News Legal Elite Awards in 2020. More detail about the firm, its practice areas, and its attorneys appear on its website: [www.thesultzerlawgroup.com](http://www.thesultzerlawgroup.com).

## I. Class Action Litigation Experience

Attorneys at The Sultzer Law Group, P.C. have advocated for consumers' and workers' rights, successfully challenging some of the nation's largest and most powerful corporations for a variety of improper, unfair, and deceptive business practices in a wide range of industries including, the auto, financial, cosmetic, food, and supplement industries. Through our efforts, we have recovered significant benefits for our consumer clients. Moreover, courts throughout the country have recognized The Sultzer Law Group's significant experience with regards to its class action practice. *See Patora v. Tarte, Inc.*, Case No. 18-cv-11760-KMK (SDNY), (Judge Kenneth M. Karas stated that "[t]he plaintiff here was ably represented by class counsel, who is clearly well-versed in complex class action litigation. I can speak from personal experience dealing with The Sultzer Firm, which has many highly-qualified and capable and experienced lawyers representing plaintiffs in consumer class actions. . ."); *see also Shiv Patel v. St. John's University*, Case No. 1:20-cv-02114 (EDNY) (Judge Steven Gold observed that, "The firms' expertise and competency in the class action context are reflected by the favorable outcomes they have obtained in previous suits... particularly in light of their impressive record."); *Griffin, Anthony, et al., v. Aldi, Inc., Doe Defendants 1-10*, Case No. 16-cv-00354 (N.D.N.Y.) (Judge Lawrence E. Kahn stated that "The quality of the representation also supports the award. Plaintiffs' Counsel have worked diligently and are experienced and well-versed in wage and hour cases and class actions.").

Recent Settled matters include:

- *Foster, Andrew Tyler et al. v. L-3 Communications EOTECH, Inc., et al.*, Case No. 15-cv-03519 (W.D. Mo.) (served as co-lead counsel and obtained more than \$50 million dollars in monetary relief for consumers who purchased falsely advertised holographic weapons sights)
- *Griffin, Anthony, et al., v. Aldi, Inc., Doe Defendants 1-10*, Case No. 16-cv-00354 (N.D.N.Y.) (served as co-lead counsel and obtained a settlement fund of \$9.8 million on behalf of a national and NY class of employees who were not paid for all of the hours they worked and who did not receive appropriate overtime under federal and NY law)
- *Run Them Sweet, LLC v. CPA Global, Ltd., et al.*, Case No. 1:16-cv-1347 (E.D. VA.) (served as co-lead counsel and obtained a settlement fund of \$5.6 million on behalf of consumers who were overcharged with respect to foreign patent renewal services)
- *Davenport, Sumner, et al. v. Discover Financial Services, et al.*, Case No. 15-cv-06052 (N.D. Ill) (served as co-lead counsel and obtained a settlement fund of \$5.6 million for victims of violations of the Telephone Consumer Protection Act)
- *Rapoport-Hecht, Tziva et al. v. Seventh Generation, Inc.*, Case No. 14-cv-9087 (S.D.N.Y.) (served as co-lead counsel and obtained a settlement fund of \$4.5 million and injunctive relief in the form of label modifications on behalf of a national class of consumers who purchased cleaning products alleged to have been deceptively labeled)
- *Schmitt, et al. v. Yunique, LLC*, No. 8:17-cv-01397-JVS-JDE (C.D. Cal.), (served as co-lead counsel and obtained a settlement fund of \$3.25 million and injunctive relief in the form of label modifications on behalf of consumers in a case involving allegedly deceptive labeling of consumer products)
- *In re Kia Engine Litigation.*, No. 8:17-cv-00838-JLS-JDE (C.D. Cal.) (served as co-lead counsel in an automobile defect case and reached a nationwide settlement valued at \$1.3 billion on behalf of owners and lessees of certain Hyundai and Kia vehicles)
- *Vincent, Wesley, et al. v. People Against Dirty, PBC. and Method Products, PBC.*, Case No. 7:16-cv-06936 (S.D.N.Y.) (served as co-lead counsel and obtained a settlement fund of \$2.8 million and injunctive relief in the form of label modifications on behalf of a national class of consumers who purchased cleaning products alleged to have been deceptively labeled)
- *Mayhew, Tanya, et al., v. KAS Direct, LLC and S.C. Johnson & Son, Inc.*, Case No. 16-cv-6981 (S.D.N.Y.) (served as co-lead counsel and obtained a settlement fund of \$2.2 million and injunctive relief in the form of label modifications on behalf of a national class of consumers who purchased baby products alleged to have been deceptively labeled)
- *Patora v. Tarte, Inc.*, Case No. 7:18-cv-11760-KMK (S.D.N.Y.) (served as lead counsel and obtained a settlement fund of \$1.7 million and injunctive relief in the form of label modifications on behalf of a national class of consumers who purchased cleaning products alleged to have been deceptively labeled)
- *Luib, Tony, et al., v. Henkel Consumer Goods Inc.*, Case No. 17-cv-03021 (E.D.N.Y.) (served as co-lead counsel and obtained a settlement fund of \$1.5 million and injunctive relief in the form of label modifications on behalf of a national class of consumers who purchased cleaning products alleged to have been deceptively labeled)

- *Georgette Santa Maria, et al. v. Hyatt Equities LLC, et al.*, No. 2018-51928 (Dutchess County Supreme Court) (served as co-lead counsel and obtained a settlement fund on behalf of a national and NY class of employees who were not paid for all of the hours they worked and who did not receive appropriate overtime under federal and NY law)
- *Baumgarten v. Cleanwell, LLC*, Case No. 1:16-cv-01780 (E.D.N.Y.) (served as lead counsel and obtained injunctive relief in the form of label modifications on behalf of a national class of consumers against a company that allegedly sold deceptively labeled products)
- *Nicotra, Jennifer et al. v. Babo Botanicals, LLC*, Case No. 16-cv-00296 (E.D.N.Y.) (served as lead counsel and obtained injunctive relief in the form of label modifications on behalf of a national class of consumers against a company that marketed skin and haircare products alleged to have been deceptively labeled)

## II. Attorney Biographies

### Jason P. Sultzer

Jason P. Sultzer is a nationally recognized trial lawyer and the founding partner of The Sultzer Law Group P.C. He represents clients throughout the United States in high profile litigations and has substantial experience in class actions, mass torts, business disputes, personal injury litigation, product liability, and intellectual property-related issues.

Over the last twenty-four years, Mr. Sultzer has successfully defended and prosecuted nationally recognized companies in highly publicized class action lawsuits in state and federal courts, including proceedings before the Judicial Panel on Multidistrict Litigation. These class actions involved a wide variety of matters, including unfair competition, breach of warranty, product-related issues, employment discrimination, civil rights, overtime wages, the Fair Debt Collection Practices Act, abusive mortgage lending practices, The Telephone Consumer Protection Act, and consumer protection statutes of nearly all fifty states. Mr. Sultzer has been appointed as lead counsel in a number of class action lawsuits in which he has recovered millions of dollars and obtained injunctive relief on behalf of aggrieved consumers nationwide in cases involving fraudulent representations of various products, supplements, foods, and automobiles.

Mr. Sultzer is a frequent author and lecturer about class action lawsuits and has been quoted in national publications concerning the Class Action Fairness Act and class action settlements.

Mr. Sultzer has received the Martindale-Hubbell AV rating, indicating that his legal peers rank him at the highest level of professional excellence. He was also named as a “Mass Tort Lawyer of the Year” by American Law Media, has been recognized as a Super Lawyer for the last ten years, and was selected for Lawdragon’s list of 500 Leading Plaintiff Financial Lawyers for 2019 and 2020. Mr. Sultzer, was also featured on the front cover of the Wall Street Journal’s Legal Leader’s magazine in 2014 and 2015 designating him as one of New York’s top rated lawyers. In addition, Mr. Sultzer has earned selection as a Senior Fellow of the Litigation Counsel of America (LCA), recognizing the country’s top trial attorneys. The LCA is an invitation-only honorary society that is composed of less than one-half of one percent of American lawyers. Mr.

Sultzer is also a member of the LCA's Trial Law and Diversity Institute and its Honorary Order of Juris (consisting of attorneys who have tried fifty or more bench or jury trials to verdict).

Prior to opening The Sultzer Law Group P.C., Mr. Sultzer was the youngest equity partner at one of the largest law firms in the country where he served as the co-chairman of its class action practice group. Earlier in his career, Mr. Sultzer was in-house counsel for Owens Corning, a Fortune 500 Company, where he was involved in defending the company against tens of thousands of asbestos lawsuits throughout the country.

### **Joseph Lipari**

Joseph Lipari is a partner of The Sultzer Law Group. Mr. Lipari has litigated in state and federal courts throughout the United States, and he has appeared before binding arbitration panels. He has achieved numerous successful outcomes as counsel for plaintiffs and defendants, including verdicts and settlements.

He has successfully represented businesses in complex suits arising out of high-profile, catastrophic events including: underground mining accidents in Alabama; steel mill explosions in Pennsylvania and Louisiana; and extended unplanned shutdowns and outages in mills, plants, and factories located across the United States and abroad.

Mr. Lipari was featured in *Law360* for a defense verdict he obtained on behalf of his manufacturer client. *See Moyer v. Siemens VAI Services and Signal Metal Industries, Inc.*, No. 2:11-cv-03185 (E.D. La.) (Louisiana jury found defendant was not liable for \$2.6 million wrongful death award following a deadly molten steel eruption allegedly linked to equipment designed by the company's predecessor).

Mr. Lipari has created significant caselaw in the field of consumer class actions. *See, e.g., Silva, Christopher et al. v. Smucker Natural Foods, Inc. and J.M. Smucker Co.*, 14-cv-6154 (E.D.N.Y.); *Sitt v. Nature's Bounty, Inc. et al.*, 15-cv-04199 (S.D.N.Y.).

He is admitted to the bars of New York, Pennsylvania, and New Jersey. He has also appeared as counsel, by way of *pro hac vice* admission, in over twenty states. Mr. Lipari has lectured and published on topics including trial strategy, patent disputes, hydrofracking in the Marcellus Shale, and risk management practices.

Mr. Lipari is a 2002 graduate of Seton Hall University School of Law. Before law school, he attended Officer Candidate School in Quantico, Virginia, and was offered a commission as Second Lieutenant in the United States Marine Corps.

Prior to joining The Sultzer Law Group P.C., Mr. Lipari was a partner at a prominent national litigation firm. Earlier in his career, he was associated with one of the largest law firms in the country.

Mr. Lipari has received the Martindale-Hubbell AV rating, indicating that his legal peers rank him at the highest level of professional excellence. He was also named as a “Mass Tort Lawyer of the Year” by American Law Media, and has been recognized as a Super Lawyer.

### **Benjamin Zakarin**

Mr. Zakarin is an associate at The Sultz Law Group. His litigation practice focuses on commercial and consumer class action litigation as well as government investigations and regulatory enforcement actions.

Prior to joining the firm, Mr. Zakarin was in private practice and served for five years at the New Jersey Office of the Attorney General, including three years as a Deputy Attorney General in the Civil Securities Fraud Prosecution practice group. In that capacity, Mr. Zakarin investigated and prosecuted numerous securities fraud matters, frequently partnering with the Securities and Exchange Commission and the Department of Justice. He also has extensive experience developing and advising on regulatory policies designed to enhance consumer protections.

Mr. Zakarin earned his Juris Doctorate from Wake Forest University School of Law in 2014, where he was a member of the Editorial Staff for the Journal of Business and Intellectual Property Law. He graduated *magna cum laude* from the University of Michigan—Ann Arbor in 2010 after majoring in History and Political Science.

### **Daniel Markowitz**

Daniel Markowitz is an associate at the Sultz Law Group. He is an experienced litigator and class action attorney. Mr. Markowitz is known for developing strong client relationships centered around professionalism, clear communication, and dedication to understanding and fighting for the needs of his clients. He has represented clients on complex litigation in both federal and state court, including many high-profile cases involving prominent businesses. Representing plaintiffs, Mr. Markowitz has worked on class actions that resulted in settlements of over \$50,000,000.00.

Mr. Markowitz received recognition by being selected to the NY Metro Super Lawyers Rising Stars list each year from 2014-2019, and was selected to the NY Metro Super Lawyers list in 2020.

Mr. Markowitz graduated cum laude from NYU and went on to receive his law degree from St. John's University.

Prior to joining The Sultz Law Group P.C., Mr. Markowitz began his career as in-house counsel. He then spent several years at a prominent litigation class action firm. He is admitted to practice in New York State, as well as the United States District Courts for the Southern and Eastern Districts of New York.

### **Mindy Dolgoff**

Ms. Dolgoff is an associate at The Sultz Law Group. She is an experienced litigator and class action attorney and has represented clients on complex litigation matters in both state and federal court.

Prior to joining the firm, Ms. Dolgoff started her career at one of the most prominent international law firms and represented high profile clients on numerous complex commercial matters. She also spent several years at one of the top securities class action law firms where she represented institutional investors in securities fraud class action litigation. In that capacity, Ms. Dolgoff was a member of the trial team that took one of the few securities class action cases to trial and achieved a favorable verdict for its investor clients against a regional bank.

Ms. Dolgoff earned her Juris Doctor from NYU School of Law in 2004, where she served as a staff editor for the Environmental Law Journal. She graduated from Emory University with a B.A. in 2001.

### **Ethan Rubin**

Ethan Rubin is an associate at The Sultz Law Group. Mr. Rubin focuses on representing consumers in a wide range of class actions.

Prior to joining the firm, Mr. Rubin was an associate with two premier mid-size defense litigation law firms where he represented institutional clients in complex tort actions that spanned negligence to malpractice lawsuits.

Mr. Rubin earned his Juris Doctor from Benjamin N. Cardozo School of Law in 2018, where he was the Senior Notes Editor for the Cardozo Journal of Conflict Resolution. He was published by the Cardozo Journal of Conflict Resolution and the American Bar Association Journal of Mediation. Mr. Rubin graduated from SUNY Binghamton University in 2014 with a Bachelor of Arts in History.

### **David Shoop**

For over 15 years, Mr. Shoop has represented injured consumers in a wide range of matters involving the defective design, manufacture, and distribution of dangerous products. He has had a hand in recovering over \$100 million in settlements and verdicts for his clients – just in the realms of product liability and defective medical devices alone. One such case involved a \$30 million verdict in a product liability lawsuit in Los Angeles County (Case No. BC 594187). He also regularly handles multi-million-dollar cases against the manufacturers of medical devices, including a recent \$14 million aggregate settlement for an implantable medical device.

In addition to understanding the inner workings of insurance defense, David has valuable knowledge of engineering and physics, accident reconstruction, biometrics, and other fields applicable to the cases he handles. He uses this knowledge as well as the testimony and work of experts across many fields, such as engineers, economists, medical professionals, and more. He handles cases involving complex engineering, product testing, hazard identification, faulty warnings, and other matters. David is a member of the National Fire Protection Association

(NFPA) and has litigated a number of fire and casualty cases, with a recent \$3.5 million settlement for burn injury clients.

### **Thomas Alch**

Over the span of a legal career that has lasted close to three decades, Thomas S. Alch has recovered hundreds of millions of dollars on behalf of clients who were injured through negligence and by defective products. At the forefront of the law on defective medical devices, he has been featured on national news outlets such as ABC and Fox, as well as radio programs and magazines.

Tom has significant experience litigating highly technical cases involving defective medical devices, which he uses to secure a strong foothold in the uphill battle against negligent manufacturers, distributors, healthcare professionals, and their insurance providers. He has obtained victories for clients in cases involving obstetric vacuums, surgical implements, medical beds, and more.

Tom has many notable wins and achievements on his record. He has argued before the California Court of Appeals and has won numerous jury verdicts. He also regularly handles class actions for medical devices, product recalls, and other dangerous products. He is admitted to practice in California, Nevada, and Arizona.