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CLASS LIAISON COUNSEL

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**In re: ELECTRICAL CARBON
PRODUCTS ANTITRUST LITIGATION**

MDL No. 1514

**This Document Relates To: ALL
ACTIONS**

**Master Docket
No. 03-CV-2182 (JBS)**

**MOTION FOR AWARD OF ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES AND
INCENTIVE PAYMENTS TO THE CLASS REPRESENTATIVES**

Class Counsel respectfully submit this request for an award of attorneys' fees and reimbursement of litigation expenses from the Settlement Fund. Class Counsel recognize that there are issues as to whether some or all of the defendants will proceed with their settlements. To the extent that any of the settlements are not approved, Class Counsel will supplement their fee and expense request to address subsequent developments.

Class Counsel and plaintiffs have vigorously litigated this action since its inception, resulting in settlements for the Class totaling \$24.2 million, plus accrued interest. As of August 31, 2005, the accrued interest on the payments made by defendants was slightly in excess of

\$100,000. By securing this significant recovery for direct purchasers of Electrical Carbon Products, Class Counsel and plaintiffs have acted as the “private attorneys general” envisioned by Congress when it enacted the Clayton Act. Class Counsel, who undertook the prosecution of this action on a wholly contingent basis nearly three years ago now seek an award of attorneys’ fees and expenses.

As is described in the accompanying memorandum, the requested award of 33.3% including expenses, is fully supported by numerous decisions within the Third Circuit and elsewhere. This litigation was particularly complex and involved many complicated legal and economic issues. Class Counsel were able to maneuver through numerous obstacles and settle with each defendant group for an amount that fairly resolves the litigation.

The total amount requested is \$8,058,600, plus interest. That sum is allocated as follows: Litigation expenses, as of September 9, 2005, are approximately \$488,911.31 and attorneys’ fees are \$7,569,688.70.¹ Thus, the requested attorneys’ fee request is about 31% of the settlement fund. Based upon the result achieved, the complexity of the litigation and the risks involved, Class Counsel’s request is eminently fair and fully supported by judicial precedent.

Finally, Class Counsel seek incentive awards in the amount of \$15,000.00 for plaintiffs SEPTA, New York City Transit Authority, the Long Island Railroad, Metro North Commuter Railroad Company and Lockwood Electric Motor Service of Trenton who were proffered as class representatives and devoted time and resources in producing discovery and appearing for depositions. Additionally, a more modest incentive award in the amount of \$7,500 is requested

¹ Additional minor expenses are still being incurred. At the final hearing, Class Counsel will submit an updated expense report.

for plaintiff BART who also produced discovery in this case. This Class representative also contributed to the result achieved and should be paid a modest incentive award for its efforts.

Accordingly, Class Counsel's Motion should be granted in all respects.

Dated: September 29, 2005

Respectfully submitted,

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