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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: TFT-LCD (FLAT PANEL)
ANTITRUST LITIGATION

MDL No. 1827

**DECLARATION OF ANNE E. SCHNEIDER
IN SUPPORT OF STATES ATTORNEYS
GENERAL'S MOTION FOR INTERIM
REIMBURSEMENT OF CERTAIN
EXPENSES**

This Document Relates to:

ALL INDIRECT PURCHASER ACTIONS

*State of Missouri, et al. v. AU Optronics
Corporation, et al.,*
Case No. 10-cv-03619 SI; and

*State of Florida v. AU Optronics
Corporation, et al.,*
Case No. 10-cv-3517 SI.

*State of New York v. AU Optronics
Corporation, et al.,*
Case No. 11-cv-0711.

Date: May 18, 2012
Time: 9:00 a.m.
Dept.: Courtroom 10, 19th Floor
Judge: The Hon. Susan Illston

1 I, Anne E. Schneider, declare as follows:
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3 I am an attorney licensed to practice law by the Missouri State Bar and am duly admitted to
4 practice before this Court on a *pro hac vice* basis. I am a duly appointed Assistant Attorney General
5 for the State of Missouri and am an attorney of record for the State of Missouri. I submit this
6 declaration in support of the Indirect Purchaser Plaintiffs' and States Attorneys General's Motion for
7 Interim Reimbursement of Expenses ("Motion for Expense"). I make this declaration based on my
8 own personal knowledge. If called as a witness, I could and would competently testify to the
9 matters stated herein.
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11 1. The Motion for Certain Expenses is brought in conjunction with the Indirect
12 Purchaser Plaintiff Classes' and the States Attorneys General's Motion for Final Approval of
13 Class and *Parens Patriae* Settlements with the Chi Mei, Chunghwa Picture Tubes, Epson,
14 HannStar, Hitachi, Samsung, and Sharp Defendants. The settlements affect three actions in
15 this MDL: *State of Missouri ex rel. Koster, et al. v. AUO, et al.* (Plaintiff States of Missouri,
16 Arkansas, Michigan, West Virginia, and Wisconsin), Case No. 3:10-cv-3619 SI; *State of*
17 *Florida v. AUO, et al.*, Case No. 3:10-cv-03517-SI; and *State of New York v. AUO, et al.*,
18 Case No. 3:11-cv-711, and a separate case brought by the California Attorney General in
19 California state court, *State of California, et al. v. AUO et al.*, San Francisco Superior Court
20 Case No. CGC-10-504651.
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22 2. The States of Arkansas, California, Florida, Michigan, Missouri, New York, West
23 Virginia, and Wisconsin, through their Attorneys General, brought enforcement actions
24 against the Chi Mei, Chunghwa Picture Tubes, Epson, HannStar, Hitachi, Samsung, and
25 Sharp Defendants seeking injunctive relief, the imposition of civil penalties for violations of
26 law, and damages and restitution for governmental entities and consumer end-users of TFT-
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LCD panels within their states. The specific scope of the damages claims brought is as follows:

Settling State	Scope of Damages and/or Restitution Claims Asserted in Action
Arkansas	Natural persons
California	State agencies and political subdivisions Natural persons
Florida	State agencies and political subdivisions Natural persons
Michigan	State agencies and political subdivisions Natural persons
Missouri	State agencies and political subdivisions Natural persons and business entities
New York	State agencies and political subdivisions Natural persons
West Virginia	State agencies and political subdivisions
Wisconsin	State agencies and political subdivisions

3. The Settling States began their respective investigations in 2008 and 2009, using their statutory pre-litigation subpoena authority to gather and review documents and make other inquiries into the conduct underlying the complaints that were subsequently filed. In August, 2010, six of the Settling States filed actions under federal and state law in this Court and were transferred to the MDL. Those actions were later joined by the State of New York. The State of California filed a separate action in California state court but has joined the mediation efforts that lead to the settlements for which approval is now sought.¹

¹ The State of California, while not a party to the MDL, reached agreements with each of the Settling Defendants to the effect that any court-approved expenses could be reimbursed from the Settlement Funds established through the settlements in issue. Each of the Settlement Agreements contains a similar as the following: “The Attorney General of California reserves the right to submit a Fee and Expense Application to the Superior Court of California should the Court decline jurisdiction over any Fee and Expense Application submitted by the Attorney General of California, but all such fees, expenses, or costs awarded by the Superior Court of California shall be paid out of the Settlement Fund and neither Chimei nor any other Chimei Releasee shall have any liability therefor. In no event shall Chimei or any other Chimei Releasee be responsible to pay any such fees, expenses, costs, and interest except to the extent they are paid out of the Settlement Fund.” Chi

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2 4. The States' actions arise from an alleged international price-fixing conspiracy by
3 major manufacturers of TFT-LCD panels from at least 1999 through 2006. (See Dkt Nos.
4 2652, 2693 and 4763 for current versions of the States' complaints). The States allege that
5 the Defendants fixed prices and restrained competition relating to panels contained in
6 televisions, notebook computers, and monitors. *Id.* Based on purchases of these products
7 within and by the States, the States seek to enforce federal and state laws, including Section
8 1 of the Sherman Act, 15 U.S.C. Section 1 and the States' own antitrust statutes, as well as
9 several of the States' consumer protection laws. Specifically, the States' actions include
10 claims for 1) injunctive relief pursuant to Section 16 of the Clayton Act, 15 U.S.C. § 26, for
11 Defendants' violations of Section 1 of the Sherman Act, 15 U.S.C. § 1 and corresponding
12 state laws, 2) civil penalties for violations of state laws, and 3) damages or restitution under
13 relevant state antitrust and/or consumer protection laws, in addition to the recovery of costs
14 of their investigation and prosecution, as provided by federal and state law. *Id.* The State of
15 California's action, filed in California state court, makes similar allegations and claims.
16 *People of the State of California v. AU Optronics, et al.*, Cal. Supr. Ct., County of San
17 Francisco Case No. CGC-10-504651.

18 5. During the course of litigation, each of the Settling States have faced and prevailed
19 over motions to dismiss and responded to extensive discovery conducted by the Defendants,
20 in addition to pursuing discovery. The Settling States continue to pursue their claims against
21 the non-settling Defendants: LG Display, AU Optronics and Toshiba. The majority of the
22 Settling States are on the "Track One" schedule for the Direct Action Plaintiffs, meaning that
23 they are presently conducting expert discovery and are scheduled to begin trial in November,
24 2012.

25 6. On November 23, 2010, the Court appointed me Co-Liaison Counsel for the States
26 Attorneys General. (Dkt # 2164). The duties associated with my appointment are set forth in

27 Mei Settlement Agreement, Dkt # 4424-2).

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2 Pretrial Order # 1 (Dkt # 14) and Pretrial Order # 3 (Dkt # 224). As specified in those orders, I
3 am responsible for, among other things, collecting reports of costs incurred by the several States
4 that have been collectively pursuing litigation.

5 7. As detailed in the Preliminary Approval Motion, the Indirect-Purchaser Plaintiffs, the
6 Settling States and class action notice administrator Kinsella Media have implemented a
7 Notice Program to inform members of the Indirect-Purchaser Plaintiffs Classes and the
8 Parens Patriae Classes of the Settlements and the dates associated with objection and final
9 approval. Dkt # 4424. The class notice states explicitly that “[a]t a later date, Class Counsel
10 and the Attorneys General will ask the Court for ... reimbursement of their costs and
11 expenses.” Dkt # 4688, Exh. A. Pursuant to the Court’s Order granting preliminary
12 approval of the Settlements, Class Counsel and the Settling States began implementing the
13 Notice Program and publishing notice of the Settlements on February 13, 2012. That
14 notification program is on-going.

15 8. I oversee the administration of two litigation-related funds that have been used for the
16 prosecution of the States Attorneys General actions. These funds have paid certain qualified
17 ongoing litigation expenses on behalf of the States Attorneys General in this matter. One fund
18 was established with a grant from the National Association of Attorneys General and is required
19 to be repaid in the event of any recovery. The second fund is a cost-sharing fund that is funded
20 by the participating States Attorneys General through the payment of assessments. These funds
21 have been used to pay some of the on-going litigation expenses incurred by the Settling State,
22 and the expenses paid through these funds comprise a significant portion of the costs that the
23 States Attorneys General now seek to recoup through this Motion for Certain Expenses. Those
24 expenses include expert witness expenses and deposition and hearing transcripts. The amounts
25 expended through December 2011 through these commonly-administered funds are detailed in
26 **Exhibit A** attached hereto.

27 9. The Settling States have incurred, and are seeking an award of, expert costs of
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\$759,572.76 through December 2011.

10. The Settling States of Arkansas, Florida, Michigan, Missouri, West Virginia and Wisconsin retained Gautam Gowrisankaran, Ph.D., Professor of Economics at the University of Arizona, to analyze and evaluate the impact that the cartel in the thin film transistor liquid crystal display (TFT-LCD) industry may have had on the Settling States; to determine whether the economic evidence is consistent with the existence of an effective conspiracy among the Defendants; to evaluate any overcharge damages to the Settling States during the period January 1999 through December 2006 stemming from the cartel and to estimate any damages borne by the Settling States. Dr. Gowrisankaran, working with and directing the work of staff of applEcon, performed extensive work during the time period covered by this Motion for Certain Expenses in connection with the analysis of purchase data provided by the Settling States and by third parties, review of other records and discovery produced in the case relating to the characteristics of the TFT-LCD industry and the conspiracy, development of his methodology for evaluating the extent of overcharge and pass through of overcharges to end users in the Settling States, and significant work toward the preparation of a report on liability and damages. Payments to Dr. Gowrisankaran and to applEcon for work preformed through the end of December 2011 accounted for \$638,079.76 of the States' costs and are reflected in **Exhibit A**.

11. The State of California individually incurred expenses from the work performed by an economist retained in its state court action to perform similar work relating to California's governmental entities and its other claims; these expenses, incurred through December 2011 totaled \$121,493.00 and are included on **Exhibit B**.

12. The Settling States have incurred costs of \$34,770.82 for court reporters and transcripts for 51 depositions and six transcripts of Court hearings through December 2011. These payments are reflected on **Exhibit A**. In addition to the use of the common litigation funds for the purchase of transcripts, several of the States have paid and submitted to me

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invoices or similar proof of payment for non-duplicative deposition and hearing transcripts for which they also seek recoupment through this Motion for Certain Expenses. The additional State-specific transcript costs total \$5,072.32 and are set forth in **Exhibit B** attached hereto.

13. The litigation work is on-going and, as of the signing of this declaration more than \$1,000,000.00 in public funds has been spent on litigation costs. The States are deferring some cost-recoupment until later in this litigation, including expenses incurred for copying and document preparation, communications and delivery and postage charges, court costs, computerized legal research, and travel to this Court, for mediation, and in connection with depositions in this case. The costs discussed below in this declaration, however, are limited to costs incurred as of the end of December, 2011.

14. The total costs incurred by the Settling States up through 2011 and now being submitted for an order approving payment are:

Shared Costs of the Settling States	\$ 667,778.26
Individual State-Submitted Costs	<u>\$ 126,565.32</u>
	\$ 794,343.58

15. The Settling States are providing adequate notice to all parties and class members of this request for payment of certain litigation expenses. Pursuant to the Court's January 26, 2012 Order, the Settling States and the Indirect-Purchaser Plaintiff began implementing the Notice Program and publication of the Court-approved notices began on February 13, 2012. In accordance with that same Order, this Motion will be made publicly available both through the Court's ECF system, and posted at the settlement website, <https://lcdclass.com>, no less than 30 days prior to the deadline for class members to object to, or opt out of, the Settlements, i.e., by March 14, 2012. Dkt # 4760. Upon the filing of this Motion, the Settling States will deliver a copy of these papers to the administrator of the settlement website so that they will be available for free public viewing. The previously-posted and

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published notices advised all parties that the Settling States may apply for reimbursement of expenses. <https://lcdclass.com>

I declare under penalty of perjury under the laws of the State of Missouri that the foregoing is true and correct.

Executed this 14th day of March in Jefferson City, Missouri.

/s/ Anne E. Schneider
Anne E. Schneider

EXHIBIT A

Attachment "A"			
States Shared Litigation Costs			
Date of Services/Billing	Vendor or Nature	Nature Detail	Amount
5/3/2011	AppEcon, LLC	Expert Work 4/12-4/19/11 Invoice # 1360	\$ 1,943.10
6/2/2011	AppEcon, LLC	Expert Work 5/1/11 - 5/27/11 Invoice # 1371	\$ 2,259.88
7/5/2011	AppEcon, LLC	Expert Work 6/6/11 - 6/30/11 Invoice #1381	\$ 43,823.75
8/2/2011	AppEcon, LLC	Expert Work 7/1/11 - 7/30/11 Invoice #1388	\$ 86,250.90
9/2/2011	AppEcon, LLC	Expert Work 8/1/11 - 8/31/11 Invoice # 1398	\$ 30,091.25
9/1/11 - 9/30/11	AppEcon, LLC	Expert Work 9/1/11-9/30/11 Invoice # 1408	\$ 99,807.54
10/3/11-10/31/11	AppEcon, LLC	Expert Work 10/3/11-10/31/11 Invoice # 1418	\$ 103,747.59
11/1/11-11/30/11	AppEcon, LLC	Expert Work 11/1/11-11/30/11 Invoice # 1428	\$ 148,182.75
12/1/11-12/30/11	AppEcon, LLC	Expert Work 12/1/11-12/30/11 Invoice # 1437	\$ 121,973.00
			\$ 638,079.76
			\$ 638,079.76
12/10 - 3/11	Depo & Hrg Transcripts	\$ 17,584.74	\$ 16,914.85
4/11/2011	Depo & Hrg Transcripts	\$ 1,129.30	\$ 1,129.30
5/11/2011	Depo & Hrg Transcripts	\$ 11,654.35	\$ 11,654.35
			\$ 29,698.50
			\$ 29,698.50
Total Shared Costs Through December, 2011			\$ 667,778.26
Individual State Submitted Costs Through December, 2011			\$ 126,565.32
TOTAL			\$ 794,343.58

EXHIBIT B

Attachment "B"
Additional State-Specific Costs (12/2011)

Arkansas	[See Litigation Cost Share]		
		\$	-
California	Expert Fees & Costs	\$	121,493.00
	Transcripts	\$	1,677.02
	Total	\$	123,170.02
Florida	[See Litigation Cost Share]		
	Transcripts	\$	993.80
	Total	\$	993.80
Missouri	[See Litigation Cost Share]		
	Transcripts	\$	794.00
	Total	\$	794.00
New York	[See Litigation Cost Share]		
		\$	-
Michigan	[See Litigation Cost Share]		
	Transcripts	\$	714.95
	Total		
Wisconsin	[See Litigation Cost Share]		
	Transcript	\$	537.00
		\$	537.00
West Virginia	[See Litigation Cost Share]		
	Transcript	\$	355.55
		\$	355.55
		\$	126,565.32