

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In re CHEMBIO DIAGNOSTICS, INC. SECURITIES LITIGATION	:	Civil Action No. 2:20-cv-02706-ARR-JMW
	:	
	:	<u>CLASS ACTION</u>
	:	
This Document Relates To:	:	DECLARATION OF BRIAN LAVICTOIRE
	:	IN SUPPORT OF MOTION FOR FINAL
ALL ACTIONS.	:	APPROVAL
	:	
	X	

I, BRIAN LAVICTOIRE, declare as follows:

1. I am Deputy General Counsel for Investments and Compliance at Municipal Employees' Retirement System of Michigan ("MERS"), one of the Lead Plaintiffs in the above-captioned case (the "Litigation"). On behalf of MERS, I oversaw the litigation activities of Lead Counsel Robbins Geller Rudman & Dowd LLP ("Robbins Geller") in the Litigation.

2. I respectfully submit this declaration in support of Lead Plaintiff MERS's motion for final approval of the Settlement and Plan of Allocation and counsel's application for an award of attorneys' fees and expenses and an award to Lead Plaintiff pursuant to 15 U.S.C. §78u-4(a)(4) in connection with MERS's representation of the Class. I have personal knowledge of the statements herein, and, if called as a witness, could and would testify competently thereto.

3. MERS understands that the Private Securities Litigation Reform Act of 1995 was intended to encourage institutional investors with investment losses to manage and direct securities class actions. In seeking appointment as lead plaintiff, MERS understood its duty to serve the interests of Class Members by supervising the management and prosecution of the Litigation.

4. Lead Plaintiff MERS vigorously prosecuted this Litigation on behalf of the Class for almost three years.

5. MERS, together with its Co-Lead Plaintiff, agreed to settle the Litigation only after balancing the risks of a successful trial (and any necessary appeal), against the immediate benefit of an \$8,100,000 recovery.

6. From the time that Lead Plaintiff decided to seek appointment as Lead Plaintiff and onward, MERS was kept fully informed regarding case developments and procedural matters over the course of the Litigation, including engagement with Robbins Geller concerning litigation strategy and the potential resolution of the Litigation. As a Lead Plaintiff, among other things,

MERS: (i) engaged in numerous meetings, phone conferences, and correspondence with Robbins Geller; (ii) reviewed pleadings and briefs; (iii) reviewed detailed correspondence concerning the status of the Litigation; (iv) consulted with Robbins Geller regarding litigation and settlement strategy; and (v) participated in and was kept informed about the mediation and settlement negotiations.

7. Over the course of the Litigation, I spoke with Robbins Geller regularly to discuss the status of the Litigation and counsel's prosecution strategy, including the potential for a settlement of the Litigation. I reviewed materials submitted by the parties to the mediator, remotely participated during the full-day mediation, and engaged in follow up conversations with Robbins Geller in order to maximize the outcome for Class Members.

8. MERS has evaluated the significant risks and uncertainties of continuing this Litigation, including the possibility of a nominal recovery or even no recovery at all, and has authorized Robbins Geller to settle this Litigation for \$8,100,000. Mindful of these risks and uncertainties, MERS believes this Settlement is fair and reasonable, and is in the best interests of Class Members.

9. While MERS recognizes that any determination of fees and expenses is left to the Court, MERS believes that counsel's requested fees and expenses, plus interest, are reasonable, as this settlement would not have been possible without counsel's diligent and aggressive prosecutorial efforts.

10. I have personally spent at least 35 hours on this case; my time otherwise would have been focused on daily business activities of MERS. My time on this case over the past nearly three years included numerous phone calls and emails with Robbins Geller attorneys, internal meetings regarding this Litigation, reviewing draft pleadings, and attending the mediation. My

hourly rate incorporating benefits is \$102.64. Based on the time MERS expended in representing the interests of class members in connection with this Litigation, MERS believes that an award of \$3,600 is reasonable and appropriate.

11. MERS respectfully requests that the Court grant final approval of the Settlement, approve counsel's motion for an award of attorneys' fees and expenses, and award MERS \$3,600 for its time expended in representing the class in this Litigation.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 19th day of April 2023.

DocuSigned by:
Brian LaVictoire
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Brian LaVictoire