

Francis O. Scarpulla (Cal. Bar 41059)
LAW OFFICES OF FRANCIS O. SCARPULLA
3708 Clay Street
San Francisco, CA 94118
Telephone: (415) 751-4193
Facsimile: (415) 751-0889
fos@scarpullalaw.com

Liaison Counsel for the Direct Purchaser Classes

Michael L. Roberts
ROBERTS LAW FIRM US, PC
1920 McKinney Avenue, Suite 700
Dallas, TX 75201
Telephone: (501) 821-5575
mikeroberts@robertslawfirm.us

Dianne M. Nast
NASTLAW LLC
1101 Market Street, Suite 2801
Philadelphia, PA 19107
Telephone: (215) 923-9300
Facsimile: (215) 923-9302
dnast@nastlaw.com

Co-Lead Counsel for the Direct Purchaser Classes

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE HIV ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO :

KPH Healthcare Services, Inc. v. Gilead Sciences, Inc. *et al.*, 3:20-cv-06961-EMC

Case No. 3:19-cv-02573-EMC (lead case)

SECOND DECLARATION OF MICHAEL L. ROBERTS IN SUPPORT OF DIRECT PURCHASER CLASS PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT WITH GILEAD AND ATTORNEYS' FEES, COSTS AND EXPENSES, AND SERVICE AWARD

Date: January 18, 2024
Time: 1:30 p.m.
Ctrm: 5 – 17th Floor
Judge: Honorable Edward M. Chen

1 I, Michael L. Roberts, declare as follows:

2 1. I am the managing partner of Roberts Law Firm US, PC. The Court appointed me as
3 Co-Lead Counsel for the Direct Purchaser Classes in this case. I submit this declaration in further
4 support of Direct Purchaser Class Plaintiffs' ("DPPs") Motion for Final Approval of Class Action
5 Settlement with Gilead and Attorneys' Fees, Costs and Expenses, and Service Award. I have
6 personal knowledge of the information set forth in this declaration.

7 2. Attached as Exhibit 1 is the Supplemental Declaration of Carla Peak, Vice President
8 of Legal Notification Services at KCC, Regarding Status of the Direct Purchaser Plaintiffs'
9 Settlement with Gilead ("Supp. Peak Declaration").

10 3. Claim forms have been received from 81% of known Class Members (*i.e.*, from 64
11 of 79 Class Members). *See* Supp. Peak Decl. ¶¶ 4, 6. The submitted claims represent over 98.92%
12 of the total volume of purchases of the drugs at issue in this Settlement. The claims rate is expected
13 to increase to 83.5%, because two known Class Members requested and were granted extensions to
14 submit their claim forms on or before January 31, 2024. These two Class Members have confirmed
15 they will submit their claims by January 31, 2024.

16 4. The deadline to object was December 28, 2023. *See* Supp. Peak Decl. ¶ 5. No
17 objections were lodged in response to the Settlement or to the request for attorneys' fees, costs and
18 expenses, and service award.

19 5. As a result of the interest continuing to accrue, all of which is to the benefit of the
20 Direct Purchaser Classes, the Gilead Settlement Fund account currently contains \$251,202,572.90,
21 which is an increase of \$4,452,572.90 from the original amount of \$246,750,000. Accounting for
22 this increase in the size of the settlement fund, Class Counsel's fee request at this time is 29.9% of
23 the Gilead Settlement Fund (or 28.7% of the total current settlement benefits which DPP Counsel
24 secured for the DPP classes as a result the settlements with both Gilead and BMS).

1 Executed on January 9, 2024.

/s/ Michael L. Roberts

2 ROBERTS LAW FIRM US, PC
3 MICHAEL L. ROBERTS (*pro hac vice*)
4 mikeroberts@robertslawfirm.us
5 1920 McKinney Avenue, Suite 700
6 Dallas, TX 75204
7 Telephone: (501) 821-5575

*Co-Lead Counsel for the Direct Purchaser
Plaintiff Classes*

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EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE HIV ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO :

KPH Healthcare Services, Inc. v. Gilead Sciences, Inc. *et al.*, 3:20-cv-06961-EMC

Case No. 3:19-cv-02573-EMC (lead case)

**SUPPLEMENTAL DECLARATION OF
CARLA A. PEAK REGARDING
STATUS OF THE DIRECT
PURCHASER PLAINTIFFS'
SETTLEMENT WITH GILEAD**

Date: January 18, 2024
Time: 1:30 p.m.
Ctvm: 5 – 17th Floor
Judge: Honorable Edward M. Chen

1 I, Carla A. Peak, declare as follows:

2 1. My name is Carla A. Peak. I am the Vice President of Legal Notification Services at
3 KCC, which was appointed by this Honorable Court to oversee the Court-approved notice plan for
4 the Gilead Settlement. I have personal knowledge of the matters set forth herein, and if called as a
5 witness I could and would testify competently to them.

6 2. My experience and credentials, as well as information regarding the settlement
7 notice plan proposed for this settlement, were previously submitted to the Court on July 23, 2023, in
8 the Declaration of Carla A. Peak Regarding the Notice Plan for Direct Purchaser Plaintiffs'
9 Settlement with Gilead (Dkt. 2086-4). The Court ordered further Notice in addition to the plan
10 proposed by the Direct Purchaser Plaintiffs on September 25, 2023 (Dkt. 2108). Information
11 regarding the settlement notice plan and settlement administration was then provided to the Court
12 on November 20, 2023, in the Declaration of Carla A. Peak in Support of the Motion for Final
13 Approval of the Direct Purchaser Plaintiffs' Settlement with Gilead (Dkt. 2141-7).

14 3. This declaration will supplement my prior declarations and provide additional
15 information regarding the claims rate, settlement objections, and class size.

16 ***Claims Rate***

17 4. As of the morning of January 9, 2024, KCC has received claim forms from 64
18 known class members.

19 ***Objections***

20 5. The objection deadline was December 28, 2023. As of January 8, 2024, KCC has not
21 received any objections to the settlement or request for attorneys' fees, costs and expenses, and
22 service award.

23 ***Class Size***

24 6. When KCC mailed notices to class members on October 6, 2023, Humana and
25 Kaiser were believed to be included in the Class. However, since that time KCC determined that
26 both Humana and Kaiser timely and validly requested to be excluded from the Class during the opt-
27 out period for the Direct Purchaser Classes following class certification, and therefore should not
28

1 have received a notice in conjunction with the Gilead settlement. As such, the class size for the
2 Gilead settlement is 79, rather than the previously reported 81.

3
4 I, Carla A. Peak, declare under penalty of perjury that the foregoing is true and correct.
5 Executed this 9th day of January 2024, at Sellersville, Pennsylvania.

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Carla A. Peak

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1 Francis O. Scarpulla (Cal. Bar 41059)
 2 Patrick B. Clayton (Cal. Bar 240191)
LAW OFFICES OF FRANCIS O.
SCARPULLA
 3 3708 Clay Street
 4 San Francisco, CA 94118
 Telephone: (415) 751-4193
 5 Facsimile: (415) 751-0889
fos@scarpullalaw.com
pbcl@scarpullalaw.com

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7
 8 Dianne M. Nast
 Michele S. Burkholder
NASTLAW LLC
 9 1101 Market Street, Suite 2801
 Philadelphia, PA 19107
 10 Telephone: (215) 923-9300
 Fax: (215) 923-9302
 11 dnast@nastlaw.com
mburkholder@nastlaw.com

12
 13 Michael L. Roberts
 Erick Schork
ROBERTS LAW FIRM, P.A.
 14 1920 McKinney Avenue, Suite 700
 Dallas, TX 75201
 15 Telephone: (501) 952-8558
mikeroberts@robertslawfirm.us
 16 erichschork@robertslawfirm.us

Co-Lead Counsel for the Direct Purchaser Classes

19 IN THE UNITED STATES DISTRICT COURT
 20 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 21 SAN FRANCISCO DIVISION

IN RE : HIV ANTITRUST LITIGATION

Case No. 3:19-cv-02573-EMC (lead case)

CERTIFICATE OF SERVICE

THIS DOCUMENT RELATES TO :

26 KPH Healthcare Services, Inc. v. Gilead
 Sciences, Inc. *et al.*, 3:20-cv-06961-EMC
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CERTIFICATE OF SERVICE

I certify that on January 9, 2024, I electronically filed the following:

**SECOND DECLARATION OF MICHAEL L. ROBERTS IN
SUPPORT OF DIRECT PURCHASER CLASS PLAINTIFFS’
MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT WITH GILEAD AND ATTORNEYS’ FEES,
COSTS AND EXPENSES, AND SERVICE AWARD;**

and

CERTIFICATE OF SERVICE

using the CM/ECF system, which will send notification of each filing to all attorneys of record in this matter. I certify under penalty of perjury that the foregoing is true and correct.

DATED this 9th day of January, 2024.

/s/ Francis O. Scarpulla
Francis O. Scarpulla