

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

SHARON CHENG, CRISTINA DIAS, RHONDA SANFILIPO, BRUCE PULEO, ZINA PRUITT, RON ZIMMERMAN, CHERYL SILVERSTEIN, TINA FENG, ROBERT HAKIM, BERNADETTE GRIMES, ELIZABETH GENDRON, ROGER CARTER, MARLENE RUDOLPH, PATRICIA BARLOW, TERESA EDWARDS, ISAAC TORDJMAN, JAMES HETTINGER, DIEU LE, CHRIS BOHN, DANIEL DEWEERDT, CRAIG BOXER, BETTY DENDY, ELIZABETH PERSAK, KRISTI ROCK, JENNIFER CHALAL, JOHN TORRANCE, LENARD SHOEMAKER, MICHAEL MITCHELL, ROBERT SKELTON, JEFFREY JONES, ISABEL MARQUES, PAYAM RASTEGAR, and SYED ABDUL NAFAY, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

TOYOTA MOTOR CORPORATION, TOYOTA MOTOR NORTH AMERICA, INC., and DENSO INTERNATIONAL AMERICA, INC.,

Defendants.

Case No: 1:20-cv-00629-WFK-JRC

**DECLARATION OF ELBERT F. NASIS, ESQ.
IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES,
EXPENSES, AND SERVICE AWARDS TO THE CLASS REPRESENTATIVES**

I, Elbert F. Nasis, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a principal of the law firm Forchelli Deegan Terrana LLP, which is located in Uniondale, New York. I am admitted to practice in the states of New York and New Jersey. I have been and continue to be in good-standing and admitted to practice in the United States District Courts for the Eastern District of New York, Southern District of New York, Western District of

New York, and District of New Jersey, as well as the United States Courts of Appeals for the Second Circuit.

2. I respectfully submit this declaration in support of Plaintiffs' Motion for Attorneys' Fees, Expenses, and Service Awards to the Class Representatives. I have personal knowledge of the matters set forth herein and am competent to testify with respect thereto.

3. Forchelli Deegan Terrana LLP is additional Plaintiffs' Counsel in this consolidated action. ECF No. 167. My firm was retained by Plaintiff Cheng and Plaintiff Dias from inception of this litigation and, since then, we have worked on this litigation together with the other members of the Plaintiffs' Steering Committee under the auspices of Interim Lead Class Counsel, the Beasley Allen Law Firm.

4. The services rendered and work performed by attorneys and paralegals of my firm during the course of this litigation include the following: myself, Daniel S. Dornfeld, Esq. and Michael Berger, Esq.

5. From March 5, 2020 through November 18, 2022, my firm has expended 228.0 hours of work in connection with this litigation. Based upon our current, customary rates in this type of litigation, the lodestar value of that time is \$117,108.00.

6. Our firm's work on this case was performed on a wholly-contingent basis pursuant to contingency fee contracts with the named Plaintiffs. My firm has not received any amounts in connection with this case, either as fee income or expense reimbursement.

7. Shown below is a true and correct summary identifying the attorneys and paralegals who have worked on this litigation, the number of hours those individuals have worked, their regular hourly billing rates, and their respective lodestar values. I anticipate that additional time

and expenses will be incurred for the work that my firm will be performing on this matter through the conclusion of the settlement.

The hourly rates shown below are the usual and customary lodestar rates charged by my firm in venues where the firm typically handles cases for each individual doing the type of work performed in this litigation, including New York. These rates were not adjusted, notwithstanding the complexity of this litigation, the skill and tenacity of the opposition, the preclusion of other employment, the delay in payment, or any other factors that could be used to justify a higher hourly compensation.

Attorney	Hours	Rate	Dollar Value
Elbert F. Nasis, Esq.	213.3	\$515.00	\$109,849.50
Daniel S. Dornfeld Esq.	12.10	\$515.00	\$6,231.50
Michael A. Berger, Esq.	2.6	\$395.00	<u>\$1,027.00</u>
		TOTAL:	<u>\$117,108.00</u>

8. These amounts were derived from contemporaneous daily time records compiled on this matter, which are recorded in our computerized database. The firm requires regular and contemporaneous recording of time records, which occurred in this case.

9. The lodestar summary reflects my firm's experience in the field, the complexity of the matters involved in this litigation, and the prevailing rate for providing such services.

10. My firm is not requesting reimbursement of expenses incurred in connection with this matter.

11. In my opinion, the time expended and incurred in prosecuting this action were reasonable and necessary for the diligent litigation of this matter.

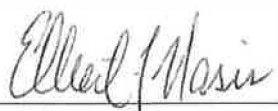
12. Based upon my experience, I believe that the proposed Settlement is fair, adequate, and reasonable based upon several factors, including the risks of continued litigation, strength of Plaintiffs' claims, and relief achieved on behalf of the individual Class members. In addition to the significant injunctive relief obtained by the attorneys, consumers may file claims to recover the amount that they have paid in eligible out-of-pocket expenses related to repair of the defective Denso fuel pumps at issue in this litigation.

13. This case was litigated over the course of nearly three years and involved MDL briefing, dismissal motion practice, complex, multi-defendant informal and confirmatory discovery, and expert work. Class Representatives, Sharon Cheng and Cristina Dias, fulfilled their duties to the Class by devoting substantial effort to the commencement and oversight of this litigation. As detailed in their concurrently filed declarations, Mses. Cheng and Dias (as well as the other Class Representatives) expended considerable effort ensuring that the proposed Settlement was fair, adequate, and reasonable, stayed abreast of the litigation, including by reviewing and approving pleadings, the settlement agreement and related motions, and provided documents and information as necessary. Accordingly, I believe that the proposed service awards to each of the proposed Class Representatives are also fair and appropriate.

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

Dated: November 18, 2022

Respectfully submitted,



Elbert F. Nasis, Principal
Forchelli Deegan Terrana LLP



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OVERVIEW

Forchelli Deegan Terrana LLP ("FDT") is one of Long Island's largest and most distinguished full-service law firms. The firm employs 70 attorneys in nearly 20 practice areas. Headquartered in Uniondale, NY, on the top floor of The Omni, FDT's office is in a prime geographic location for servicing clients in Nassau and Suffolk Counties and in New York City.

Below is a description of the legal services Forchelli Deegan Terrana LLP ("FDT" or "firm") provides to our clientele:

- Litigation
- Commercial Lending
- Loan Restructuring, Workouts and Foreclosure
- Bankruptcy & Corporate Restructuring
- Real Estate and REO
- Loan Sales and Participations
- Environmental
- Construction
- Land Use & Zoning
- Tax Certiorari
- General Administration and Corporate Operations

LITIGATION

The firm's litigation attorneys have long been recognized for their experience in commercial and non-commercial litigation, utilizing innovative strategies throughout the pre-trial, trial and appellate process to secure favorable and cost-effective results for our clients. We appear regularly before federal, state and local courts, before arbitral and administrative tribunals, and in mediation.

FDT handles a full range of contested matters typical of a wide-range of clientele. These include class actions, complex foreclosure and bankruptcy cases, commercial litigation, corporate litigation, management side employment and labor disputes, defense of general liability matters and real estate litigation, among other.

COMMERCIAL LENDING

FDT provides effective counsel and a wealth of experience to commercial lenders. Our success has given the firm its reputation for excellence as a leading law firm within the commercial lending community. The firm represents a variety of financial institutions, including national, regional and local banks.

The firm effectively handles many different types of financing transactions, including complex secured, unsecured, leasehold, construction, preferred equity loans, as well as business loans and lines of credit. The firm's practice covers a broad range of loan transactions affecting many types of properties including, residential, commercial, mixed-use, industrial properties, shopping centers, multi-family, co-ops and condominiums.

LOAN RESTRUCTURING, WORKOUTS AND FORECLOSURE

On the enforcement side, our bank clientele relies on our extensive experience in the areas of commercial, residential and business loan collections, foreclosures, loan workouts, and litigation. The firm represents mortgage lenders and servicers in all phases of the foreclosure and bankruptcy process. We have successfully prosecuted collection actions in Bankruptcy Court and represented our clients in state and federal courts regarding lender liability claims, priority disputes, title issues, usury claims, and surplus money proceedings. We are also skilled in bulk loan sales and the subdivision and sale of post foreclosure REO properties.

BANKRUPTCY & CORPORATE RESTRUCTURING

Our Bankruptcy & Corporate Restructuring practice group provides clients with innovative solutions to minimize risks and increase financial stability. Our attorneys represent secured and unsecured creditors, and institutional and private lenders, in all types of workouts and bankruptcy proceedings, including reorganizations under Chapter 11 and Chapter 13 of the Bankruptcy Code and liquidations under Chapter 7 of the Bankruptcy Code. The firm regularly represents clients with construction and real estate issues, as well as clients from the manufacturing, wholesale, retail and healthcare industries. The firm also handles matters involving commercial and residential lending and consumer debtor-creditor issues.

The firm has extensive experience in adversary proceedings and other types of litigation filed in bankruptcy cases, including defense and/or prosecution of preference and fraudulent conveyance issues, and issues involving a debtor's discharge and/or non-discharge ability of debts.

REAL ESTATE AND REO

The firm's Real Estate practice group delivers comprehensive, innovative, and practical legal services for life-cycle real estate needs on a local, regional and national basis, from acquisition, sale and leasing of office and retail properties. The Real Estate practice group integrates many of the firm's other practice areas such as Environmental, Tax Certiorari, Land Use & Zoning, to provide our clients with a totally comprehensive organic real estate focus. The firm counsel's property owners, contractors and subcontractors in connection with construction contracts, filings, discharge and litigation of mechanics' liens.

Our attorneys also practice landlord representation and tenant representation of clients in lease and sublease transactions, and advise clients relative to landlord/tenant disputes and litigation.

LOAN SALES AND PARTICIPATIONS

Our firm is experienced in representing banks in negotiating loan participation agreements and in the sale or purchase of notes for performing and non-performing commercial mortgage loans. We have successfully represented our lender clients in single and bulk loan sales.

ENVIRONMENTAL

An added dimension to the commercial lending practice is our Environmental practice group, which advises our clients on various compliance matters, including compliance with all major environmental programs (e.g. RCRA, CAA, CWA, Brownfields, etc.) and with regard to investigation and remediation of contaminated sites. Our environmental attorneys work with our transactional practice groups to structure transactions that minimize potential environmental liabilities and with our land use & zoning attorneys on SEQRA (environmental impact review) issues. The Environmental practice group has extensive dealings with properties impacted by soil and ground water contaminants, mold, asbestos and indoor air quality issues, and with procurement of environmental insurance policies. The firm represents clients in environmental enforcement actions, including both actions where government entities allege violations of environmental laws or regulations, as well as actions where the government, or private parties, seeks to impose civil liability—such as Superfund—cost recovery issues. Our environmental attorneys also coordinate investigatory efforts with client-selected environmental consultants.

CONSTRUCTION

The firm's Construction practice group provides practical advice and legal representation to clients in all phases of construction and real estate development, from initial contract drafting through resolution of contract claims and disputes. Our clients include owners, developers, financial institutions, religious institutions, design professionals, general contractors, construction managers, subcontractors, suppliers, equipment rental companies, insurers and sureties participating in major private and government projects, among others. We are also experienced in bringing and defending against mechanic's lien filings and foreclosures, as well as claims for diversion of trust funds.

LAND USE & ZONING

FDT also provides land use & zoning services to our institutional clientele. The Firm has been successful with a multitude of significant zoning applications for well-known institutional clients.

TAX CERTIORARI

FDT's Tax Certiorari practice group concentrates in handling tax certiorari proceedings to challenge real estate tax assessments and reduce real estate taxes. Our team approach involves checking every aspect of a property's taxation to ensure that our clients obtain the largest possible tax refund and reduction in future taxes. We have been successful in obtaining millions of dollars in real estate tax refunds and savings for our clients, which include national, regional and local owners and tenants of all types of commercial and residential property.

FDT's Tax Certiorari practice group also counsel's clients in all other aspects of real estate taxation, including tax exemptions, estimation of taxes for new construction, lease tax escalation clauses and the sale, purchase and foreclosure of tax liens.

GENERAL ADMINISTRATION AND CORPORATE OPERATIONS

The firm's Real Estate, Corporate and Employment & Labor practice groups assist our institutional clients in many ways on the corporate and administrative level. Whether it be an acquisition, sale or lease of bank office space, we have the experience to handle any type of real estate or corporate contract. We routinely negotiate commercial leases and vendor agreements, including software license agreements and online banking agreements.

FDT's Corporate and Mergers & Acquisitions practice group is among Long Island's largest and most sophisticated in terms of number of attorneys and services provided. The practice group helps clients accomplish their business goals by providing a complete array of services, including advanced capabilities in mergers and acquisitions, dispositions, equity and debt financing (including angel, mezzanine and venture capital), private placements, securities regulation and compliance, joint ventures and strategic alliances, business formations, entity organization and governance, shareholder agreements, LLC operating agreements, reorganizations, liquidations, business divorce, shareholder oppression, employment and consulting agreements, severance arrangements, equity incentive plans, entertainment and sports agreements, licensing agreements, manufacturing, distribution and supply agreements, private label agreements, vendor agreements, and numerous other types of commercial contracts and agreements.

The Corporate and Mergers & Acquisitions practice group provides comprehensive business law and transactional advice to a wide range of clients, including public corporations, privately-held companies, emerging businesses, start-ups and entrepreneurs. The firm serves as "outside" general counsel to numerous private middle-market companies. The practice group also represents institutional and individual investors (including venture capital funds, corporate venture capital programs, and angel investors), and private equity funds with respect to their portfolio company investments and transactions. The firm has frequently served as local counsel and special counsel to various national and international companies in a variety of corporate and commercial transactions and matters.

EMPLOYMENT & LABOR

The firm's Employment & Labor practice group has two principal components – counseling and litigation. Our attorneys work with management, human resources and personnel professionals in connection with various employment decisions, such as terminations and discipline, reductions in force and restructuring, acquisitions and divestitures, restrictive covenants, wage and hour laws and compliance issues and preparation of policies, employee handbooks, and employment contracts. We conduct audits of employment practices and policies, and provide employer-sponsored training concerning equal employment opportunity obligations.

On the litigation side, our attorneys regularly handle employment disputes in federal and state courts and before administrative agencies for matters relating to employment discrimination and harassment, wrongful discharge, wage and hour, restrictive covenants, unfair competition, theft of trade secrets, breach of contracts and whistleblower claims.

Our attorneys also handle traditional labor matters such as defense of unfair labor practice claims before the National Labor Relations Board, grievance arbitrations under collective bargaining agreements, and collective bargaining.

The firm also represents executives in connection with the negotiation of employment and severance agreements.