

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MARK HALE, TODD SHADLE, and
LAURIE LOGER, on behalf of themselves and
all others similarly situated,

Plaintiffs

v.

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, EDWARD
MURNANE, and WILLIAM G. SHEPHERD,

Defendants.

Case No. 3:12-cv-00660-DRH-SCW

Judge David R. Herndon

Magistrate Judge Stephen C. Williams

**DECLARATION OF GORDON BALLIN SUPPORT OF
PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS**

I, Gordon Ball, am a member in good standing of the State Bar of Tennessee and a partner in the law firm of Gordon Ball LLC. I am one of the counsel for Plaintiffs and Court appointed Class Counsel in the above-captioned action. I provide this declaration in support of Plaintiffs' Motion for Attorneys' Fees and Costs.

1. I have reviewed the time and expense records submitted by Gordon Ball LLC in this litigation and attest that they are accurate.

2. I further attest that the billing rates used to calculate the lodestar reflect the customary billing rates of the timekeepers at the time the services were rendered.

3. A true and correct copy of Gordon Ball LLC's resume is attached as Attachment A to this Declaration.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 11, 2018, in Knoxville,
Tennessee.

 /s/ Gordon Ball
Gordon Ball

EXHIBIT A



Gordon Ball LLC

Firm Biography

Gordon Ball is a licensed Tennessee attorney whose practice focuses on consumer rights and antitrust class actions. Ball was born in Cocke County, Tennessee. He graduated from East Tennessee State University with a Bachelor of Science degree (1970), received his law degree from the Cecil C. Humphreys School of Law at Memphis State University (1974), and entered the private practice of law the following year.

Ball is admitted to and/or has appeared before numerous federal and state courts across the United States, including the United States Supreme Court, the United States Courts of Appeals for the Fourth, Sixth, Seventh, Ninth, and Eleventh Circuits, as well as state and federal trial courts in Tennessee, Alabama, Arizona, California, Connecticut, Delaware, Florida, Georgia, Indiana, Illinois, Iowa, Kansas, Kentucky, Maryland, Michigan, Missouri, Nebraska, New Jersey,

New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Washington, West Virginia, and the District of Columbia.

In the late 1970's, Ball served as an Assistant U.S. District Attorney for the Eastern District of Tennessee. In 1977, he served as a delegate to the Tennessee Constitutional Convention. After returning to private practice, Ball specialized in the defense of “white-collar” federal prosecutions. Notable among them was his role in 1981 as lead defense counsel in *United States v. Sisk, et al* (a/k/a, the “Pardons and Paroles” case). His client was acquitted after a six-week trial. In 1986-87, Ball was lead defense counsel in the federal bank-fraud prosecution of brothers Jake and C.H. Butcher, Jr., creators of a Tennessee banking empire (United American Bank and C & C Bank). Ball was the only defense attorney to secure two not guilty jury verdicts in *U.S. v. C.H. Butcher, et al*.

In the late 1980's, Ball turned his legal efforts toward championing individuals through major class action litigation, beginning in 1988 with *Shults v. Champion International Corporation*. Ball – who grew up along the banks of the Pigeon River in the tiny Cocke County town of Hartford – represented approximately 2,600 landowners against a corporate paper giant who had polluted the Pigeon River for nearly eighty years. Ball and his co-counsel vigorously litigated their clients’ case against one of the world’s largest law firms and succeeded in recovering \$6.5 million for the landowners.

For the past three decades, Ball has been a pioneer in plaintiff's class action lawsuits, representing victims of various abuses by powerful corporations. He has a long record of successfully litigating cases on behalf of both individuals and classes, particularly in cases involving monopolization and price-fixing. Ball's aggregate multi-billion dollar recoveries have included cases against oil companies, telecommunications companies, health care companies, insurance companies, pharmaceutical companies, banks, auto manufacturers, record manufacturers, paper manufacturers, vitamin makers, boat manufacturers, stucco manufacturers, and supermarket chains.

An Experienced Class Action Litigator

A lone consumer is often powerless against a powerful corporation. Through group or class litigation, individuals can join together to enhance their ability to assert their rights and challenge well-financed corporations. As one of the premier class action firms in the South, Gordon Ball LLC focuses on antitrust class actions, consumer protection class actions, racketeering class actions, and product liability class actions.

Over the past three decades, Ball has been involved as lead or co-counsel for plaintiffs in dozens of class actions which have recovered *billions of dollars* for consumers across the United States. Ball's greatest successes have been cases where the financial and valuable benefits to consumers have greatly exceeded the normal benefits to class members in similar cases.

***Numerous Federal District Courts Have Entrusted Ball With
Leadership Responsibilities in Nationwide Class Actions***

Ball has been appointed by District Courts to leadership positions in several complex cases, including:

- *Hale v. State Farm Mut. Auto. Ins. Co.*, No. 3:12-cv-00660 (S.D. IL) (co-lead counsel for a class of 4.7 million policyholders in a RICO action);
- *Cosby, et al. v. KPMG, LLP*, 3:16-cv-00121 (E.D. Tenn.) (co-lead counsel for class of shareholders against Big Four accounting firm);
- *In re Southeastern Milk Antitrust Litig.*, No. 2:08-MD-1000 (E.D. Tenn.) (co-lead counsel for retailers);
- *Solo et al. v. Chiquita Brands Int'l, et al.* No. 05-6761335 (S.D. Fla.) (lead indirect purchaser counsel);
- *In re Hydrogen Peroxide Antitrust Litigation*, No. 05-666, MDL No. 1682 (E.D. Pa.) (co-lead indirect purchaser counsel); and
- *In re Endosurgical Products Direct Purchaser Antitrust Litigation*, No. 06-3118 JVS-MLG (C.D. Cal.) (lead counsel).

Ball has also worked with co-counsel and other plaintiffs' firms in a wide range of complex cases, with a proven willingness and ability to coordinate large groups of lawyers. Although the following list is not all-inclusive, Ball has represented (or is currently representing) consumers in these cases:

1. *Spartanburg Regional Health Services District, Inc. v. Hillenbrand Indus., Inc.* (\$468,000,000 settlement in 2006) (6th largest antitrust settlement in U.S. history);

2. *Stinnett v. BellSouth Telecommunications* (\$45,000,000 consumer settlement);

3. *Land v. United Tel. - Southeast* (\$5,000,000 consumer settlement);

4. *In re Travel Agency Com'n Antitrust Litig.* (\$70,000,000 settlement)

5. *Lowe v. Johnson City Medical Center Hospital* (\$1,500,000 consumer settlement);

6. *Shelton v. Blue Cross and Blue Shield of Tennessee* (\$4,000,000 consumer settlement);

7. *Nabors v. General Motors* (nationwide settlement approved in Louisiana with settlement benefits to 6 million owners of GM vehicles);

8. *Cox, et al v. Shell Oil Co.* (\$950,000,000 national settlement in defective polybutylene pipe action) (one of the largest property damage settlements in U.S. history);

9. *Blake v. Abbott Laboratories, Inc.* (\$62,000,000 settlement) (price-fixing of infant formula);

10. *Patrick v. Liberty Health Care Corp.* (\$245,000 settlement) (unpaid sick leave class action);

11. *Hagy v. Sprint Cellular* (\$4,000,000 consumer settlement approved);

12. *Sandpiper Village Condominium Ass'n v. Louisiana-Pacific Corp.*, (\$375,000,000 consumer settlement) (defective hardboard siding);

13. *Ottinger v. EMI Distribution, Inc.* (\$65,000,000 nationwide settlement approved) (price-fixing of compact discs);

14. *Sweet v. Ford Motor Co.* (\$30,000,000 nationwide settlement approved as part of California settlement) (ignition defect);

15. *Fox v. American Cyanamid Co.* (\$15,000,000 settlement) (vertical price-fixing conspiracy in pesticide market);

16. *Wilson v. Chesapeake Corp., et al.* (\$600,000 Tennessee-only settlement) (horizontal price-fixing conspiracy in commercial tissue products market);

17. *Ferguson v. Columbia/HCA Healthcare Corp.* (\$5,000,000 settlement) (overcharges in healthcare industry);

18. *Freeman v. Champion International Corp.* (\$2,400,000 settlement) (nuisance action alleging unlawful pollution of Pigeon River);

19. *McCampbell v. F. Hoffman - LaRoche Ltd., et al.* (\$10,000,000 Tennessee settlement approved) (price-fixing conspiracy in vitamins market);

20. *Milligan v. Food Lion Corp.* (\$3,000,000 nationwide settlement) (unfair or deceptive practices in sales tax charges);

21. *Hunter v. Bank One* (\$25,000,000 nationwide settlement) (class certified) (deceptive bank financing practices);

22. *Carter v. First Tennessee Bank* (\$7,000,000 nationwide settlement) (class certified) (deceptive bank financing practices);

23. *Posey v. Dryvit Corp.* (\$50,000,000 nationwide settlement) (defective synthetic stucco);

24. *Couch v. Brunswick Corporation* (nationwide settlement for consumers valued at \$125,000,000) (monopolization of inboard and stern-drive marine engine market);

25. *Davis v. United States Tobacco Co., et al.* (\$35,000,000 multi-state settlement) (unfair restraint in trade in smokeless tobacco market);

26. *Freeman v. Blue Ridge Paper Co.* (\$2,000,000 jury verdict in 005 in nuisance action against paper mill for polluting Pigeon River);

27. *In re Rubber Chemical Antitrust Litigation* (multi-state settlements collectively approximating \$8,000,000) (price-fixing);

28. *Benson v. Nan Ya Plastics Corp.* (multi-state settlements collectively approximating \$4,800,000) (price-fixing in polyester staple fiber industry);

29. *Conroy v. 3M Corporation* (\$41,000,000 multi-state settlement) (antitrust and consumer protection violations);

30. *McCaleb v. Sunbeam Corp.* (co-lead counsel for Tennessee plaintiffs in settlement of consumer defective blanket action);

31. *Daugherty v. Sony Corp.* (national settlement in action concerning defective DVD players) (lead counsel for Tennessee consumers);

32. *Coleman Properties LLC v. AFG Industries, Inc.* (\$625,000 settlement in price-fixing action against flat-glass manufacturers) (lead counsel) ;

33. *In re Hypodermic Products Antitrust Litigation* (tying and bundling violations of antitrust laws);

34. *In re Hydrogen Peroxide Antitrust Litigation* (\$4,200,000 settlement in price-fixing action) (co-lead indirect purchaser counsel);

35. *Solo et al. v. Chiquita Brands Int'l, et al.* (\$833,333 antitrust settlement earmarked for charitable organizations) (lead indirect purchaser counsel);

36. *In re Endo Surgical Medical Products Antitrust Litigation* (\$13,000,000 antitrust settlement alleging illegal bundling of medical products) (lead counsel for indirect purchasers in case against Johnson & Johnson);

37. *Benson v. Avery Dennison Corporation, et al.* (price-fixing settlements totaling over \$2,715,000) (lead counsel for indirect purchasers of label stock in Kansas, Nebraska, Tennessee and Vermont);

38. *Canadian Auto Antitrust Litigation* (Tennessee-only settlement of \$1,200,000 with one defendant) (lead counsel for Tennessee consumers) (pending);

39. *Jabo's Pharmacy, Inc. v. King Pharmaceuticals, Inc.* (lead counsel for Tennessee pharmacy purchasers of drug Skelaxin in antitrust action);

40. *In re Skelaxin (Metaxalone) Antitrust Litig.* (lead counsel for pharmacies who purchased drug Skelaxin in nationwide antitrust class action);

41. *In re Blue Cross Antitrust Litigation* (co-counsel for subscribers of BCBS health insurance in antitrust cases);

42. *Hale v. State Farm Mut. Auto. Ins. Co.* (co-lead counsel for class of 4.7 million policyholders in RICO action against nation's largest insurer);

43. *Cosby, et al. v. KPMG, LLP* (co-lead counsel for class of shareholders alleging fraud against Big Four auditing firm);

44. *Reed, et al. v. United States of America* (co-lead counsel for approximately 350 wrongful death, personal injury and/or property-loss victims of 2016 Gatlinburg Wildfire).

Ball has also been involved on the defense-side of major class action litigation, representing a former CEO of Pilot/Flying J in *Wright v. Pilot Corp., et al.* – a class action filed by trucking companies concerning an allegedly fraudulent rebate scheme.

Significant Settlements or Judgments

Over the past three decades, Ball has won a national reputation fighting for American consumers by achieving recoveries in cases that other law firms did not want to handle. Several of Ball's ground-breaking cases have resulted in landmark decisions on previously untried or unsettled issues involving price-fixing and consumer rights. Ball has also served as lead or class counsel in several landmark consumer and antitrust class actions, including:

Cox v. Shell Oil Company, et al. Ball and a number of other counsel filed this case in 1995 charging Shell Oil Company, E.I. du Pont de Nemours, and Hoescht Celanese with manufacturing and marketing defective polybutylene pipes and plumbing systems. A settlement was ultimately reached, providing a minimum of \$950 million to consumers, at that time the largest award in Tennessee history, and the largest class action settlement of its kind.

Infant Formula Consumer Antitrust Litigation. Ball, along with co-counsel, instituted class actions in multiple state courts against three

companies who conspired to drive up the price of infant formula. The cases resulted in an aggregate settlement of \$64,000,000.00. Foremost among the cases was *Blake v. Abbott Laboratories*. *Blake* was the first opinion in the history of Tennessee jurisprudence granting indirect purchasers a private right of action under state antitrust and consumer protection laws.

Spartanburg Regional Health Services District, Inc. v. Hillenbrand Industries, Inc. Ball represented Spartanburg Regional Health Services District in a direct purchaser class action against Hillenbrand Industries. *Spartanburg Regional Health Services District, Inc. v. Hillenbrand Industries, Inc.*, No. CA 7:03-2141-HFF (D.S.C.) A settlement was reached between the parties, providing nearly \$490 million in relief, including a cash payment to the class of \$337.5 million (representing the sixth largest amount ever recovered in an antitrust class action). *Spartanburg* was the first-ever direct purchaser class action successfully challenging monopoly bundling of medical devices.

Pigeon River Nuisance Litigation. For over twenty-five years, Ball has litigated private nuisance claims against the owners of the Canton, North Carolina paper mill on behalf of hundreds of Cocke County landowners who own property downstream from the mill. These cases provided the only remedy available to the landowners, and have resulted in millions of dollars of compensation for the landowners, beginning with a \$6,500,000 settlement against former mill owner, Champion International Corp., in 1993, to a \$2,000,000 jury verdict against Blue Ridge Paper Products in 2005.

Honors & Awards

In the late 1980's, Ball was selected for inclusion in the publication *The Best Lawyers in America* and has been included in subsequent publications. In 1997, Ball was also a recipient of the *Public Justice Achievement Award* by the *Trial Lawyers for Public Justice* for his work on behalf of consumers in the polybutylene pipe product liability litigation, which resulted in an unprecedented settlement providing a minimum of \$950 million in relief and a potentially unlimited maximum recovery for property owners.

Benefitting Worthy Causes

Many of the cases undertaken by Gordon Ball LLC eventually result in settlements in which the presiding Court is presented an opportunity to make charitable awards (*cy pres* awards) to national, regional, state and local charitable organizations. Ball has been instrumental in seeking the award of such residual funds for a number of worthy charities and institutions.