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15 Lead Counsel for Plaintiffs

16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA  
 18 OAKLAND DIVISION

19 GREG FLEMING, Individually and on Behalf )  
 of All Others Similarly Situated, )  
 20 Plaintiff, )  
 21 vs. )  
 22 IMPAX LABORATORIES INC., et al., )  
 23 Defendants. )

Case No. 4:16-cv-06557-HSG  
CLASS ACTION  
 DECLARATION OF JOHN HEIM IN  
 SUPPORT OF LEAD PLAINTIFF'S  
 MOTION FOR FINAL APPROVAL OF  
 SETTLEMENT  
 DATE: March 31, 2022  
 TIME: 2:00 p.m.  
 CTRM: 2, 4th Floor  
 JUDGE: Honorable Haywood S. Gilliam, Jr.

1 I, JOHN HEIM, declare as follows:

2 1. I am the Chief Financial Officer (“CFO”) for Lead Plaintiff New York Hotel Trades  
3 Council & Hotel Association of New York City, Inc. Pension Fund (“Lead Plaintiff” or the  
4 “Fund”), and have overseen the Fund’s participation as Lead Plaintiff in this matter since  
5 December 1, 2020. As CFO, I succeeded Harry Veras (“Mr. Veras”), who was responsible for  
6 overseeing the litigation on behalf of the Fund prior to December 1, 2020. I respectfully submit  
7 this declaration in support of final approval of the \$33 million settlement (the “Settlement”).<sup>1</sup>

8 2. The Fund provides services and benefits to approximately 55,000 participants. The  
9 Fund was established in 1952, and its purpose is to provide pension benefits to union members and  
10 retirees of the New York City hotel industry. Members’ benefits are established through a  
11 collective bargaining agreement by and between the New York Hotel and Motel Trades Council,  
12 AFL-CIO, a labor union representing thousands of workers employed in the hotel industry in the  
13 metropolitan New York City area, and the Hotel Association of New York City, Inc., a multi-  
14 employer bargaining association.

15 3. The Fund understands that the Private Securities Litigation Reform Act of 1995  
16 was intended to encourage institutional investors to direct securities class actions. Following  
17 appointment as Lead Plaintiff, the Fund monitored the progress of the litigation, including  
18 engagement with Lead Counsel Robbins Geller Rudman & Dowd LLP (“Robbins Geller”)  
19 regarding case developments, litigation strategy, and potential resolution of the Action. In  
20 fulfillment of its responsibilities on behalf of all members of the Class, the Fund, with the  
21 assistance of Fund counsel has: (i) engaged in meetings, phone conferences, and correspondence  
22 with Lead Counsel; (ii) participated in the Action and provided input into the prosecution of the  
23 case; (iii) kept informed regarding case status; (iv) reviewed documents filed in this Action and  
24 opinions of this Court and the Court of Appeals; (v) kept informed about mediation and settlement  
25 negotiations; and (vi) considered and approved the proposed Settlement.

26  
27 <sup>1</sup> All capitalized terms used in this Declaration that are not otherwise defined herein have the  
28 same meaning as set forth in the Amended Stipulation of Settlement (ECF No. 118-1) (the  
“Stipulation”).

1           4.       The Fund authorized Lead Counsel to settle this Action for \$33 million. In this  
2 regard, my colleagues and I reviewed, considered, and evaluated the merits of this case, including  
3 the law governing the allegations and facts developed through Lead Counsel's investigation. In  
4 making its determination that the \$33 million Settlement Amount represented a fair, reasonable,  
5 and adequate amount for the Class, the Fund weighed the substantial benefits to the Class against  
6 the significant risks and uncertainties of continued litigation. After doing so, the Fund believes  
7 the \$33 million recovery represents an excellent result for the Class and that approval of the  
8 Settlement is in the best interest of the Class.

9           5.       While I recognize that any determination of attorneys' fees is left to the Court, the  
10 Fund believes the fee application for 30% of the Settlement Amount and expenses in an amount  
11 not to exceed \$250,000 is fair, reasonable, and appropriate given the facts and circumstances of  
12 this case, the tremendous result achieved, and Lead Counsel's high quality representation and its  
13 diligence in prosecuting this Action, both in front of this Court and on appeal.

14           6.       Mr. Veras and I devoted many hours to the prosecution of this Action on behalf of  
15 the Class, which otherwise would have been spent on the daily business activities of the Fund. I  
16 spent approximately 8.75 hours on this Action, and Mr. Veras spent approximately 22 hours on  
17 this Action. Based upon our overall levels of compensation and benefits I believe hourly rates of  
18 \$302 for my time and \$310 for Mr. Veras' time are reasonable and appropriate. Accordingly, the  
19 Fund respectfully requests an award in the amount of \$9,462.50 for its time expended in the  
20 prosecution of the litigation on behalf of the Class.

21           7.       The Fund also respectfully requests that the Court approve the \$33 million  
22 Settlement as well as Lead Counsel's application for an award of attorneys' fees and expenses.

23           I declare, under penalty of perjury, that the foregoing is true and correct. Executed this  
24 13 day of January, 2022, at New York, NY.

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JOHN HEIM