

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MICHAEL J. IANNONE, JR.,)
and NICOLE A. JAMES, as)
plan participants, on behalf of the)
AUTOZONE, INC. 401(k) Plan,)
and on behalf of others similarly)
situated,)

Plaintiffs,)

v.)

AUTOZONE, INC., as plan sponsor,)
BILL GILES, BRIAN CAMPBELL,)
STEVE BEUSSINK, KRISTIN WRIGHT,)
MICHAEL WOMACK, KEVIN WILLIAMS,)
and RICK SMITH, individually and as)
members of the AUTOZONE, Inc.)
Investment Committee, and NORTHERN)
TRUST CORPORATION and)
NORTHERN TRUST, INC., as)
Investment fiduciaries,)

Defendants.)

CLASS ACTION

Case No.: 2:19-cv-02779-MSN-tmp

**DECLARATION OF LANGE CLARK IN SUPPORT OF UNOPPOSED MOTION
FOR AN AWARD OF ATTORNEYS' FEES, COSTS, AND INCENTIVE AWARDS**

1. My name is Charles Lange Clark. I am the sole owner of the Law Office of Lange Clark, P.C. My office is located at 301 19th Street North, Suite 550, Birmingham, Alabama 35203. I am over twenty-one years of age and have personal knowledge of the facts set forth in this Declaration.

2. I formed the Law Office of Lange Clark, P.C. in July, 1997.

am also a member of the United States District Court for the Northern District of Alabama (1984) and U.S. Court of Appeals, Eleventh Circuit (1995). I have previously been admitted to the U.S. District Courts for the Middle (1998), Southern (1999) Districts of Alabama, the U.S. Court of Claims (1998). I have been admitted pro hac vice to several foreign state and federal courts, and am currently admitted pro hac vice to the United States District Court for the Western District of Tennessee.

4. I am providing this declaration in support of Class Counsel's "Unopposed Motion for Attorneys' Fees, Costs and Incentive Awards" requesting an award of attorneys' fees in the amount of \$833,333.33, representing 33.33% of the Settlement Fund, reimbursement of costs totaling \$435,956.42 and an incentive awards in the amount of \$10,000.00 for each of the Class Representatives.

5. I have extensive experience in complex litigation, including the following reported cases: *Langford v. Rite Aid of Alabama, inc.*, 231 F.3d 1308 (11th Cir. 2000); *Merrill Lynch, Pierce, Fenner & Smith, inc. v. Kirton*, 719 So.2d 201 (Ala.]998); *Alternative Financial Solutions, LLC v. Colburn*, 821 So.2d 981 (Ala. 200 1); *Ex parte Speedee Cash of Alabama, Inc.*, 806 So.2d 389 (Ala. 2001); *A & B Check Cashing, Inc. v. Bess*, 824 So. 2d 83 (Ala. 2001); *Money In A Flash Check Advance, LLC v. Wright*, 795 So.2d 629 (Ala. 2000); *Alabama Catalog Sales v. Harris*, 794 So.2d 312 (Ala. 2000); *Bess v. Check Express*, 294 F.3d 1298 (11th Cir. 2002); *In re Oil Spill*, 802 F. Supp. 2d 725 (E.D. La. 2011); and, *Ferguson v. BBVA Compass Bancshares, Inc.*, Case No.: 2:19-cv-01135-MHH (N.D. Ala. Feb 19, 2021).

6. In addition to this case, I have served as class counsel in the following class actions: *Pierce v. Gold Kist, et al.*, In The United States District Court for The Northern District of Alabama;

Austin v. Rapid Cash, et al., In the Circuit Court of Madison County, Alabama; *Morgan v. Dollar Express, Inc.*, In the Circuit Court of Madison County, Alabama; *Thomas v. Compass Bancshares Inc., et al.*, In the Circuit Court of Blount County, Alabama; *Russell v. World Omni*, In the United States District Court for the Middle District of Alabama; *Knight v. Greenstreet, Inc.*, In the Circuit Court of Madison County; *Draper v. Check Cashing Plus*, In the Circuit Court of Morgan County, Alabama; *Entrekin v. Cash USA, Inc., Montgomery Enterprises, Inc. and Alabama Cash Services, Inc.*, In the Circuit Court of Cullman County, Alabama; *Wright, et al. v. Auto Title Loans, Inc. and The Money Machine, Inc.*, In the Circuit Court of Tuscaloosa County, Alabama; *Young, et al. v. Cash Advance*, In the Circuit Court of Montgomery, County, Alabama, *Tracy v. Primus Automotive Financial Services, Inc.*, et al., In the U.S.D.C. for the Northern District of Alabama; *Harris v. M.Q., Inc.*, In the Circuit Court of Montgomery County, Alabama; *Eastes, et al v. A & B Check Cashing, Inc., et al*, In the Circuit Court of Montgomery, Alabama; *Tillery v. Check Exchange of Alabama, Inc.*, In the Circuit Court of Shelby County, Alabama; *Bess v. Cash to Go, et al.*, In the Circuit Court of Montgomery County, Alabama; *Draper v. Green Street, Inc. and Rapid Cash, Inc.*, In the Circuit Court of Madison County, Alabama; *Jordan v. PSI, Inc.*, In the Circuit Court of Morgan County, Alabama; *Taylor, et al. v Speedy Cash of Alabama, Inc.*, In the Circuit Court of Chilton County, Alabama, *Bess, et al. v. Payday Now, et al*, In the U.S.D.C. for the Northern District of Alabama and *Ferguson v. BBVA Compass Bancshares, Inc.*, Case No.: 2:19-cv-01135-MHH (N.D. Ala. Feb 19, 2021).

7. I have been a FINRA qualified arbitrator for over fifteen years and have been selected for, and served on, many arbitration panels.

8. I was deeply involved in all aspects of this litigation, from the initial investigation

through trial.

9. Pre-suit investigation of an ERISA breach of fiduciary duty cases is complex and time consuming. Such an investigation includes analyzing years worth of historical plan data available through public filings and client documents. I began evaluating this case with co-counsel in the spring of 2019. This evaluation included the plan and its investment options based upon (i) the Plan's Form 5500 filings; (ii) information such as 404(a)(5) participant disclosures and summary plan descriptions obtained from plan participants; (iii) investment performance information; and, (iv) input from outside consultants. The review of these documents included review and analysis of specific plan fees and costs and comparing these fees and costs to industry norms and other available less expensive alternatives. Consultation with outside experts was necessary to confirm the information and the methodology. The analysis reflected in the original complaint was updated periodically as additional information became available. Only after this extensive, time consuming analysis was suit was filed on November 13, 2019. (Doc. 1).

10. Plaintiffs filed a First Amended Class Action Complaint naming several additional defendants, including Northern Trust, that was the investment advisor to the AutoZone. (Doc. 85). AutoZone filed a lengthy motion to dismiss (Doc. 25, 36), to which Class Counsel responded (Doc. 33), which the Court denied. (Doc. 54). During this period - from September 2019 through September 2020 - I spent 252.7 hours on this case.

11. ERISA breach of fiduciary cases are document intensive and this case was no exception. I was particularly involved in conducting discovery, including drafting discovery requests, follow-up demands and conferences with opposing counsel regarding discovery disputes. Over 120,000 pages of documents were produced in this case and I personally reviewed (and indexed) a

large part of them. The documents produced included the plan documents, quarterly committee minutes, quarterly investment advisory reports, Form 404(a)s (participant fee disclosures), the recordkeeping agreement and amendments with associated expense schedules, fund prospectus, service provider disclosures and 408(b)(2)s (plan level fee and investment disclosures), internal and external emails and related correspondence. There also were a number of disputes over the scope of document discovery, depositions and supplementation of discovery. (Doc. 112, 133, 140, 151, 178.) During this period - from October 2020 through December 2021 - I spent 552 hours on this case. I note that document discovery continued throughout this case including reviewing key documents produced during trial.

12. I prepared for, traveled to and took seven depositions including the deposition of the corporate representatives of defendants AutoZone and Northern Trust. Additionally, I attended seven other depositions. I traveled to Memphis for depositions eight times as well as Chicago, Illinois, Hartford, Connecticut and Atlanta, Georgia. Most of these depositions approached the seven hour limit under the *Federal Rules*. I defended four depositions, including three depositions of Plaintiffs' expert Wendy Dominguez, traveling to Denver, Colorado each time. I was involved in drafting, serving and enforcing third party subpoenas, including extensive negotiations with each third party's attorneys.

13. During this time counsel moved for and obtained certification of the Class. On February 18, 2022, Plaintiffs moved for class certification (Doc. 173) which Defendants opposed. (Doc. 183). I argued the class certification motion. On August 12, 2022, the magistrate recommended class certification (Doc. 205). On December 7, 2022, the Court, over defendants objections (Doc.

205), certified a class of plan participants. (Doc. 205; Doc. 239). The motions and responses to Defendants' objections took considerable time.

14. During this time - from January 2022 through July 2022 - I spent 927.1 hours on this case.

15. In the Summer and Fall of 2022 the Parties prepared and exchanged expert reports. On July 29, 2022 Plaintiffs produced initial expert reports prepared by Wendy J. Dominguez, a fiduciary process consultant; Chris Tobe, CFA, CAIA, a stable value consultant; and, Robert Brooks, Ph.D., a finance professor. On August 29, 2022, Defendants produced the rebuttal expert reports of Russell Wermers, Ph.D., an economist and finance professor; Phil Suess, a consultant specializing in stable value investments; and, Steve K. Gissiner. On September 28, 2022, Plaintiffs produced supplemental expert reports. I reviewed and analyzed each expert report submitted by Defendants.

16. Mr. Tobe sat for deposition twice in Louisville, Kentucky. Dr. Brooks sat for deposition twice in Birmingham, Alabama. Ms. Dominguez sat for deposition three times in Denver, Colorado. This required counsel not only to assist in the preparation for the deponents, but, in the case of Ms. Dominguez, for me to travel to the site of the depositions. Defendants filed *Daubert* motions with respect to each of Plaintiffs three expert witnesses (Doc. 247, 249, and 251). I assisted in the responses to these motions that were granted in part and denied in part. (Doc 338). Plaintiff filed one *Daubert* motion (Doc. 251), that was denied. (*Id.*). I traveled to Memphis and participated in the argument of these motions.

17. During this time - from August 2022 through January 2023 - I spent 480.9 hours on this case.

18. AutoZone (267-78), Northern Trust (279-88) and Plaintiffs (289-90) filed separate motions for summary judgment, briefs, and statements of material fact; to which separate responses (Doc. 297-322) and replies (Doc. 313-22) were filed. As is evident from the docket entries themselves the filings, especially the statements of material fact, were lengthy, detailed, and involved citations to hundreds of documents, depositions, and other materials. I was deeply involved in drafting these motions and responses. The magistrates report and recommendation - which denied Defendants' motions for summary judgment - is 149 pages long. (Doc. 380).

19. During this time - from February 2023 through April 2023 - I spent 281.3 hours on this case.

20. The process of preparing the case for trial was long, intense and time-consuming. As the Northern Trust settlement occurred the day before trial and was announced the first day of trial, Plaintiffs had to prepare a case against two sets of defendants. As to each, there were pre-trial briefs (Doc. 344, 390); trial briefs (Docs. 357, 367, 358), multiple motions in limine (Doc. 359-366, 370-80), deposition designations and objections (Doc. 385) and motions to continue the trial (Doc. 381-382, 384). The exhibit list for trial included 730 joint exhibits, 774 unopposed plaintiffs' exhibits and 906 plaintiffs' exhibits to which defendants objected. I was deeply involved in drafting these submissions.

21. During this time - from May 2023 through October 2023 - I spent 438.1 hours on this case.

22. I, together with co-counsel, was involved in the day-to-day management of the case.

23. The Parties mediated this case, using David Geronemus of JAMS Mediation Group, on October 27, 2022 and September 6, 2023. Both meditations were unsuccessful. A third mediation,

scheduled for October 2, 2023 was canceled. In the days leading up to trial, there were ongoing settlement discussions between counsel for Plaintiffs and counsel for Northern Trust that resulted in a settlement agreed to the day before trial. I was involved in the mediations and settlement discussions.

24. The settlement was negotiated at arms-length with no collusion whatsoever.

25. It was not until total relief for the class was agreed to, and specific terms of the settlement were reduced to writing, that attorneys' fees and costs were discussed.

26. I have been involved in the administration of the settlement, including drafting and reviewing the settlement papers and responding to the Court's order regarding our submissions.

27. The process for implementing the settlement involves notice to and the disbursement of funds to a class of approximately 23,500 participants. The parties have worked with the Settlement Administrator, RG2 Claims Administration, LLC ("RG2"), to provide wide-reaching Notice as directed by the Court. RG2 provided direct notice via mail to 23,591 Class Members. RG2 established a settlement website (<http://www.ntaz401ksettlement.com>) and a toll-free help line.

28. The time I spent for the activities detailed above on the various aspects of this case total 2,932.1 hours. I have maintained contemporaneous time records and am able to produce them to the Court. My time for complex litigation work is ordinarily billed at no less than \$750 per hour. This is the rate customarily charged by my firm for the type of work performed in this case.

29. The time required for this case prevented me from engaging in other work.

30. My firm's expenses in this matter are at least \$10,979.61. I can provide an itemization and documentation of expenses.

31. All of the expenses were advanced and all but a small portion of the time was spent before a settlement was reached. Thus, substantially all of the time and money I advanced has been at risk.

32. The Class Representatives (Michael Iannone and Nik James) were fully engaged and routinely assisted in the review of documents, discovery proceedings and preparation and presentation at trial. They stayed apprised of the developments in the litigation. They traveled to, prepared for, and participated in depositions. During trial, they were attentive and helpful, offering me their insights and suggestions. These activities had very real opportunity costs to them. Their time, energy, and risk associated with these actions was instrumental in the prosecution of this lawsuit. There would have been no recovery for the Class without their efforts.

I declare under the penalty of perjury that the foregoing is true and correct in accordance with 28 U.S.C. § 1746.

Dated: October 24, 2024



Lange Clark
Class Counsel