

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

PHT HOLDING I LLC, and ALICE  
CURTIS, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

RELIASTAR LIFE INSURANCE  
COMPANY,

Defendant.

Civ. No.: 18-cv-2863 DWF/TNL

**DECLARATION OF THOMAS J.  
LEACH IN SUPPORT OF CLASS  
COUNSEL’S MOTION FOR  
ATTORNEYS’ FEES,  
REIMBURSEMENT OF  
LITIGATION EXPENSES, AND  
SERVICE AWARDS**

I, Thomas J. Leach, declare as follows:

1. I submit this declaration in support of Class Counsel’s Motion for Attorneys’ Fees, Reimbursement of Litigation Expenses, and Service Awards.
2. I am a partner at the law firm of Merchant & Gould P.C. (“M&G”). M&G was engaged to serve as local counsel with the firm Susman Godfrey L.L.P. (“Class Counsel”) to represent the plaintiffs in the above-captioned litigation. I have personal, first-hand knowledge of the matters set forth herein and, if called to testify as a witness, could and would testify competently thereto.
3. M&G is a national law firm based in Minneapolis, Minnesota, specializing in complex federal and state court litigation, including cases involving complex technology, intellectual property, and commercial matters, that has been serving clients for around 125 years. M&G has approximately 100 attorneys in seven offices around the country, including offices in Atlanta, Georgia; Denver, Colorado; Knoxville, Tennessee;

Los Angeles, California; Minneapolis, Minnesota; New York, New York; and Alexandria, Virginia. M&G has an excellent reputation in Minnesota and around the country for successfully handling complex federal and state court litigation matters. U.S. News Media Group and Best Lawyers recently selected M&G as one of the 2018 “Best Law Firms” and, in 2021, a Tier 1 patent litigation firm in Minneapolis. BTI Litigation Outlook has ranked M&G in the top 5% of IP litigation law firms, as voted on by Fortune 1000 counsel. More specifically, the attorneys handling this matter have successfully won jury trials representing both plaintiffs and defendants where the amounts at issue were well over \$30,000,000 and in some cases over \$100,000,000.

4. I am a partner at M&G. I received my juris doctorate from the University of Minnesota Law School in 2001 and my Bachelor of Science in Chemical Engineering from Iowa State University in 1998. I am admitted to practice in Minnesota, the United States District Court for the District of Minnesota, the United States District Court for the Northern District of Illinois, the United States District Court for the Eastern District of Wisconsin, the United States District Court for the District of South Dakota, the United States Court of Appeals for the Federal Circuit, and the United States Patent and Trademark Office. I have 23 years of experience litigating patent, trademark, copyright, trade secret, and other intellectual property and complex commercial litigation. Throughout my years of experience, I have worked on numerous complex litigation matters, including patent, copyright, and trade secret cases as well as complex commercial litigation cases involving various technologies. Along with Mr. Gergely, I have tried a complex trade secret and commercial litigation case to judgment in Minnesota state court that involved the defense

of a \$72 million claim as well as a jury trial where we defended a damages claim in excess of \$100,000,000. I have worked on a number of complex intellectual property cases in this court and others around the country.

5. Attorney Peter A. Gergely is a partner at M&G. He received his juris doctorate from the University of Denver College of Law in 1994 and his bachelor's degree from Bowdoin College in 1989. He is admitted to practice in Colorado, Massachusetts, New York, the United States District Court for the Eastern District of Texas, the United States District Court for the District of Colorado, the United States Court of Appeals for the Tenth Circuit, the United States Court of Appeals for the Federal Circuit, and the United States Supreme Court. He has also appeared before this Court *pro hac vice* in complex matters, including patent and class action litigation. He has also tried a complex trade secret and commercial litigation case to judgment in Minnesota state court that involved the defense of a \$72 million claim, as well as a jury trial where we defended a damages claim in excess of \$100,000,000. Mr. Gergely has 29 years of experience litigating patent, trademark, copyright, trade secret, and complex commercial litigation, including prosecution and defense of antitrust and tort claims. Throughout his years of experience, Mr. Gergely has worked on several hundred litigation matters.

6. Attorney Michael Erbele is a partner at M&G. He received his juris doctorate from the University of Notre Dame Law School in 2012 and his bachelor's degree from Concordia College in 2009. He is admitted to practice in Minnesota, the United States District Court for the District of Minnesota, the United States District Court for the Eastern District of Michigan, the United States Court of Appeals for the Eighth Circuit, the United

States Court of Appeals for the Tenth Circuit, and the United States Court of Appeals for the Federal Circuit. Mr. Erbele has 11 years of experience litigating patent, copyright, trademark, trade secret, and complex commercial cases, including prosecution and defense of antitrust, breach of contract, and tort claims. Mr. Erbele also has experience with appeals in complex intellectual property and commercial cases in federal and state appellate court. Throughout his years of experience, Mr. Erbele has worked on over 100 litigation matters. Mr. Erbele spent time on this case as a partner and as an associate; he began working on the case on October 9, 2018 and was promoted to partner on January 1, 2022.

7. Kristin Drieman received her bachelor's degree from the University of Wisconsin at Madison in 2001. Kristin is currently a litigation paralegal at M&G. She has over 20 years of experience in complex commercial and intellectual property litigation.

8. The schedule below is a summary reflecting the amount of time spent by the M&G attorneys and professional support staff who were involved in this litigation. The schedule includes a lodestar calculation using 2023 billing rates or equivalent 2023 billing rates for an attorney or paralegal who left the firm prior to 2023. The following schedule was prepared from time records regularly prepared and maintained by M&G, which are available at the Court's request. Time expended in preparing this declaration and reviewing the application for fees and reimbursement of related expenses are excluded from the below and not reflected. In addition, hours worked by a few attorneys and staff who provided occasional "spot project" support at various points in the case also have been excluded and are not reflected below.

<b>Attorneys</b>	<b>Current Rate</b>	<b>Hours</b>	<b>Value</b>
Erbele, Michael A. (Partner)	\$575	83.50	\$48,012.50
Gergely, Peter A. (Partner)	\$825	37.30	\$30,772.50
Leach, Thomas J. (Partner)	\$725	87.20	\$63,220.00
<b>Paralegals</b>	<b>Current Rate</b>	<b>Hours</b>	<b>Value</b>
Drieman, Kristin M. (Paralegal)	\$295	45.28	\$13,357.60
		253.28	\$155,362.60

9. M&G’s rates are at or below the rates for lawyers of similar skill, reputation, and experience in this market. Given the nature of this case and M&G’s expertise, counsel’s rates in the range of \$575 to \$825 are reasonable in this District, given the prevailing case law. *See, e.g., Nguyen v. Foley*, No. 21-CV-991 (ECT/TNL), 2022 WL 1026477, at \*4 (D. Minn. Apr. 6, 2022) (finding rates of \$885, \$560, and \$460 per hour reasonable for, respectively, a partner, senior associate, and associate with expertise in a specialized area of law); *ResCap Liquidating Tr. v. Primary Residential Mortg., Inc.*, No. 016CV4070SRNHB, 2021 WL 1668013, at \*12 (D. Minn. Apr. 28, 2021), *aff’d*, 59 F.4th 905 (8th Cir. 2023) (finding a rate of \$722.50 per hour reasonable and noting that “[c]ourts in Minnesota have awarded fees to attorneys at similar hourly rates”).

10. The total number of hours expended on this litigation by M&G attorneys and paralegals through August 31, 2023, is **253.28 hours**. The total lodestar value of these hours, derived by multiplying each M&G professional’s hours by his or her current hourly rate, is **\$155,362.60**. M&G’s work has continued beyond August 31, 2023. In my professional judgment, the time expended, services rendered, and overall fees incurred are fair, reasonable, and necessary in light of the legal and factual issues in this litigation. The hourly rates for M&G’s attorneys and professional support staff are the firm’s standard hourly rates. The hourly rates of M&G’s attorneys on this matter range from \$575 to \$825.

11. M&G worked with Class Counsel in this case to complete filings, to advise on matters of procedure under the local rules, and to attend hearings and discuss strategy on various aspects of the litigation. We reviewed all filed pleadings and tracked the progress of the litigation. Throughout the litigation, we reviewed discovery responses, accessed document productions, and monitored discovery disputes and their resolution.

12. Through August 31, 2023, the expenses incurred by M&G in this litigation total **\$1,366.80**. Of those expenses, \$1,245.00 was spent on filing and service fees, court reporter fees, or transcripts, and \$121.80 was spent on photocopies, messenger services, or postage. These expenses were reasonably necessary to the prosecution of this case and are of the type M&G normally incurs in litigation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: September 21, 2023

/s/ Thomas J. Leach

Thomas J. Leach