

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MATTIE HALLEY, SHEM ONDITI,
LETICIA MALAVÉ and SERGIO de
la CRUZ, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

HONEYWELL INTERNATIONAL,
INC. and PPG INDUSTRIES, INC.,

Defendants.

Civil Action No. 2:10-cv-3345 (ES)(JAD)

**NOTICE OF MOTION
BY OBJECTOR, MAUREEN CHANDRA
FOR ATTORNEY FEES FOR THE
BENEFIT SHE CONFERRED
ON THE CLASS**

Returnable October 16, 2017

TO: William T. Walsh, Clerk
United States District Court
District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

PLEASE TAKE NOTICE that on October 16, 2017, or on a date and time to be set by the Court, Objector Maureen Chandra submits this motion for the entry of an order granting Objector's Motion for Attorney's Fees, for the benefit she conferred on the Class. Class Counsel has agreed to pay all of Ms. Chandra's counsel fees entirely from Class Counsel's attorney fees. No part of Ms. Chandra's requested counsel fee will be paid from the settlement funds allocated to the Class.

PLEASE TAKE FURTHER NOTICE that Ms. Chandra relies on the accompanying Memorandum in Support of Objector's Motion for Attorney's Fees, Declaration of Thomas Paciorkowski, and Declaration of Class Counsel, Howard A. Janet.

PLEASE TAKE FURTHER NOTICE that for the reasons set forth in the accompanying Memorandum in Support of Objector's Motion for Attorney's Fees, the Declaration of Thomas Paciorkowski, and the Declaration of Howard A. Janet, Ms. Chandra moves the Court to:

1. Enter an order granting Ms. Chandra's Motion for Attorney's Fees; and
2. Grant such other relief and orders as the Court deems necessary and appropriate.

PLEASE TAKE FURTHER NOTICE that a proposed order is also submitted.

Respectfully submitted,

Dated: September 22, 2017

/s/ Thomas Paciorkowski

Thomas Paciorkowski, Esq.

186 Clinton Avenue

Newark, New Jersey 07108

(201) 823-0901

tom@paciorkowski.net

Attorney for Maureen Chandra

**UNITED STATES DISTRICT COURT
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Civil Action No. 2:10-cv-3345 (ES)(JAD)

Returnable October 16, 2017

**Memorandum, By Objector, Maureen Chandra,
In Support of Motion for Attorney Fees
For the Benefit She Conferred On the Class**

Thomas Paciorkowski, Esq.
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Newark, New Jersey 07108
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tom@paciorkowski.net
Attorney for Maureen Chandra

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500 F.2d 822 (2d Cir.1974) 2

RULES

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I. INTRODUCTION

Objector, Maureen Chandra, requests attorney fees pursuant to Fed. R. Civ. P. 54(d)(2) for the substantial benefit her objection achieved for Class A and Class C (the “Class”). Specifically, Honeywell and Class Counsel agreed in the Settlement Agreement to allocate \$100,000 of unclaimed, settlement funds to a *cy pres* Community Project. (ECF 367-2 at 14). Ms. Chandra objected to \$100,000 of unclaimed, settlement funds being diverted to a *cy pres* Community Project. Instead, she argued that the \$100,000 should be distributed directly to Class members. (ECF 406 at 6-7). As a direct result of her objection, Honeywell and Class Counsel modified the Settlement Agreement and agreed to distribute the \$100,000 directly to Class members instead of a *cy pres* Community Project. (Declaration of Class Counsel, Howard A. Janet ¶ 4.) Thus, Ms. Chandra’s objection caused an additional \$100,000 to be distributed directly to Class members. (Janet Decl. ¶ 5.)

Ms. Chandra requests a counsel fee of 25% of the direct and substantial benefit she conferred on the Class – equal to \$25,000. This is the same percentage Class Counsel initially requested and the Court awarded in Class Counsel’s fee request. (ECF 439 at 50.) Class Counsel agrees that Ms. Chandra’s counsel fee request of 25% or \$25,000 is appropriate in light of the substantial benefit she conferred on the Class. (Janet Decl. ¶ 5.)

Importantly, Class Counsel has also agreed to pay all of Ms. Chandra’s counsel fees entirely from Class Counsel’s attorney fees. (Janet Decl. ¶ 6.) No part of Ms. Chandra’s requested counsel fee will be paid from the settlement funds allocated to the Class.

II. ARGUMENT

A. Objectors Are Entitled to Attorney Fees When They Confer a Substantial Benefit to the Class

“ [I]t is well settled that objectors have a valuable and important role to perform in preventing collusive or otherwise unfavorable settlements, and that, as the district court recognized, they are entitled to an allowance as compensation for attorneys’ fees and expenses where a proper showing has been made that the settlement was improved as a result of their efforts.’ ” *In re Cendant Corp. PRIDES Litigation*, 243 F.3d 722, 743 (2001) (quoting *White v. Auerbach*, 500 F.2d 822, 828 (2d Cir.1974)).

Compensation for objectors is based on the “value of the benefit” they confer and then compensating them “to that extent.” *Id.* at 744. The Third Circuit explained further how to evaluate objector compensation in *In re Cendant Corp. Securities Litigation*:

[A] court can usually determine whether an objector has improved the class’s recovery, and can often measure the amount of that improvement. If the objection is meritorious, it will usually lead to an increase in the settlement, a reallocation of the award among different plaintiffs, or a decrease in the fees paid to lead counsel. The court will thus be able to measure the dollar value of the objector’s contribution to the class’s net recovery. Furthermore, because the objector makes his objection to the court, rather than merely negotiating with lead counsel, the court can easily evaluate not only the quality of the objector’s work but also the impact it had on the court’s ultimate decision.

404 F.3d 173, 201 n. 17 (2005).

B. Ms. Chandra's Objection Caused an Additional \$100,000 To Be Distributed Directly To Class Members.

Before Ms. Chandra's objection, Honeywell and Class Counsel agreed to allocate \$100,000 of unclaimed, settlement funds to a *cy pres* Community Project. Those terms were memorialized in the Settlement Agreement. (ECF 367-2 at 14).

Ms. Chandra objected to \$100,000 of unclaimed, settlement funds being diverted to a *cy pres* Community Project. Instead, she argued that the \$100,000 should be distributed directly to Class members. (ECF 406 at 6-7).

As a direct result of her objection, Honeywell and Class Counsel modified the Settlement Agreement and agreed to distribute the \$100,000 directly to Class members instead of a *cy pres* Community Project. (Janet Decl. ¶ 4.) In their Memorandum in Support of Joint Motion for Final Approval of Class Action Settlement, filed in response to Ms. Chandra's objection, Honeywell and Class Counsel agreed not to pursue a *cy pres* Community Project:

Although the proposed Settlement Agreement allows for up to \$100,000 of the Unclaimed Funds to be used as an optional donation for community purposes (the "Community Project"), the settling parties have decided not to pursue a Community Project. Consistent with the Settlement Agreement, the settling parties have opted in favor of distributing all of the nearly \$2.5 million in Unclaimed Funds to those class members that have filed eligible claims.

(ECF 415-1 at 7-8.)

At the September 24, 2015 Fairness Hearing, the Court confirmed that Honeywell and Class Counsel committed not to pursue the Community Project:

THE COURT: Are you satisfied, counsel, based on the representations made by both sides today, are you satisfied with the responses by counsel to remove the \$100,000 community project from the overall settlement agreement?

MR. PACIORKOWSKI: Absolutely.

(Paciorkowski Decl., Ex. A at 63:17-22.)

The Court issued its Order and Opinion approving the settlement on April 26, 2016. In its Opinion, the Court noted, “Ms. Chandra agrees that ‘Honeywell and [Settlement] Class Counsel have resolved Maureen Chandra’s *cy pres* objection by foregoing a *cy pres* community project and instead, agreeing to distribute ‘unclaimed funds’ directly to class members.’ ” (ECF 439 at 9 n. 5.)

Since there were, in fact, approximately \$2.5 million in unclaimed funds (ECF 439 at 7), Ms. Chandra’s objection caused an additional \$100,000 to be distributed directly to Class members. Class Counsel agrees with this assessment. (Janet Decl. ¶ 4-5.)

C. Ms. Chandra Has Conferred an Additional Benefit on the Class by Negotiating the Payment of Counsel Fees from Class Counsel Instead of the Class.

Class Counsel has agreed to pay all of Ms. Chandra’s requested counsel fees entirely from Class Counsel’s attorney fees. (Janet Decl. ¶ 6.) No part of Ms. Chandra’s requested counsel fee will be paid from the settlement funds allocated to the Class. (*Id.*) Thus, Ms. Chandra has conferred an additional \$25,000 benefit to the Class.

D. A Lodestar Cross-Check Confirms Ms. Chandra's Requested Counsel Fee Is Fair, Reasonable, and Appropriate.

Counsel for Ms. Chandra spent over 80 hours (over two weeks) working to benefit the Class by: familiarizing himself with the case issues by reviewing filed documents and exhibits from the extensive court record; performing relevant factual and legal research; attending the community meeting regarding the proposed settlement; drafting multiple objections and pleadings that were filed with this Court to improve the benefits to the Class; and preparing for and participating in the Fairness Hearing. (Paciorkowski Decl. ¶ 5.)

In addition, Counsel for Maureen Chandra spent over 160 hours (over four weeks) working on the appeal to the Third Circuit which included: reviewing the Federal Rules of Appellate Procedure and the Third Circuit Local Rules; drafting and filing a Concise Summary of the Case; drafting and filing a Response to Plaintiffs' Motion to Expedite the Appeal; drafting and filing a Response to Plaintiffs' Motion to File Sealed Documents; multiple conferences with the parties to work out deadlines for a briefing schedule and the documents to include in the Joint Appendix; creating the five volume Joint Appendix and Joint Appendix Addendum (together over 760 pages), which included downloading, reviewing, organizing, Bates Stamping, and indexing the court record, as well as creating a unique table of contents for each volume; researching, drafting, and filing Appellant's Brief which contained nine different issues presented for review; researching, drafting, and filing Appellant's Reply Brief in response to issues raised in Honeywell's and

Plaintiffs' Appellee Briefs; and traveling to Philadelphia to participate in oral argument before the Third Circuit. (Paciorkowski Decl. ¶ 6.)

In sum, counsel for Ms. Chandra spent over 240 hours working to benefit the Class. Multiplying Mr. Paciorkowski's billing rate of \$450 by 240 hours equals \$108,000. Dividing \$25,000 by \$108,000 yields a multiple of .23, a lodestar multiple this Court found reasonable and appropriate. (ECF 439 at 52.) A lodestar cross-check confirms Ms. Chandra's counsel fee request of \$25,000 is fair, reasonable, and appropriate.

E. Ms. Chandra's Requested Counsel Fee Is Below The Maximum Allowed By New Jersey Court Rule 1:21-7(c)(1).

The Third Circuit held that *New Jersey Court Rule 1:21-7* applies to and limits counsel fees in class actions in this district. *Halley v. Honeywell International, Inc.*, 861 F.3d 481, 498 (2017). Under *Rule 1:21-7(c)(1)*, an attorney cannot collect a contingency fee in excess of 33-1/3% on the first \$750,000 recovered. Ms. Chandra's counsel fee request of \$25,000 represents only 25% of the \$100,000 recovered for the class, or 20% of \$125,000 when considering the added benefit Ms. Chandra has conferred on the Class by negotiating the payment of her counsel fees from Class Counsel instead of the class. Either way, Ms. Chandra's counsel fee request falls below the maximum allowed under *Rule 1:21-7(c)(1)*.

III. CONCLUSION

Ms. Chandra's objection caused an additional \$100,000 to be distributed directly to Class members. Her counsel fee request of \$25,000 is fair, reasonable, and appropriate. Class Counsel has agreed to pay all of Ms. Chandra's counsel fees entirely from Class Counsel's attorney fees. No part of Ms. Chandra's requested counsel fee will be paid from the settlement funds allocated to the Class. Ms. Chandra respectfully requests that the Court award her attorney's fees in the amount of \$25,000, payable entirely from Class Counsel's attorney fees.

Respectfully submitted,

Dated: September 22, 2017

/s/ Thomas Paciorowski

Thomas Paciorowski, Esq.
186 Clinton Avenue
Newark, New Jersey 07108
(201) 823-0901
tom@paciorowski.net
Attorney for Maureen Chandra

**UNITED STATES DISTRICT COURT
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MATTIE HALLEY, ET AL.

**On Behalf of Themselves
and All Others Similarly Situated,**

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INC., ET AL.**

Defendants.

Civil Action No. 2:10-cv-3345 (ES) (JAD)

**DECLARATION OF HOWARD A.
JANET**

Document Electronically Filed

1. My name is Howard A. Janet.

2. I am an attorney admitted to practice, and am in good standing, in the State of Maryland. I am also admitted to practice, and am in good standing, in the United States District Court for the District of Maryland. I have personal knowledge of each of the facts set forth in this declaration and can and would testify competently thereto.

3. I have been designated as one of the Class Counsel in this case. I represent Plaintiffs Mattie Halley, Shem Onditi, Leticia Malave, and the Temporary Administrator of the Estate of Sergio de la Cruz, on behalf of themselves and all others similarly situated. I make this declaration pursuant to 28 U.S.C. § 1746, in support of Objector's Motion for Attorney's Fees.

4. On July 31, 2015, Attorney Thomas Paciorkowski filed objections on behalf of a Class Member, Maureen Chandra, to the proposed settlement in this matter and to Class Counsel's Motion Seeking an Award of Reasonable Costs, Attorneys' Fees, and Incentive Awards. (ECF Nos. 406, 407.) Plaintiffs stipulate that Objector's objection to the proposed settlement (ECF No. 406) caused Class Counsel for Plaintiffs and counsel for Defendant

Honeywell International, Inc. to commit in their Joint Motion for Final Approval of Class Action Settlement (*see* ECF No. 415-1 at 7–8), and at this Court’s fairness hearing on September 24, 2015, to distribute \$100,000 to the members of Classes A and C in the above-captioned action (the “Honeywell Classes”), instead of expending those funds on a *cy pres* Community Project as contemplated in the settlement agreement between Plaintiffs and Honeywell (*see* ECF No. 439 at 9 n.5).

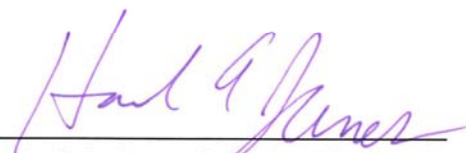
5. Plaintiffs stipulate that Objector has thus conferred a benefit on the Honeywell Classes in the amount of \$100,000. Plaintiffs further stipulate that the attorney’s fees requested by Objector, in the amount of \$25,000—which are equal to 25 percent of the benefit conferred on the Honeywell Classes by and through the efforts of Objector’s Counsel—are fair and reasonable in light of this benefit.

6. Plaintiffs also stipulate that Objector’s attorney’s fees will be entirely paid from Class Counsel’s attorneys’ fees. No part of Objector’s attorney’s fees will be charged to the settlement monies which the Court has ordered to be distributed to members of the Honeywell Classes.

7. I certify that the foregoing statements made by me are true and correct. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: _____

9/12/17


Howard A. Janet, Esq. (*pro hac vice*)
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1777 Reisterstown Road, Suite 165
Commercc Centre East
Baltimore, MD 21208
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Counsel for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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Defendants.

Civil Action No. 2:10-cv-3345 (ES)(JAD)

**DECLARATION OF
THOMAS PACIORKOWSKI, ESQ.**

I, Thomas Paciorkowski, Esq., declare the following:

1. I am an attorney admitted to practice and in good standing in: the States of New Jersey and New York, the United States District Court for the District of New Jersey, and the United States Court of Appeals for the Third Circuit.

2. I represent Maureen Chandra in the above captioned matter.

3. I represented Ms. Chandra on a contingency fee basis.

4. My lodestar billing rate is \$450 per hour.

5. I spent over 80 hours (over two weeks): familiarizing myself with the case issues by reviewing filed documents and exhibits from the extensive court record; performing relevant factual and legal research; attending the community meeting regarding the proposed settlement; drafting multiple objections and pleadings that were

filed with this Court to improve the benefits to the Class; and preparing for and participating in the fairness hearing.

6. I spent over 160 hours (over four weeks) working on the appeal to the Third Circuit which included: reviewing the Federal Rules of Appellate Procedure and the Third Circuit Local Rules; drafting and filing a Concise Summary of the Case; drafting and filing a Response to Plaintiffs' Motion to Expedite the Appeal; drafting and filing a Response to Plaintiffs' Motion to File Sealed Documents; multiple conferences with the parties to work out deadlines for a briefing schedule and the documents to include in the Joint Appendix; creating the five volume Joint Appendix and Joint Appendix Addendum (together over 760 pages), which included downloading, reviewing, organizing, Bates Stamping, and indexing the court record, as well as creating a unique table of contents for each volume; researching, drafting, and filing Appellant's Brief which contained nine different issues presented for review; researching, drafting, and filing Appellant's Reply Brief in response to issues raised in Honeywell's and Plaintiffs' Appellee Briefs; and traveling to Philadelphia to participate in oral argument before the Third Circuit.

7. Attached as Exhibit A is an excerpt of the transcript of the Fairness Hearing held on September 24, 2015 before the Honorable Esther Salas.

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed: September 22, 2017

/s/ Thomas Paciorowski
Thomas Paciorowski, Esq.
186 Clinton Ave.
Newark, N.J. 07108
(201) 823-0901

EXHIBIT

A

1 UNITED STATES DISTRICT COURT.
2 FOR THE DISTRICT OF NEW JERSEY
3 CIVIL 10-3345 ES

4 MATTIE HALLEY, ET AL,

5 Transcript of
6 Proceedings

7 V.

8 HONEYWELL INTERNATIONAL, INC.,
9 AND PPG INDUSTRIES, INC.

10 DEFENDANTS.
11 -----

12 NEWARK, New Jersey
13 SEPTEMBER 24, 2015

14 B E F O R E: HONORABLE ESTHER SALAS,
15 UNITED STATES DISTRICT JUDGE

16 A P P E A R A N C E S:

17 GERMAN RUBENSTEIN LLP
18 STEVEN J. GERMAN, ESQ.
19 JOEL M. RUBENSTEIN, ESQ.
20 For the Plaintiffs.

21 GIBBONS
22 BY: MICHAEL MCDONALD, ESQ.,
23 For Defendant Honeywell.

24 ARNOLD & PORTER
25 BY: MICHAEL DANEKER, ESQ.,
AND: ALLYSON HIMELFARB, ESQ.,
For Defendant Honeywell.

THOMAS PACIORKOWSKI, ESQ.
JACK SANDERS, ESQ.
For Objector Chandra.

1 MR. PACIORKOWSKI: Correct, your Honor. It
2 wouldn't cost the class any money whatsoever.

3 THE COURT: Okay. Thank you, counsel.

4 MR. PACIORKOWSKI: I also want to address
5 quickly the standing argument that counsel made that
6 Maureen Chandra doesn't have standing on ECF document
7 417 that was Maureen Chandra's action to final
8 approval of settlement, her claim number is listed
9 right next to her name. So she did submit a claim and
10 her claim number is actually there.

11 And counsel for the class indicated that they
12 do, in their original papers, indicated that they do
13 have a submission from a Maureen Chandra who they can
14 confirm that as well, so she does have standing. We
15 have addressed the cy pres issue. I think that has
16 been resolved.

17 THE COURT: Are you satisfied, counsel, based
18 on the representations made by both sides today, are
19 you satisfied with the responses by counsel to remove
20 the \$100,000 community project from the overall
21 settlement agreement?

22 MR. PACIORKOWSKI: Absolutely. I believe the
23 Third Circuit made it clear in In Re Baby Products if
24 you can issue the settlement directly to class members
25 you must do that in the first instance. If you can't

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ORDER

SALAS, DISTRICT JUDGE

Pending before this Court is a motion by Objector, Maureen Chandra for attorney fees pursuant to Fed. R. Civ. P. 54(d)(2) for the benefit her objection achieved for the Class (D.E. No. 462) and having considered the submissions relating to this motion;

WHEREAS, the Court finds Ms. Chandra's objection conferred a benefit on Class A and Class C (the "Class") in the above-entitled action in the amount of \$100,000 because Ms. Chandra's efforts caused Honeywell and Class Counsel to modify the Settlement Agreement and agree to distribute the \$100,000 directly to Class members instead of a *cy pres* Community Project;

WHEREAS, the Court finds Ms. Chandra's requested counsel fee of \$25,000 is fair and appropriate in light of the substantial benefit she conferred on the class;

WHEREAS, the Court finds that Class Counsel agrees to pay all of Ms. Chandra's requested counsel fees entirely from Class Counsel's attorney fees;

WHEREAS, the Court finds that no part of Ms. Chandra's requested counsel fee will be paid from the settlement funds allocated to the class;

IT IS on this _____ day of _____ 2017,

ORDERED that Ms. Chandra's motion for attorney fees (D.E. No. 462), is GRANTED; and it is further

ORDERED that Ms. Chandra is awarded attorney's fees in the amount of \$25,000 payable by Class Counsel to her attorney, Thomas Paciorkowski, Esq. within 10 days after Class Counsel has received attorney fees in this case.

Esther Salas, U.S.D.J.