IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DARYA DEARING, JANICE GULLICK, NELSON SIEVERS, and LAUREN BROWN, individually and on behalf of all others similarly situated, Plaintiffs, v. IQVIA INC.; THE BOARD OF DIRECTORS OF IQVIA HOLDINGS, INC.; and THE BENEFITS INVESTMENT COMMITTEE, Defendants.	Case No: 1:20-cv-00574-WO-JEP

DECLARATION OF ALEC J. BERIN

I, Alec J. Berin, hereby declare under penalty of perjury under the laws of the United States as follows:

1. I am attorney with Miller Shah LLP ("Miller Shah") which is co-counsel with Capozzi Adler, P.C. for the Settlement Class in the above-captioned action ("Action"). I am admitted to practice law in the Commonwealth of Pennsylvania and State of New Jersey, and I am admitted *pro hac vice* in this action. I have worked on the Action since its inception, and I have personal knowledge of the facts set forth herein.

I. THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE, AND WARRANTS FINAL APPROVAL

2. On May 24, 2024, the Court granted preliminary approval of the Settlement.

In the Preliminary Approval Order,[1] the Court preliminarily found that the Settlement was both procedurally and substantively fair, reasonable, and adequate. The Court recognized that the Settlement was negotiated vigorously and at arm's-length over months by the Parties through highly experienced ERISA counsel; that a nationally known and respected mediator, Robert A. Meyer, Esquire of JAMS, assisted and facilitated the Parties' negotiations; that the Action was litigated through extensive discovery and dispositive motions up to the eve of trial, so the Parties had sufficient information (including the advice of retained experts) to clearly evaluate its risks and prospects at trial; and that the amount of the Settlement was fair, reasonable and adequate in view of the risk and uncertainties of the claims and defenses at trial.

3. In doing so, the Court also preliminarily approved all procedural aspects of the Settlement, including: i) certifying the Settlement Class, appointing Plaintiffs as representatives, and appointing Plaintiffs' counsel as Class Counsel; ii) approving the form, content and procedure for notice provided to the Settlement Class; iii) scheduling deadlines for the filing of Plaintiffs' applications for attorneys' fees, litigation expenses, and case contribution awards, and the filing of any objections to the Settlement; and iv) scheduling the final fairness hearing for Court approval.

4. In addition, an Independent Fiduciary has reviewed and authorized the Settlement on behalf of the Plan. The Independent Fiduciary was provided with sufficient information to allow for a comprehensive review of the Settlement, including interviews

[1]On May 24, 2024, the Court entered both an Order and an Amended Order approving the Settlement (the amendment simply added a specific calendar date for the final fairness hearing) ("Preliminary Approval Order"). *See* ECF No. 169.

with counsel for the parties and both public and confidential information regarding the litigation and Settlement. A true and correct copy of the Independent Fiduciary's report is attached as **Exhibit A** hereto and provides the Court with an additional touchstone to assess the reasonableness of the Settlement.

5. Class Counsel have many years of experience litigating ERISA, employee benefits, and other complex class actions, and believe that the Settlement in the amount of $3,500,000.00 is a very favorable recovery for the Settlement Class, in view of the range of realistically achievable recoveries in view of the risks and uncertainties of the pending summary judgment motion and trial scheduled to begin in September 2024. At trial, Plaintiffs would face considerable risk in proving liability and damages because establishing Defendants' liability would rely on the Court crediting Plaintiffs' proffered evidence and the testimony of Plaintiffs' fiduciary process expert that Defendants' procedures for monitoring the Plan's investments was insufficient, and resulted in the Plan's retention of unsuitable investments and payment of excessive investment management fees which caused damages to the Plan. Defendants have disclosed experts to counter Plaintiffs' experts on each subject for which Plaintiffs anticipated presenting expert testimony including damages. There is a risk that the Court give more credit and weight to Defendants' experts and evidence or at least the same and, since the burden of proof is on Plaintiffs, there is a risk that the experts "cancel" each other out. Therefore, the Settlement represents a high percentage of the range of damages that Plaintiffs could realistically prove at trial, and is fair and consistent with settlements of other ERISA litigation

involving similar facts, legal claims and alleged damages.

6. Like Class Counsel, Plaintiffs each have conveyed their belief that the Settlement is fair, reasonable, and represents a very favorable outcome for the Settlement Class. Plaintiffs have been actively engaged in the litigation from its inception through the negotiation of the Settlement. Plaintiffs assisted in the initial investigation of the Plan's claims, reviewed pleadings and motions filed with the Court, participated actively in discovery (including providing documents, preparing and sitting for depositions, and reviewing certain documents produced by Defendants), participated in pre-trial preparations and were involved in discussions concerning the Settlement negotiations.

7. Since entry of the Preliminary Approval Order, Strategic Claims Services ("SCS"), a nationally recognized class action administration firm, was retained as Settlement Administrator. To date, SCS has provided the Settlement Class with notice of the Settlement in the form and following the process approved by the Court.

8. The Supplemental Declaration of Cornelia Vieira, Project Manager of SCS ("Viera Declaration"), filed contemporaneously herewith, describes in great detail the notice procedures that were followed: i) SCS directly mailed the Court-approved Settlement Notice and Former Participant Claim Form (where applicable) to members of the Settlement Class; ii) SCS engaged in diligent follow-up efforts to located and reach members of the Settlement Class whose mailings were returned; iii) SCS established a public website for the Settlement Class with the status of the case, the important dates and downloadable copies of case-related documents including the Settlement Agreement and

its exhibits, the Settlement Notice and the Form Participant Claim Form; and iv) SCS, on behalf of Defendants, provided the required notice under the Class Action Fairness Act.

9. The Viera Declaration outlines the further efforts taken by SCS to ensure that the notice procedures outlined in the Preliminary Approval Order were fully carried out and completed in diligent fashion, and that the best notice practicable under the circumstances was provided to the Settlement Class.

10. To date, SCS has certified that no members of the Settlement Class have filed any objection to the Settlement or the related applications. In addition, Class Counsel has fielded numerous calls and responded to emails from Settlement Class Members, and none of them communicated any objection to any aspect of the Settlement; rather several Class Members instead expressed a favorable view of the Settlement.

11. In sum, the Settlement should receive final approval as it is fair, reasonable, and adequate, members of the Settlement Class have been provided reasonable notice, and the prerequisites for final approval have been met.

II. THE APPLICATIONS FOR FEES AND EXPENSES ARE REASONABLE, JUSTIFIED, AND SHOULD BE APPROVED

12. The Settlement provides that Class Counsel may apply, subject to court approval, for an award of attorneys' fees of up to one-third of the Gross Settlement Amount, as well as reimbursement of all reasonable and necessary expenses advanced by Class Counsel including pre-litigation expenses. *See* ECF No. 166-3 (Settlement), at ¶¶ 1.5, 6.1 and 6.2. The Settlement Notice provided to Class Members described these anticipated applications and any potential reductions to the gross settlement proceeds.

13. Consistent with the Settlement, Class Counsel are seeking attorneys' fees of one-third of the Gross Settlement Amount, or $1,166,666.67, as compensation for the extraordinary risk and investment of legal time and resources over the last four years litigating this matter to the eve of trial for a very favorable result. Class Counsel also seek $241,967.91 in reimbursement for the reasonable and necessary expenses incurred that led to the Settlement. These fee and expense awards are justified considering the high degree of risk involved, the high quality of professional services provided, and the favorable result for the Settlement Class.

14. This requested fee award of one-third of the Gross Settlement Amount is consistent with the amount negotiated as the fee that could eventually be sought in connection with any resolution of the Action. This percentage-of-the-fund method is also the most appropriate method of compensating Class Counsel for the risk, time and opportunity cost incurred. The one-third fee percentage sought by Class Counsel is well within the standard range of fees awarded by courts in this District, as well as throughout the country, and particularly appropriate for a complicated and risky matter such as this.

15. Although the one-third percentage method is the proper and applicable method, Class Counsel's request for attorneys' fees is also reasonable in view of the total lodestar time expended on this matter adjusted by a reasonable multiplier, considering the risk, complexity and uncertainty of outcome. Attached as **Appendix 1** hereto is a chart setting forth Class Counsel's total lodestar on this matter. Class Counsel has expended

over 2,670 hours litigating this matter and their lodestar is $1,504,761.50.[2]

16. Accordingly, the request fees amount to substantially less than Class Counsel's total lodestar to date—indeed, the attorneys' fees sought represent a multiplier of less than .***78*** applied to Class Counsel's total lodestar. This does not include the additional time and resources that will be spent by Class Counsel supervising the remainder of the administration of the Settlement, as well as handling continuing inquiries from Settlement Class members, which are typically voluminous around the time of claims filing deadlines or when monies are distributed. The requested one-third fee award is within the range of reasonable lodestar multipliers applied by courts in this District as well as throughout the country.

17. From the outset, Class Counsel's compensation for the services rendered to Plaintiffs and the Settlement Class has always been contingent, yet they undertook to zealously prosecute this matter at the highest quality level against a corporate defendant represented by top notch defense counsel. When undertaking this representation, Class Counsel knew that this Action would be a complex, expensive and lengthy litigation that would require an enormous investment of attorney and paraprofessional time, as well as substantial cash outlays for related expert witness and other litigation expenses. Class Counsel knew that there would be guarantee of receiving any compensation for their

[2]Class Counsel's hours are supported by billing records maintained by each law firm and the billing rates applied to the attorneys and professional staff are reasonable. In fact, when viewed as a blended rate, Class Counsel's request amounts to less than $565 per hour, even before additional time spent on settlement administration. This is the equivalent of a mid-level associate at a large defense firm and lower than those of most large defense firms engaged in similar complex, class-based litigation.

efforts, yet incurred the risk of this representation anyway. Class Counsel knew that many fiduciary breach actions filed by plan participants under ERISA are dismissed either at the pleading stage or on summary judgment, so it assumed a very high risk from the start that all time and resources spent on this action could be lost.

18. Notwithstanding, Class Counsel dedicated the attorney and paraprofessional staff, time and resources to prosecute this Action at the highest quality skill level up until the relative eve of trial. For the past four years while doing so, Class Counsel bore the expense of compensating the attorneys and professional staff dedicated to this matter which were considerable costs. Class Counsel also dedicated substantial monies towards financing the required out-of-pocket expenses of the litigation, including necessary expert witness fees, which were also advanced on the risk of contingency, with no guarantee of reimbursement. Class Counsel's dedication of time and resources to this litigation on contingency while covering the costs of same also prevented its deployment on other productive legal matters.

19. During this litigation, Defendants spared no effort in advancing a thorough and aggressive defense by defense counsel associated with Goodwin Proctor LLP, who are very experienced in defending ERISA class actions and other complex litigation. Defendants' counsel vigorously defended their clients, filed dispositive motions (and succeeded in achieving dismissal of certain claims), retained experts on issues of liability and damages, and were ready to proceed to trial if a settlement was not reached, not to mention likely appeal any adverse decision against Defendants.

20. Despite facing this strident opposition, Class Counsel litigated this case

deftly and meticulously through discovery, expert motions and trial preparation. Class Counsel reviewed tens of thousands of pages of documents produced, and took depositions of numerous witnesses including parties, non-parties, and experts, to ensure the development of the strongest possible case for Plaintiffs and the Class. Class Counsel devoted the resources, staff, and skill to successfully develop Plaintiffs' case to the extent that they overcame a motion to dismiss on the pleadings, defend against additional dispositive and procedural motions, and were preparing for trial when the parties agreed to the Settlement. Class Counsel's extraordinary efforts resulted in Defendants' settling this litigation on a basis that is very favorable to the Settlement Class under the circumstances. The requested one-third fee is reasonable based on the high quality of Class Counsel's work, the considerable risk undertaken, and the substantial benefit obtained for the Settlement Class.

21. Plaintiffs also seek reimbursement on behalf of Class Counsel for their total out-of-pocket expenses incurred to date of $241,967.91, records of which are maintained in the files of each of the law firms that have incurred the expenses. **Appendix 2** contains a chart detailing the expenses incurred by Class Counsel. These expenses include the retention of two highly specialized expert witnesses, each of whom submitted reports, were deposed by Defendants' counsel, and were preparing to testify at trial. These expenses also include the fees and costs associated with court reporting services, process servers, filing and mailing services, data storage and handling and other necessary and related litigation expenses. In representing the Settlement Class on a contingent basis, Class

Counsel advanced these expenses to fund the litigation despite the real possibility that they would not be reimbursed.

22. In sum, in view of the enormous risk and efforts undertaken by Class Counsel, and the very favorable result successfully achieved for the Settlement Class, Class Counsel believes that its requested one-third fee award and the requested award of litigation expenses are fair, reasonable, and justified.

III. THE REQUESTED CASE CONTRIBUTION AWARDS ARE FAIR AND REASONABLE, AND SHOULD BE APPROVED

23. Pursuant to the Settlement, Plaintiffs each seek $12,500 as a case contribution award for their service as class representatives and efforts on behalf of the Settlement Class. From the outset, Plaintiffs' efforts were integral to initiating the litigation on behalf of the Settlement Class, and prosecuting it to a favorable conclusion for the benefit of all Settlement Class members. Before commencing the Action, Plaintiffs provided documents and communicated with Class Counsel, which led to the development of the fact and legal claims for the complaint, and Plaintiffs provided input on the draft of the initial complaint. Without their efforts, the lawsuit may never have been filed and the Settlement Class would not have had any recovery in connection with the Plan's claims.

24. Plaintiffs also spent substantial time and effort actively participating in all phases of the litigation after it was filed. They each reviewed all pleadings, motions and other material documents filed in the action, and regularly consulted and assisted Class Counsel in prosecuting the litigation. They participated in the discovery process by gathering and producing documents, answering document requests and interrogatories,

assisting with document requests and reviewing key documents relating to the substantive claims. Plaintiffs each prepared and sat for depositions, and prepared to attend and testify if called as a witness at trial. They participated in regular conference calls with Class Counsel to ensure that they were fully apprised of all developments and represented the interests of the Class. They further participated in the mediation, negotiations and related strategy discussions that resulted in the Settlement. Thus, Plaintiffs' commitment of time and efforts were substantial and integral to the prosecution of the litigation to the favorable result for the Settlement Class.

25. Finally, Plaintiffs fully understand their duties and responsibilities as Class Representatives and have no interest antagonistic to the Plan and members of the Settlement Class. Plaintiffs support the Settlement and believe that it is fair, reasonable, and adequate for the Class.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 17th day of October 2024, at Philadelphia, Pennsylvania.

/s/ Alec J. Berin
Alec J. Berin

APPENDIX 1

Class Counsel Lodestar Chart

Timekeeper	Role	Billable Hours	Hourly Rate	Total Lodestar
Alec J. Berin	Managing Associate	246.30	$700.00	$172,410.00
Jillian M. Boyce	Supervising Paralegal	155.40	$275.00	$42,735.00
Ho Yin Cheung	Project Analyst	123.10	$250.00	$30,775.00
Jonathan A. Dilger	Research Director	334.60	$550.00	$184,030.00
Betsy A. Ferling	Senior Paralegal	87.40	$250.00	$21,850.00
Linda Gussler	Paralegal (C&A)	70.50	$350.00	$24,675.00
Mark Gyandoh	Partner (C&A)	27.90	$900.00	$25,110.00
Gabrielle Kelerchian	Associate Attorney (C&A)	47.00	$550.00	$25,850.00
Anika S. Keunig	Project Analyst	47.80	$250.00	$11,950.00
Christopher A. Miller	Associate Attorney	69.20	$350.00	$24,220.00
James E. Miller	Partner	72.20	$1,200.00	$86,640.00
Sue Moss	Senior Paralegal	76.30	$275.00	$20,982.50
Rrita Osmani	Law Clerk	65.50	$300.00	$19,650.00
Lauren Phillips	Paralegal (C&A)	18.40	$335.00	$6,164.00
Donald R. Reavey	Partner (C&A)	106.50	$885.00	$94,252.50
John C. Roberts	Associate Attorney	412.30	$550.00	$226,765.00
Tyler J. Rodriguez	Project Analyst	111.80	$250.00	$27,950.00
Laurie Rubinow	Partner	78.90	$925.00	$72,982.50
James C. Shah	Partner	207.10	$1,050.00	$217,455.00
Kolin C. Tang	Partner	172.40	$750.00	$129,300.00
Brandon Williams	Associate Attorney (C&A)	8.30	$550.00	$4,565.00
Elise Wilson	Project Analyst	137.80	$250.00	$34,450.00
Totals		**2676.70**		**$1,504,761.50**

NB: (C&A) indicates Capozzi & Adler professional

APPENDIX 2

Class Counsel Litigation Expenses Chart

Miller Shah LLP Expenses	
Category	**Amount**
Computer Research/Access/Database	$1,831.20
Experts/Investigators	$210,817.30
Internal Copying and Printing	$938.20
Mediation	$9,475.00
Postage/Delivery	$143.80
Telephone	$141.40
Transcripts/Court Reporting	$14,315.20
Miller Shah Total Expenses	$237,662.10
Capozzi & Adler Expenses (co-counsel)	$4,305.81
Total Expenses	**$241,967.91**