UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA

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In re UNITED HEALTH GROUP INCORPORATED PSLRA LITIGATION)

This Document Relates To: ALL ACTIONS. Civil File No 0:06-cv-01691(JMR) (FLN) CLASS ACTION

MOTION FOR AWARD OF FEES

NOW COME the undersigned attorneys Edward Siegel, Edward

Cochran, Stuart Yoes, and Scott Browne ("Objectors' Counsel") and, pursuant to Fed. R. Civ. P. 54(d) (2), hereby move this Court for an award of fees to them as counsel for Objectors Bruce Botchik and Ernest J. Browne ("Objectors").

In support of this Motion for Fees, undersigned counsel direct the Court's attention to the following matters:

- On January 28, 2009, Class Counsel filed their request for fees calculated at 11.92% of the settlement fund, in the approximate amount of \$110 million, but failed to include sufficient details concerning the request to allow a reasonable person to comment upon it.
- On February 17, 2009, Objectors, through their counsel, filed Objections to the Class Action settlement and to the "bare-bones" 11.92% Fee Request of Class Counsel. They were the only persons to object to the Fee Request and the only ones who appeared at the Fairness Hearing to comment on the requested fees.
- On February 24, 2009, Class Counsel filed Memoranda and Declarations in support of their Fee Request.

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- On March 4, 2009, Objectors' Counsel filed Supplemental Objections pointing out specific aspects of the Fee Request that should denied, or as to which the Court should at least conduct a detailed inquiry.
- 5. Specifically, Objectors' Counsel pointed out that a) the lodestar of class counsel improperly included hours which were staff time and should be excluded from the lodestar; b) the hourly rates were higher than justified by the normal hourly rates that prevail in the Twin Cities area of Minnesota; and c) a "declining percentage" should be employed due to the fact that with a settlement fund size approaching \$1 billion, this was a "mega-fund" and that special analysis was required.
- 6. By Order dated August 11, 2009, this Court made a decision as to the fee request. That decision and award reflected the Court's elimination of staff time from the number of hours in lodestar, a reduction in the hourly rates for attorneys and paralegals to a level more in line with local hourly rates, and the application of a "declining percentage" in the Court's analysis.
- 7. As a result of the issues asserted in the Objection, the fee awarded was more than \$45 million less than the Fee Request. Specifically a) the number of hours recognized as comprising the lodestar (in addition to excluding the 293 hours of time claimed by former partner William Lerach) were reduced by over 7500 hours; b) the hourly rates were reduced from up to \$750 to \$500 for partners, from up to \$495 to \$200 for associates and other attorneys, and from up to \$285 to \$100 for paralegals; and c) approximately \$2.7 million in staff time (\$17.5 million with

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multiplier) including financial analysts, file clerks, IT personnel, graphics assistants, etc. were removed from the lodestar calculation. The reduction in hourly rates for attorneys and paralegals resulted in an additional reduction of over \$3.7 million (\$24.6 million with multiplier). The total fee reduction attributable to the factors asserted by Objectors' Counsel was over \$42.1 million. In addition, the Court agreed with Objectors' Counsel and applied a "declining percentage" in its analysis, and in its calculation of fees.

- 8. To date, the lodestar of the Objectors' Counsel is approximately \$74,500.
 The undersigned request a fee award in the amount of \$187,500, which is roughly two and one-half times their lodestar and less than one-half of one percent (.005) of the reduction in fees attributable to the Objections.
- 9. Objectors' Counsel are entitled to a multiplier of their lodestar insofar as they worked on a "contingent fee basis," without any guarantee of payment, and that risk should be reflected in any fee award. The undersigned request a multiple of only two and one-half times their lodestar, which is less than one-half of the multiple of 6.5 that was awarded to Class Counsel.
- 10. Objectors' Counsel request a determination by the Court that they are entitled to an award of fees. As to the amount, the undersigned will

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produce documentation of their lodestar and expenses as well as any other

documents relevant to their fee request, at such time as the Court shall

direct.

WHEREFORE, the undersigned request a fee award, pursuant to Civil Rule

54(d)(2), in the amount of \$225,000.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on August 25 2009, this Motion for Fees was filed electronically with the Court and was by the court's system served on all other counsel of record.

/s/Edward F. Siegel Edward F. Siegel