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8 *Interim Lead Counsel for the*  
 9 *Indirect Purchaser Plaintiffs*

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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION**

**IN RE RESISTORS ANTITRUST  
 LITIGATION**

**Case No. 3:15-cv-03820-JD**

**THIS DOCUMENT RELATES TO:  
 ALL INDIRECT PURCHASER ACTIONS**

**INDIRECT PURCHASER PLAINTIFFS’  
 ADMINISTRATIVE MOTION TO  
 SUBMIT DETAILED EXPENSE  
 RECORDS FOR *IN CAMERA* REVIEW**

Date: December 12, 2019  
 Time: 10:00 a.m.  
 Place: Courtroom 11, 19th Floor  
 Judge: Hon. James Donato

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**NOTICE OF MOTION AND MOTION**

**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

**PLEASE TAKE NOTICE** that Indirect Purchaser Plaintiffs (“IPPs” or “Plaintiffs”) and their counsel (“Lead Counsel”) hereby move this Court for leave to submit portions of their detailed records identified in Exhibit 6 regarding Incurred Litigation Fund Costs for *in camera* review Pursuant to Civil Local 54-5(b)(2). Class Counsel intends to submit the detailed invoices as a part of their Motion for an Award of Attorneys’ Fees, Reimbursement of Expenses, and Class Representative Service Awards. This motion is based on the following Memorandum of Points and Authorities, the accompanying Declaration of Adam Zapala (“Zapala Decl.”), and upon such argument and further pleadings as may be requested by the Court on this motion.

Dated: August 13, 2019

Respectfully submitted,

*/s/ Adam J. Zapala* \_\_\_\_\_  
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*Interim Lead Counsel for the  
Indirect Purchaser Plaintiffs*

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. STATEMENT OF ISSUE PRESENTED**

Whether counsel for the Indirect Purchaser Plaintiffs (“Lead Counsel”) should be permitted to file portions of their detailed expense records—which they will rely on to support their motion for attorneys’ fees and reimbursement of expenses—in *camera* for the Court’s review because such records contain attorney-work product that should not otherwise be disclosed?

**II. INTRODUCTION**

This Court has preliminarily approved IPPs’ settlements with all Defendant families – Panasonic, KOA, ROHM, Kamaya and HDK<sup>1</sup>. *See* Dkt. 545. Under this Court’s Order preliminarily approving these settlements, IPPs’ motion for attorneys’ fees and costs is due on Tuesday, August 13, 2019.

When IPPs file that motion they plan to submit a compendium of litigation fund expense records, appended to the Declaration of Adam J. Zapala in Support of Indirect Purchaser Plaintiffs’ Motion for an Award of Attorneys’ Fees and Reimbursement of Expenses, and Class Representative Service Awards (“Zapala Decl.”). IPPs plan to submit a single exhibit with each vendor cost identified in Exhibit 6 to the Zapala Decl., which will include all invoices received from each vendor.

The litigation fund expense records pertaining to the invoices for expert services from 1) Monument Economics Group, 2) Nathan Associates, Inc., and 3) OSKR contain information and descriptions of work that are protected by the attorney-client privilege and attorney work-product doctrine. Allowing opposing parties access to detailed records of IPPs’ strategies, descriptions containing attorney work-product, and communications could provide parties insight into core attorney work-product in this case, and in future cases brought by the same firms. The privileged

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<sup>1</sup> These settlements include the following defendants: (1) Panasonic Corporation and Panasonic Corporation of North America (together, “Panasonic”); (2) KOA Corporation and KOA Speer Electronics, Inc. (together, “KOA”); (3) ROHM Co. Ltd. and ROHM Semiconductor U.S.A., LLC (together, “ROHM”); (4) Kamaya Electric Co., Ltd. and Kamaya Inc. (together, “Kamaya”); and (5) Hokuriku Electric Industry Co. and HDK America, Inc. (together, “HDK”) (collectively, “Settling Defendants”)

1 communications and details contained in the voluminous expense records are prevalent, making  
2 redaction of such privileged information overly burdensome and impractical.

3 IPPs therefore move this Court for leave to submit their detailed litigation fund expenses  
4 pertaining to expert invoices only, from 1) Monument Economics Group, 2) Nathan Associates,  
5 Inc., and 3) OSKR for *in camera* review by this Court.

### 6 **III. ARGUMENT**

7 The voluminous detailed litigation fund expense records IPPs seek to submit *in camera*  
8 contain descriptions of attorney-work product and other privileged communications that should  
9 be protected from disclosure. This procedure is specifically contemplated by this Court's Local  
10 Rules. *See* Civ. L. R. 54-5(b)(2).

11 The Ninth Circuit and its district courts allow the practice where it is necessary to preserve  
12 privileges and attorney work-product, but where the Court also has a need to assess the  
13 reasonableness of fees and expenses. *See Federal Sav. & Loan Ins. Corp. v. Ferm*, 909 F.2d 372,  
14 375 (9th Cir. 1990) (allowing *in camera* review of invoices for legal services); *Facebook, Inc. v.*  
15 *Power Ventures, Inc.*, No. 08-cv-05780- LHK (JCS), 2013 U.S. Dist. LEXIS 111504, at \*7 (N.D.  
16 Cal. Aug. 7, 2013) (reviewing billing records in camera); *Fresh v. Greene Transp.*, No. C-11-  
17 06683 DMR, 2013 U.S. Dist. LEXIS 152477, at \*16 (N.D. Cal. Oct. 23, 2013) (reviewing  
18 unredacted legal invoices in camera); *Minor v. Christie's, Inc.*, No. C 08-05445 WHA, 2011 WL  
19 902235, at \*2 (N.D. Cal. Jan. 29, 2011) *report and recommendation adopted*, No. C 08-05445  
20 WHA, 2011 WL 902033 (N.D. Cal. Mar. 14, 2011) (same).

21 Class Counsel's detailed expense records contain references to protected attorney-client  
22 communications, and information that is protected as attorney work-product. The attorney work  
23 product doctrine protects "from discovery documents and tangible things prepared by a party or  
24 his representative in anticipation of litigation." *U.S. v. Richey*, 632 F.3d 559, 567 (9th Cir. 2011)  
25 (quoting *Admiral Ins. Co. v. U.S. Dist. Ct.*, 881 F.2d 1486, 1494 (9th Cir. 1989)). Similarly, the  
26 attorney-client privilege "protects confidential communications between attorneys and clients,  
27 which are made for the purpose of giving legal advice." *Id.* (citing *Upjohn Co. v. United States*,  
28 449 U.S. 383, 389 (1981)).

1 Class Counsel's detailed expense records regarding expert services contain detailed  
 2 information which discloses confidential case strategies. Some of the records disclose the  
 3 communications which occurred between counsel and the vendor regarding strategies for the  
 4 litigation. *See* Zapala Decl. ¶¶5-6. Still other entries disclose the detail of work discussed  
 5 between IPPs and their experts and non-testifying consultants.

6 *In camera* review is particularly appropriate here. Allowing parties access to IPPs'  
 7 detailed expense records would pose a real risk of unfair prejudice should the settlements  
 8 ultimately be disapproved and the case returned to active litigation. *See Mattel, Inc. v. MGA*  
 9 *Entm't, Inc.*, 705 F.3d 1108, 1111 (9th Cir. 2013) (approving district court's *in camera* review  
 10 of unredacted legal invoices, finding the invoices were attorney work product that was  
 11 "particularly important" to protect because the parties were still engaged in litigation).

#### 12 IV. CONCLUSION

13 For the foregoing reasons, Plaintiffs respectfully request that this motion be granted, and  
 14 that this Court issue an order permitting them to submit their detailed expense records pertaining  
 15 to expert invoices from 1) Monument Economics Group, 2) Nathan Associates, Inc., and 3)  
 16 OSKR for *in camera* review.

17 Dated: August 13, 2019

Respectfully submitted,

18  
 19 By: /s/ Adam J. Zapala  
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